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MARICOPA COUNTY RECORDER
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DECLARATION OF HOMEOWNER BENEFITS AND COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ARCADIA PLACE

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DECLARATION OF HOMEOWNER BENEFITS AND

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

ARCADIA PLACE

This Declaration of Homeowner Benefits and Covenants, Conditions, and Restrictions for Arcadia Place is made as of the date set forth at the end of this Declaration by C. Curtis Construction, Inc.

BACKGROUND

A. Declarant is the owner of the real property ("Property" or "Project") that is described on the Plat and that is additionally described as follows:

See Exhibit "A" attached to and incorporated in this Declaration by this reference.

The Property is located in the City of Chandler, County of Maricopa, State of Arizona.

B. Declarant desires to provide for the phased construction of a subdivision consisting of attached single family residences, common areas, and other facilities.

C. Declarant includes in this Declaration and imposes these benefits, covenants, conditions, and restrictions upon only the lots and those common area tracts described on Exhibit "A".

D. Declarant intends that this Declaration and the other Project Documents will facilitate a general plan for development for the Property.

Accordingly, Declarant declares that the lots and tracts described on the Plat, together with any other lots and tracts that, in the future, may be included in this Declaration as provided below, shall be held, sold, mortgaged, encumbered, leased, rented, used, occupied, improved, and conveyed subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges, and liens (collectively referred to as "covenants and restrictions"). The covenants and restrictions are for the purpose of protecting the value, attractiveness, and desirability of the Property, and the covenants and restrictions shall benefit, burden, and run with the title to the Property and shall be binding upon all parties having any right, title, or interest in or to

any part of the Property and their heirs, successors, and assigns. The covenants and restrictions shall inure to the benefit of each Owner. The Declarant further declares as follows:

ARTICLE I

DEFINITIONS

1.1 "Ancillary Unit" shall mean all permanent or temporary basements, cellars, guest houses, hobby houses, storage sheds, stables, wood sheds, outbuildings, shacks, barns, garages, living quarters, cabanas, gazebos, carports, covered patios, or structures or items of any type similar to any of the foregoing that are not part of the Dwelling Unit and related improvements originally constructed by the Declarant.

1.2 "Architectural Committee" shall mean the committee established pursuant to Article IX of this Declaration and the provisions of any other Project Documents.

1.3 "Architectural Committee Rules" shall mean any rules and regulations or design guidelines that may be adopted or amended by the Architectural Committee.

1.4 "Articles" shall mean the Articles of Incorporation of the Association that have been or will be filed in the office of the Corporation Commission of the State of Arizona, as may be amended from time to time in the manner set forth in the Articles.

1.5 "Assessment," "assessment," "annual assessment," and "special assessment" (and the plural of each) shall mean the assessments authorized in this Declaration, including those authorized in Article IV.

1.6 "Association" shall mean Arcadia Place Homeowners Association, Inc., that has been or will be incorporated by Declarant and/or others as a non-profit Arizona corporation, and shall mean additionally the Association's successors and assigns.

1.7 "Association Rules" shall mean any rules and regulations adopted by the Association, as may be amended from time to time.

1.8 "Board" and "Board of Directors" shall mean the Board of Directors of the Association.

1.9 "Bylaws" shall mean the bylaws of the Association, as may be amended from time to time in the manner set forth in the Bylaws.

1.10 "Commercial or Recreational Vehicles" means any of the following types of vehicles that are owned, leased, or used by an Owner of a Lot or any of Owner's Permittees: commercial truck, recreational vehicle, commercial pickup truck in excess of three-quarter (3/4) ton capacity, semi, semitrailer, wagon, freight trailer, flatbed, boat trailer, automobile trailer, camper, camper shell, mobile home, motor home, boat, dune buggy, all-terrain vehicle, bus, or similar commercial or recreational vehicles or equipment (whether or not equipped with sleeping quarters). Any commercial pickup truck of a three-quarter (3/4) ton capacity or less that is not equipped with a camper, camper shell, or work equipment in the truck bed will be treated as a Family Vehicle.

1.11 "Common Area" shall mean all of the real property described on the Plat as common area tracts and any other real property that may be from time to time annexed into the Project as Common Area but shall not include the real property described on the Plat as individual Lots or public streets. Whether owned by the Declarant or the Association, the Common Area is reserved for the common use and enjoyment of the Owners and is reserved exclusively for the Owners and not for the public, unless otherwise specifically designated in the Declaration or on the Plat. When conveyed by the Declarant under Section 2.3 below, the Common Area shall be owned by the Association for the common use and enjoyment of the Owners. The term "Common Area" also includes all structures, facilities, roadways, furniture, fixtures, improvements, and landscaping, if any and if permitted, located on the common area tracts, and all rights, easements, and appurtenances relating to the real property owned by the Association. If the Project contains sidewalks for pedestrian access over portions of any Lots, these sidewalks shall be deemed to be "Common Area" for the purpose of maintenance and repair responsibility by the Association. Tracts "B", "C", "D", "E", "F", "G", "H", "I", "J", "K", "L" and "M", as depicted on the Plat and all of which are part of the Common Area, shall be referred to as the "Landscape and Common Use Tracts".

