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C. Timothy White, Esq.
Greenberg Traurig, LLP
2375 East Camelback Road, Suite 700
Phoenix, Arizona 85016



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTTLE**

DATE/TIME: 03/08/04 1330
FEE: \$110.00
PAGES: 99
FEE NUMBER: 2004-016246

(Space Above Line for Recorder's Use Only)

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND
RESERVATION OF EASEMENTS
FOR
PROVINCE**

(an Age-Restricted Residential Community)

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EXHIBITS

- EXHIBIT "A" LAND INITIALLY COVERED BY DECLARATION
- EXHIBIT "B" ANNEXABLE PROPERTY
- EXHIBIT "C" SALES CENTER PROPERTY
- EXHIBIT "D" VILLAGE CENTER PROPERTY

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AND
RESERVATION OF EASEMENTS
FOR
PROVINCE**

THIS DECLARATION ("**Declaration**") is made as of this _____ day of March, 2004, by TOUSA HOMES, INC., a Florida corporation, doing business as ENGLE HOMES ("**Declarant**").

PART ONE: INTRODUCTION TO THE COMMUNITY

TOUSA HOMES, INC., a Florida corporation, doing business as ENGLE HOMES, a developer of PROVINCE, and as Declarant hereunder, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of PROVINCE. PROVINCE is a master planned community intended to operate as housing primarily for persons 55 years of age or older, pursuant to the federal Housing for Older Persons Act of 1995, as may be amended from time to time ("HOPA"). Units in PROVINCE are subject to HOPA requirements pertaining to restrictions to Occupancy by Age-Qualified Occupants, as implemented and set forth in this Declaration.

**ARTICLE 1
CREATION OF THE COMMUNITY**

1.1 Purpose and Intent. Declarant owns the real property described in Exhibit "A," and intends, by Recording this Declaration, to establish a general plan of development for the age-restricted Arizona master planned community known as PROVINCE. This Declaration provides a flexible and reasonable procedure for PROVINCE's future expansion as Declarant deems appropriate and provides for its overall development, administration, maintenance and preservation. An integral part of the development plan is the creation of PROVINCE Community Association, an Arizona nonprofit corporation whose members shall be comprised of all owners of Units in PROVINCE, to own, operate, and/or maintain various Common Elements and Areas of Association Responsibility to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

1.2 Binding Effect. All of the property described in Exhibit "A," and any additional property made a part of PROVINCE, from time to time in the future by Recording one or more Annexation Notices, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns.

Unless otherwise provided by applicable Arizona law, this Declaration shall run with the land and have perpetual duration. This Declaration may be terminated only by a Recorded instrument signed by Members comprising the Requisite Association Percentage, and which complies with the termination procedures set forth in applicable Arizona law. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents. PROVINCE's Governing Documents consist of:

- this Declaration (and any and all Recorded Declarations of Annexation and any and all Supplemental Declarations, applicable to specified Neighborhoods);
- PROVINCE Community Association's Articles of Incorporation;
- PROVINCE Community Association's Bylaws;
- Plats;
- Design Guidelines (described in Article 4);
- Rules and Regulations (described in Article 3); and
- resolutions of the Association's Board of Directors;

all as may be amended from time to time.

The Governing Documents apply to all Owners and Occupants of property within PROVINCE, as well as to their respective Invitees. Any lease on a Unit shall provide that the tenant and all Occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

1.4 Illustrative Diagram. Throughout the Governing Documents, there may be diagrams to illustrate the concepts discussed and to aid in the reader's understanding. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

The following diagram illustrates the Governing Documents for PROVINCE.

PROVINCE GOVERNING DOCUMENTS	
Declaration _____ (Recorded with Pinal County, Arizona, Recorder)	creates obligations which are binding upon the Association and all present and future owners of property in PROVINCE.
Declaration(s) of Annexation or Supplemental Declaration(s) _____ (Recorded with Pinal County, Arizona, Recorder)	annexes or adds property to PROVINCE; may impose additional obligations or restrictions on such property or particular Neighborhoods.
Articles of Incorporation _____ (filed with Arizona Corporation Commission)	establishes the Association as a not-for-profit corporation under Arizona law.
Bylaws _____ (adopted by Association's Board of Directors)	governs the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Design Guidelines _____ (adopted by Declarant)	establishes design standards and guidelines for improvements and modifications to Units, including structures, landscaping, and other items throughout PROVINCE.
Rules and Regulations _____ (adopted by Declarant)	supplementally governs use of property, activities, and conduct within PROVINCE.
Board Resolutions _____ (adopted by Board)	establishes