1.12 "Declarant" shall mean C. Curtis Construction, Inc. The term "Declarant" will include all successors and assigns of C. Curtis Construction, Inc., if the successors or assigns: (i) acquire more than one (1) undeveloped Lot from the Declarant for the purpose of resale; and (ii) record a supplemental declaration executed by the then-Declarant declaring the successor or assignee as a succeeding Declarant under this Declaration. "Declarant" does not include any Mortgagee.

1.13 "Declaration" shall mean this Declaration of Homeowner Benefits and Covenants, Conditions, and Restrictions and the covenants and restrictions set forth in this entire document (in entirety or by reference), as may be amended from time to time in the manner set forth below.

1.14 "Dwelling Unit" shall mean all buildings that are located on a Lot and that are used or are intended to be used for Single Family Residential Use, including the garage, carport, and open or closed patios.

1.15 "Family Vehicles" means any domestic or foreign cars, station wagons, sport wagons, pickup trucks, vans, mini-vans, jeeps, sport utility vehicles, motorcycles, and similar non-commercial and non-recreational vehicles that are used by the Owner of the applicable Lot or the Owner's Permittees for family and domestic purposes only. Notwithstanding the types of vehicles included within the definition of Commercial or Recreational Vehicles, a "Family Vehicle" also includes: (i) non-commercial pickup trucks of a three-quarter (3/4) ton capacity or less with attached camper shells so long as the truck and camper shell are no more than eight (8) feet in height, measured from ground level; (ii) small motor homes of not more than eight (8) feet in height and not more than eighteen (18) feet in length; and (iii) non-commercial pickup trucks in excess of a three-quarter (3/4) ton capacity that the Architectural Committee determines, in advance of use within the Project, to be similar in size and appearance to smaller vehicles so as to be parked and maintained as a Family Vehicle.

1.16 "Institutional Guarantor" shall mean, if applicable to the Project, a governmental insurer, guarantor, or secondary market mortgage purchaser such as the Federal Housing Administration (FHA), the Veterans Administration (VA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Federal National Mortgage Association (FNMA) that insures, guarantees, or purchases any note or similar debt instrument secured by a First Mortgage. An Institutional Guarantor will be entitled to vote on those matters that require the approval or consent of the Institutional Guarantors if the Institutional Guarantor notifies the Association in writing of its desire to vote and its address for delivery of all Association notices.

1.17 "Lot" shall mean any one of the lots that is described and depicted on the Plat and that is initially subjected to this Declaration and shall include any other lot that in the future may be included within the Project as provided in this Declaration. "Inventory Lot" shall mean any Lot owned by the Declarant upon which a Dwelling Unit has not been constructed completely. Completed construction shall be evidenced by the issuance of a final Certificate of Occupancy by the City of Chandler. "Completed Inventory Lot" shall mean a Lot owned by Declarant upon which a Dwelling Unit has been completed, as evidenced by the issuance of a final Certificate of Occupancy by the City of Chandler.

1.18 "Member" shall mean an Owner of a Lot that is originally subject to this Declaration or that has become subject to this Declaration by an Annexation Amendment or Supplemental Declaration as provided in the Declaration.

1.19 "Mortgage" (whether capitalized or not) shall mean the consensual conveyance or assignment of any Lot, or the creation of a consensual lien on any Lot, to secure the performance of an obligation. The term "Mortgage" includes a deed of trust, mortgage, assignment, or any other agreement for the purpose of creating a lien to secure an obligation, and also includes the instrument evidencing the obligation. "First Mortgage" shall mean a Mortgage held by an institutional lender that is the first and most senior of all Mortgages on the applicable Lot.

1.20 "Mortgagee" (whether capitalized or not) shall mean a person or entity to whom a Mortgage is made and shall include a holder of a promissory note, a beneficiary under a deed of trust, or a seller under an agreement for sale. "First Mortgagee" shall mean a Mortgagee that is the first and most senior of all Mortgagees upon the applicable Lot.

1.21 "Mortgagor" shall mean a person or entity who is a maker under a promissory note, a mortgagor under a mortgage, a trustor under a deed of trust, or a buyer under an agreement for sale, as applicable. "Eligible Mortgage Holder" shall mean a First Mortgagee that has informed the Association in writing of the First Mortgagee's address and that has requested notification from the Association on any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

1.22 "Nonrecurring And Temporary Basis" shall mean the parking of vehicles of any type either: (i) for the sole purpose of loading and unloading non-commercial items for use on the Lot; (ii) for temporary visits by guests or invitees of an Owner that do not involve overnight parking; or (iii) for temporary parking of the Owner's vehicles for cleaning or special events that do not involve overnight parking and that do not occur on a frequent or repetitive basis.

1.23 "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple legal title to any Lot. An "Owner" shall not include those persons having an interest in a Lot merely as security for the performance of an obligation or duty (i.e., a mortgagee). In the case of Lots in which the fee simple title is vested of record in a trustee pursuant to Arizona Revised Statutes, §§ 33-801, et seq., the "Owner" of the Lot shall be deemed to be the trustor. In the case of a Lot covered by an Agreement for Sale of Real Property as described in A.R.S., §§ 33-741, et seq., the buyer of the Lot shall be deemed to be the "Owner." An "Owner's Permittees" shall mean all family members, guests, tenants, licensees, invitees, and agents that use the Owner's Lot or other portions of the Project (including Common Area) with the implied or express consent of an Owner.

1.24 "Person" (whether capitalized or not) shall mean a natural person, a corporation, a partnership, a trust, or other legal entity.

1.25 "Plat" will refer to the subdivision plat for Arcadia Place recorded in Book 416 of Maps, Page 1, Official Records of Maricopa County, Arizona, as it may be amended from time to time pursuant to this Declaration.

1.26 "Project Documents" refers to this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural Committee Rules, and the Plat, collectively, as any or all of the foregoing may be amended from time to time.

1.27 "Screened From View" shall mean that the object in question is appropriately screened from view from abutting Lots, Common Area, and public and private streets by a gate, wall, shrubs, or other approved landscaping or screening devices. The Architectural Committee will be the sole judge as to what constitutes an object being Screened From View or appropriately screened.

1.28 "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than four (4) adult persons not all so related who maintain a common household in a Dwelling Unit located on a Lot.

1.29 "Single Family Residential Use" shall mean the occupancy or use of a Dwelling Unit and Lot by a single family in conformity with the Project Documents and the requirements imposed by applicable zoning laws or other state, county, or municipal rules, ordinances, codes, and regulations.

1.30 "Visible From Neighboring Property" shall mean, with respect to any given object, that the object is or would be clearly visible without artificial sight aids to a person six (6) feet tall, standing on any part of the Property (including a Lot, Common Area, or public or private street) adjoining the Lot or the portion of the Property upon which the object is located.

1.31 "Yard" (whether capitalized or not) shall mean all portions of the Lot other than the portions of the Lot upon which the Dwelling Unit or an Ancillary Unit is constructed. "Private Yard" means the portion of the yard that is not Visible From Neighboring Property and is shielded or enclosed by walls, fences, hedges, and similar items. "Public Yard" means that portion of the Yard that is Visible From Neighboring Property, whether located in front of, beside, or behind a Dwelling Unit and includes all landscaping that is Visible From Neighboring Property regardless of the fact that the base or ground level of the landscaping is not Visible From Neighboring Property. "Enclosed Side Yard" means the portion of a yard that, when viewed from the street fronting the Dwelling Unit, is located behind any side yard boundary wall located on a Lot. The Enclosed Side Yard shall be no deeper (when measured from the street fronting the Dwelling Unit) than the deepest wall of any Dwelling Unit located on a Lot. The Architectural Committee will be the sole judge as to what constitutes an Enclosed Side Yard in accordance with this Declaration.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREAS

2.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, in common with all other persons entitled to use the Common Area. An Owner's right and easement to use and enjoy the

Common Area shall be appurtenant to and pass with the title to every Lot and shall be subject to the following:

(a) Charges and Regulations. The right of the Association to charge reasonable admission and other fees for the use of the Common Areas and to regulate the use of the Common Area; the right of the Association to limit the number of the Owner's Permittees who use the Common Area; the right of the Association to limit the number and type of pets that use the Common Area; the right of the Association to hold the Owners accountable for the conduct of the Owner's Permittees and pets;

(b) Suspension of Voting and Usage Rights. The right of the Association to suspend the voting rights of any Owner and to suspend the right to the use of the Common Areas by an Owner or the Owner's Permittees for any period during which any assessment (together with accrued interest, late charges, and all attorney fees incurred) against that Owner or Owner's Lot remains unpaid, and, in the case of any non-monetary infraction of the Project Documents, for any period during which the infraction remains uncured;

(c) Dedication/Grant. The right of the Association to dedicate or grant an easement covering all or any part of the Common Area to any provider utility company or municipality for the purposes, and subject to the conditions, that may be established by the Declarant during the period of Declarant Control (as defined in Section 3.2) and, after the period of Declarant Control, by the Board. Except for those easements reserved or created in this Declaration or by the Plat, no dedications or grants of easements over all or any part of the Common Area to any municipality or provider utility company shall be effective unless the dedication or grant is approved at a duly called regular or special meeting by an affirmative vote in person or by proxy of two-thirds (2/3) or more of the total number of eligible votes in each class of Members and unless the instrument evidencing the dedication or grant is executed by an authorized officer of the Association and recorded in the proper records in Maricopa County; and

(d) Declarant Use. The right of the Declarant and its agents and representatives, in addition to their rights set forth elsewhere in this Declaration and the other Project Documents, to the nonexclusive use, without extra charge, of the Common Area for sales, display, and exhibition purposes both during and after the period of Declarant Control.

2.2 Delegation of Use. Subject to and in accordance with the Project Documents, any Owner may delegate its right of enjoyment to the Common Area to the Owner's Permittees.

2.3 Conveyance of Common Area. Immediately prior to the time that the first Lot is conveyed to a Class A Member, the Common Area, if not previously dedicated by the Plat, shall be conveyed by Declarant to the Association by the delivery of a special warranty deed, free and clear of all monetary liens, but subject to the covenants and restrictions of the Project

Documents. Whether owned by the Declarant or the Association, the Common Area will be maintained by the Association at the common expense of the Owners, all as detailed in Article IV below.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner of a Lot, by accepting a deed for that Lot (whether or not expressed in the deed or conveying instrument) or otherwise becoming an "Owner", shall be a Member of the Association and shall be bound by the provisions of the Project Documents, shall be deemed to have personally covenanted and agreed to be bound by all covenants and restrictions contained in the Project Documents, and shall be deemed to have entered into a contract with the Association and each other Owner for the performance of the respective covenants and restrictions. The personal covenant of each Owner described in the preceding sentence shall be deemed to be in addition to the real covenants and equitable servitudes created by the Declaration, and this personal covenant of each Owner shall not limit or restrict the intent that this Declaration benefit and burden, as the case may be, and run with title to all Lots and Common Area covered by this Declaration. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment. Upon the permitted transfer of an ownership interest in a Lot, the new Owner shall automatically become a Member of the Association. With the exception of Declarant, membership in the Association shall be restricted solely to Owners of Lots.

3.2 Class. The Association shall have two (2) classes of voting membership:

(a) Class A. Class A members shall be all Owners, with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all joint owners shall be Members; however, for all voting purposes and quorum purposes, they shall together be considered to be one (1) Member. The vote for any jointly-owned Lot shall be exercised as the joint owners determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any attempt to cast multiple votes for a given Lot shall result in the invalidity of all votes cast for that Lot.

(b) Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the happening of any of the following events, whichever occurs earlier:

1. Four (4) months after the date when the total votes outstanding in the Class A membership first equals or exceeds the total votes outstanding in the Class B membership;

2. The date that is six (6) years after the date of the close of escrow on the first Lot sold by Declarant; or

3. When the Declarant notifies the Association in writing that it relinquishes its Class B membership.

Upon the conversion of Declarant's Class B membership to Class A membership, the Declarant will be entitled to only one (1) vote for each Lot owned by the Declarant. The period of time during which Class B membership is in existence shall be referred to in this Declaration as the period of "Declarant Control." For the purposes of Section 3.2(b)(1) above, the number of votes shall be based upon the Lots initially covered by this Declaration, plus all Lots that in the future may be included in or covered by this Declaration as provided in this Declaration, minus all Lots withdrawn from this Declaration, if any.

3.3 Transfer of Control. When the period of Declarant Control ends, the Class A Members shall accept control of the Association from the Declarant and full responsibility for the operation of the Association and administration of the Property as provided in the Project Documents, and Declarant shall have no further responsibility for any future acts or omissions with respect to the operation of the Association and administration of the Property. Any claims of the Association or any Owners against the Declarant for present or past acts or omissions of the Declarant with respect to the operation of the Association or the administration of the Property (including the availability or sufficiency or any reserves) shall be waived, unenforceable, and void if not commenced within one (1) year from the expiration of Declarant Control.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Lien and Personal Obligation for Assessments.

(a) Creation of Lien. Each Owner of any Lot, by accepting a deed for that Lot (whether or not expressed in the deed or conveying instrument) or otherwise becoming an "Owner", is deemed personally to covenant and agree to be bound by all covenants and restrictions and all duties, obligations, and provisions of the Project Documents and to pay to the Association: (i) annual assessments or charges; (ii) special assessments for capital improvements under Section 4.4, unexpected or extraordinary expenses for repairs of Common Area, or other Association matters; (iii) an amount sufficient to, on demand,

indemnify and hold harmless the Association for, from, and against all obligations undertaken or incurred by the Association at or on account of that individual Owner's special request and to repay the Association for all expenditures on account of the special request; (iv) an amount sufficient to reimburse the Association for the cost of performing any obligation of an Owner under the Project Documents that the Owner has failed to timely pay or perform; and (v) all other assessments as may be fixed, established, and collected from time to time as provided in this Declaration or the other Project Documents, including, without limitation, any accrued interest, taxable court costs, late fees, attorney fees, fines, penalties, or other charges. The assessments and amounts described above, together with all accrued interest, court costs, attorney fees, late fees, and all other expenses incurred in connection with the assessments and amounts described above, whether or not a lawsuit or other legal action is initiated, shall be referred to in the Project Documents as an "assessment" or the "assessments". Pursuant to A.R.S. § 33-1807, the Association shall have a consensual and continuing lien upon the Lot against which the assessment is made or has been incurred for the payment of all assessments.

(b) Personal Obligation. Each assessment also shall be the personal, joint, and several obligation of each person who was the Owner of the Lot at the time when the assessment became due or charge was incurred. The personal obligation for delinquent assessments shall not pass to the particular Owner's successors in title unless expressly assumed by them; however, the personal obligation of the prior Owner for the delinquent assessments or charges shall not be deemed released or discharged by reason of any assignment, conveyance, or transfer of title of a Lot. Notwithstanding the previous sentence, in the event of an assignment, conveyance, or transfer of title to any Lot, the assessment additionally shall continue as a lien against the Lot in the hands of the subsequent Owner, except in those circumstances described in Section 4.9 below. The recordation of this Declaration shall constitute record notice and perfection of any assessment or assessment lien, and, notwithstanding Section 4.10 below, further recordation of any claim of lien (or Notice and Claim of Lien) for assessment shall not be required for perfection or enforcement.

4.2 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used for the purpose of: (i) promoting the recreation, health, safety, welfare, and desirability of the Project for its Owners; (ii) operating of the Common Area (including payment of all taxes, utilities, and rubbish collection fees, if any, and if not individually billed to the Owners); (iii) insuring (including a reserve fund for insurance deductibles), maintaining, repairing, painting, and replacing improvements in the Common Area (including any reserve fund for the foregoing); and (iv) enhancing and protecting the value, desirability, and attractiveness of the Lots and Common Area generally. The annual assessment may include a reserve fund for taxes, insurance, maintenance, repairs, and replacements of the Common Area and other improvements that the Association is responsible for maintaining.

4.3 Initial and Annual Assessments. Until December 31, 1997, the maximum annual assessments shall be Six Hundred and No/100 Dollars ($600.00) per Lot. From and after the "base year" ending December 31, 1997, the maximum annual assessment shall be as determined by the Board of Directors, subject to the limitation in the following sentence. The annual assessment may not be increased over the annual assessment in the previous year by more than the Permitted Percentage Increase (as defined below), unless the additional increase is approved at a duly called regular or special meeting by an affirmative vote (in person or by proxy) of two-thirds (2/3) or more of the total number of eligible votes cast at that meeting in each class of Members. From and after December 31, 1997, the Board, without a vote of the Members, may increase the maximum annual assessments during each fiscal year of the Association by an amount ("Permitted Percentage Increase") equal to the greater of: (i) ten percent (10%); or (ii) a percentage calculated by dividing the Consumer Price Index in the most recent October (identified by an "A" in the formula below) by the Consumer Price Index for the October one (1) year prior (identified by a "B" in the formula below), minus one (1) (i.e., CPI percentage = (A/B) -1). By way of example only, the percentage increase in the assessment for 1997 cannot be increased by more than the greater of: (I) ten percent (10%); or (II) the increase in the Consumer Price Index for October, 1997, divided by the Consumer Price Index in October, 1996), minus one (1). The term "Consumer Price Index" shall refer to the "United States Bureau of Labor Statistics, Consumer Price Index, United States and selected areas, all items" issued by the U.S. Bureau of Labor Statistics, or its equivalent or revised or successor index.

4.4 Special Assessments. The Association, at any time and from time to time in any assessment year, in addition to the annual assessments authorized above or any other assessments authorized elsewhere in this Declaration, may levy a special assessment against all of the Members for the purpose of defraying, in whole or in part: (i) the cost of any construction, reconstruction, repair, or replacement (whether or not due to destruction, governmental taking, or otherwise) of a capital improvement upon or under the Common Area (including fixtures and personal property related to the Common Area); or (ii) the cost of any other unexpected or extraordinary expenses for repairs of Common Area or other Association matters; however, any special assessment must be approved at a duly called regular or special meeting by an affirmative vote (in person or by proxy) of two thirds (2/3) or more of the total number of eligible votes cast at that meeting for each class of Members. Notwithstanding the foregoing, no approval of the Members shall be needed to levy assessments on an Owner that arise out of the Owner's failure to comply with the Project Documents including, without limitation, any assessment levied pursuant to Sections 4.1(c), 4.1(d), 4.6, 5.2, or 5.6 of the Declaration.

4.5 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.3 or 4.4 shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first meeting called regarding any given proposal, the presence (at the beginning of the meeting) of Members or proxies entitled to cast sixty percent (60%) or more of the total number of eligible votes of the Association, regardless of class of membership, shall constitute a quorum. If the required quorum is not present,

one other meeting for the same purpose may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be at least thirty percent (30%) of all the total number of eligible votes of the Association, regardless of class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.6 Uniform Rate of Assessment. Both the annual assessments outlined in Section 4.3 and the special assessments outlined in Section 4.4 must be fixed at a uniform rate for all assessable Lots; however, the rate of assessment for Inventory Lots and Completed Inventory Lots owned by Declarant shall be twenty-five percent (25%) of the rate for completed and occupied Lots owned by an Owner other than the Declarant. Notwithstanding the reduced assessment on Inventory Lots and Completed Inventory Lots, Declarant shall be obligated to pay to the Association for any shortages or deficiencies in the Association's operating budget caused by reason of Declarant's reduced assessments; however, Declarant's maximum obligation for these shortages or deficiencies shall be equal to the uniform rate of assessment on all Lots multiplied by the number of Lots upon which Declarant paid a reduced assessment, less all amounts previously paid by Declarant as reduced assessments on such Lots. Annual assessments may be collected in installments throughout the year as the Board of Directors may determine. The provisions of this Section 4.6 shall not preclude the Association from making a separate or additional charge to, or special assessment on, an Owner for or on account of special services or benefits rendered to, conferred upon, or obtained by or for that Owner or the Owner's Lot. If any expense incurred by the Association is caused by the misconduct of any Owner or the Owner's Permittees, the Association may specially assess the expense exclusively against the offending Owner and/or Lot.

4.7 Date of Commencement of Assessments. The annual assessments established in this Declaration regarding any given Lot subject to this Declaration shall commence on the first day of the month following the conveyance of the Common Areas to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall endeavor to fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; however, the annual assessment shall be binding notwithstanding any delay. Written notice of the annual assessment and of any special assessments shall be sent to every Owner subject to the assessment. The due dates shall be established by the Board of Directors. Assessments shall be payable in the full amount specified by the assessment notice, and no offsets against such amount shall be permitted for any reason whatsoever including, without limitation, abandonment of the Owner's Lot, a claim that the Association is not properly exercising its duties in maintenance or enforcement, a claim against the Declarant or its affiliates, or the non-use or claim of non-use by Owner of all or any portion of the Common Area. Assessments may be collected in advance or in arrears as the Board of Directors shall determine in their sole discretion. The Association, acting through the Board of Directors, upon written demand and for a reasonable charge, shall furnish to any Owner or the Owner's authorized representative or designee a certificate signed by an officer of the Association setting forth whether the assessments and charges on a specified Lot have been paid and setting forth any other matters as may be required from time to time by Arizona law. A properly executed certificate

of the Association as to the status of assessments on a Lot and any other required matters shall be binding on the Association as of the date of issuance of the certificate and for the time period specified in the certificate.

4.8 Effect of Nonpayment of Assessments - Remedies of the Association.

(a) Late Charge. Any assessment that is not paid within thirty (30) days after the due date shall be subject to a one-time late charge equal to ten percent (10%) of the unpaid assessment and, additionally, shall bear interest from the due date at the minimum rate of ten percent (10%) per annum or any other legal interest rate approved by the Board of Directors and permitted under the requirements of any applicable Institutional Guarantor.

(b) Protective Advances. If an Owner fails to make payments under any Mortgage affecting a Lot or fails to pay taxes or governmental assessments on the Owner's Lot, the Association may make payments of the amounts due under any Mortgage or may make the required payments for taxes or other governmental assessments on the Lot, and all payments shall be due and payable immediately as a special assessment and shall be added to the lien in favor of the Association.

(c) Collection and Lien Actions. Each Owner of a Lot, by accepting a deed for that Lot (whether or not expressed in the deed or conveying instrument), or otherwise becoming an "Owner", vests in the Association and its agents the right and power to bring all actions against the Owner personally for the collection of all assessments due under the Project Documents as a debt and to enforce the lien securing the assessment by all methods available for the enforcement or foreclosure of liens. To the extent permitted by law, each Owner grants to the Association a private power of sale in connection with the lien. The Association shall have the power to bid in any foreclosure, sheriff's sale, or similar sale (whether or not the foreclosure was initiated by the Association or some other person) and to acquire, hold, lease, mortgage, and convey the Lot purchased. The Association may institute suit to recover a money judgment for unpaid assessments of the Owner without being required to foreclose its lien on the Lot and without waiving the lien that secures the unpaid assessments. Any foreclosure may be instituted without regard to the value of the Lot, the solvency of the Owner, or the relative size of the Owner's default. The assessment lien and the rights of enforcement under this Declaration shall be in addition to and not in substitution of all other rights and remedies that the Association may have under the Project Documents or under Arizona law.

4.9 Subordination of the Lien to Mortgages. Except as established under A.R.S. § 33-1807.C. and regardless of whether or not a Notice and Claim of Lien has been recorded by the Association, the Association's lien for the assessments established in this Declaration shall be superior to all liens, charges, homestead exemptions, and encumbrances that are imposed on or recorded against any Lot after the date of recordation of this Declaration. The Association's lien for

the assessments established in this Declaration, however, shall be automatically subordinate to: (i) the lien of any Mortgagee holding a Mortgage that was recorded before the date on which the assessment sought to be enforced became delinquent, except for the amount of assessments that accrues from and after the date upon which the Mortgagee acquires title to or comes in possession of any Lot and except for amounts due to the Association as described in Section 5.6 below; and (ii) any liens for real estate taxes or other governmental assessments or charges that by law are prior and superior to the lien for such assessments. The sale or transfer of any Lot shall not affect the lien for assessments or the personal obligation of the Owner to pay all assessments arising during the Owner's ownership of the Lot; however, the sale or transfer of any Lot pursuant to a judicial foreclosure or trustee's sale by a Mortgagee shall extinguish that portion of the lien on the Lot that became due prior to the judicial foreclosure or trustee's sale. In the case of a sale or transfer by judicial foreclosure or trustee's sale by a Mortgagee, the Mortgagee or other successor Owner shall not be liable for any assessments that become due prior to the sale or foreclosure by the Mortgagee. No sale or transfer pursuant to a judicial foreclosure or trustee's sale of any Mortgagee shall relieve any foreclosed Owner from personal liability or shall act to release the lien for any assessments that may become due or arise after the judicial foreclosure or trustee's sale. Nothing in this Declaration, however, shall be construed to release any Owner or previous Owner from the Owner's personal obligation to pay any assessment arising during the Owner's or previous Owner's ownership of the Lot, and the Association may enforce collection of the assessments arising during his/her ownership of the Lot in any manner permitted under Arizona law or the Project Documents.

4.10 Notice of Lien. Without affecting the priority and perfection of any assessment that has been perfected as of the date of recordation of this Declaration, the Association may give (but is not obligated to give) notice to any Owner whose assessment is due and unpaid by mailing to the Owner a copy of a "Notice and Claim of Lien" which may state, among other things, the following: (i) the last known name of the delinquent Owner; (ii) the legal description or street address of the Lot against which the claim of lien is made; (iii) the amount claimed to be due and owing from the Owner and assessed against the Lot; and (iv) a statement that the claim is made by the Association pursuant to the terms of the Declaration and the other Project Documents. Each default in the payment of any assessment shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single Notice and Claim of Lien. The Association may record a Notice and Claim of Lien against the delinquent Owner's Lot. The Notice and Claim of Lien may be executed by any officer of the Association, the managing agent for the Association, or legal counsel for the Association, but in all events the lien will remain that of the Association.

ARTICLE V

COMMON AREA, ROOF AND LOT MAINTENANCE

5.1 Common Area, Roof and Exterior Walls. Except as provided in Section 5.2, the Association shall be responsible for the maintenance, repair, and replacement of the Common

Area, and, without any approval of the Owners, the Association may: (i) reconstruct, repair, replace, and refinish any landscaping or improvement located on or used in connection with the Common Area; (ii) reconstruct, repair, replace and refinish all exterior surfaces of the Dwelling Unit (excluding windows and/or glass), building surfaces, including the exterior walls and roof; and (iii) do any other acts deemed necessary to preserve, beautify, and protect the Common Area in accordance with the general purposes specified in the Project Documents. The Board of Directors shall be the sole and absolute judge as to the appropriate maintenance of the Common Area. Notwithstanding anything contained in this Section 5.1, the Association will have no obligation to perform any maintenance or repair work that is performed by any municipality or provider utility company that is responsible for the maintenance of any utilities or improvements located within any Common Area. No Owner shall alter, remove, injure, or interfere in any way with any landscaping, lawns, plants, irrigation systems, sprinklers, shrubs, trees, and the like, if any, placed on the Common Area without the express written consent of the Declarant, during the period of Declarant Control, or the Architectural Committee, after the period of Declarant Control.

5.2 Repairs Necessitated by Owner. In the event that the need for maintenance or repair to any Common Area is caused through the acts or omissions (including negligent acts or omissions) of an Owner, the Owner's Permittees, or any pet of the Owner, the Association, in its discretion, may add the cost of the maintenance or repairs, including the deductible portion of any applicable insurance policy, to the assessment against the Lot owned by that Owner, without regard to the availability of any insurance proceeds payable to the Association for the cost of the maintenance or repairs. In addition to the foregoing, if the Owner of a given Lot is held liable to the Association by a court of competent jurisdiction for maintenance or repair work performed by the Association to any other Lot (i.e., a Lot not owned by that Owner), the amount of that judgment shall be added to and become a part of the assessment against the Lot owned by that Owner.

5.3 Maintenance of Dwelling Unit. Except as provided in Section 5.1, the Dwelling Unit and all other permitted Ancillary Units must be maintained by the Owner of the applicable Lot in a clean, safe, neat, and attractive condition and repair and must be adequately painted and finished. Without limiting the foregoing, the Owner of each Lot shall be responsible for: (i) all conduits, ducts, plumbing, wiring, and other facilities and utility services that are contained on the Lot; (ii) all service equipment, such as refrigerators, air conditioners, heaters, dishwashers, washers, dryers, ovens, and stoves; and (iii) all floor coverings, interior walls, ceilings, windows, doors, paint (internal), finishes, siding, and electrical and plumbing fixtures.

5.4 Access at Reasonable Hours. For the purpose of performing the maintenance, repairs, or replacements permitted under this Article V, the Association and the Association's agents or employees shall have the right, after reasonable notice to an Owner (except in the case of emergency, in which case no notice need be given), to enter onto the Owner's Lot at any reasonable time. For the purposes of performing the maintenance authorized by Section 5.1 upon any portion of the Common Area, the Association and the Association's agents or employees may enter onto the Common Area without notice to any Owner at reasonable hours.

5.5 Landscaping. Unless completed by Declarant as part of the Owner's purchase contract for the Lot and Dwelling Unit, the Public Yard of a Lot must be landscaped by the Owner of the Lot within one hundred twenty (120) days of becoming an Owner. The foregoing restriction shall not apply to the Declarant or any Lots owned by the Declarant as model units or Completed Inventory Lots. Plans for all landscaping, lawns, plants, irrigation systems, sprinklers, shrubs, trees, decorative features (such as flag poles, planters, bird baths, and walkways), and the like (collectively called in this Declaration the "landscaping") that are to be installed anywhere on the Owner's Lot (whether in the Public Yard or not) must be approved prior to installation by the Architectural Committee under Article IX of this Declaration. The Lot and all landscaping located in the Public Yard of a Lot must be maintained in clean, safe, neat, and attractive condition and repair solely by the Owner of that Lot, and Owner shall be solely responsible for neatly trimming and properly cultivating the landscaping and for the removal of all trash, weeds, leaves, and other unsightly material located in the Public Yard of a Lot.

5.6 Maintenance of Landscaping. All landscaping, lawns, plants, irrigation systems, sprinklers, shrubs, trees, and the like (collectively referred to as the "landscaping") located in any common Area or installed by Declarant and located on a Lot will be maintained by the Association. All other landscaping on any Lot must be maintained at all times by each Owner in a clean, safe, neat, and attractive condition, and each Owner of a Lot shall be solely responsible for keeping all landscaping located in the Public Yard on that Owner's Lot neatly trimmed, properly cultivated, and free from trash, weeds, leaves, and other unsightly material.

5.7 Owner's Failure to Maintain. If an Owner fails to perform any maintenance and repair required under the terms of this Article V, then, upon the vote of a majority of the Board of Directors and after not less than thirty (30) days prior written notice to that Owner, the Association shall have the right (but not the obligation) to enter upon or into that Lot and to provide the required maintenance or make the required repairs. Any entry by the Association or its agents shall not be considered a trespass. The cost of these maintenance items and repairs shall be added to the assessments charged to the Owner, shall be paid promptly to the Association by that Owner as a special assessment or otherwise, and shall constitute a lien upon that Owner's Lot. The rights of the Association described above are in addition to any other remedies available to the Association under the Project Documents or Arizona law. If, concurrent with delivery of the thirty (30) day written default notice to Owner for failure of the Owner to perform its obligations under Section 5.3 above, the Association delivers written notice to any of the holders of a Mortgage on the defaulting Owner's Lot, the lien in favor of the Association shall constitute a "lien for other assessments" of the Association under A.R.S. §33-1807.C. and shall have priority to any notified Mortgagee solely with respect to the special assessment made for the cost of the maintenance and repairs performed by the Association.

5.8 General Standards. Except as may be otherwise provided in this Declaration or the other Project Documents, the Association and each respective Owner of a Lot, as applicable,

shall maintain the areas they are respectively responsible for at a level of general maintenance at least equal to that prevailing with respect to areas of a similar nature located in residential communities commonly and generally deemed to be of the same quality as the Project.

ARTICLE VI

DUTIES AND POWERS OF THE OWNERS' ASSOCIATION

6.1 Duties and Powers. In addition to the duties and powers enumerated in the other Project Documents or elsewhere in the Declaration, the Association, through its Board of Directors, shall have the power and authority to:

(a) Common Area. Maintain and otherwise manage the Common Area and all other real and personal property that may be acquired by the Association;

(b) Legal and Accounting Services. Obtain legal, accounting, and other services deemed by the Board, in its discretion, to be necessary or desirable in the operation of the Association and the Common Area;

(c) Easements. Subject to the limitations, if any, imposed by the Project Documents, grant easements where necessary for utilities, sewer facilities, and CATV on, under, over, through, upon, or across the Common Area to serve the Common Areas or any Lot;

(d) Employment of Managers. Employ affiliated or third-party managers or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association;

(e) Purchase Insurance. Purchase insurance for the Common Area for risks, with companies, and in amounts as the Board determines to be necessary, desirable, or beneficial, subject to the provisions of Section 6.2 below;

(f) Other. Perform other acts authorized expressly or by implication under this Declaration and the other Project Documents including, without limitation, the right to construct improvements on the Lots and Common Area; and

(g) Enforcement. Enforce the provisions of this Declaration and the other Project Documents by all legal means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, and the establishment of a system of fines or penalties for the enforcement of this Declaration and the other Project Documents.

6.2 Insurance.

(a) Liability Insurance. Comprehensive general liability insurance covering the Common Area shall be purchased and obtained by the Board, or acquired by assignment from Declarant, promptly following the Board's election, and shall be maintained in force at all times. The premiums shall be paid out of the Association's funds. The insurance shall be carried with reputable companies authorized and qualified to do business in Arizona. The minimum amounts of coverage shall be $1,000,000 for bodily injury and property damage on a combined single limit basis. The policy shall be purchased on an occurrence basis and shall name as insureds the Owners, the Association (its directors, officers, employees, and agents acting in the scope of their employment), and the Declarant (its directors, officers, partners, employees, and agents in the scope of their employment) for so long as Declarant owns any Lot. This policy shall include, but need not be limited to, insurance against injury or damage occurring in or on the Common Area.

(b) Hazard and Multi-Peril Insurance - Master Policy for Common Area. A master or blanket hazard and multi-peril insurance policy shall be purchased or obtained by the Board or acquired by assignment from Declarant promptly following the construction of any building or other similar permanent structure on the Common Area. Once purchased, obtained, or acquired, the hazard insurance policy shall be maintained in force at all times. The premiums shall be paid out of the Association's funds. The hazard insurance policy shall be carried with reputable companies authorized and qualified to do business in the State of Arizona and shall insure against loss from fire and other hazards covered by the standard extended coverage endorsement and "all risk" endorsement to the hazard insurance policy for the full replacement cost of all of the permanent improvements upon the Common Area. The hazard insurance policy shall be in an amount determined from time to time by the Board in its sole discretion. The hazard insurance policy shall name the Declarant (for so long as Declarant owns a Lot), Association, and any First Mortgagee of the insured permanent improvements on the Common Area as insureds, as their respective interests may appear.

(c) Hazard Insurance - Dwelling Units. The Association shall not be obligated to obtain property insurance, liability insurance, flood insurance, or any other type of hazard insurance covering the Dwelling Units or the Lots. The procurement and maintenance of these types of insurance on the Dwelling Units and the Lots shall be the sole obligation of the Owners of the respective Lot and Dwelling Unit.

(d) Other Insurance. The Board may purchase (but is not obligated to purchase) additional insurance that the Board determines to be advisable or necessary including, but not limited to, workmen's compensation insurance, boiler explosion insurance, demolition insurance, flood insurance, fidelity bonds, director and officer liability insurance,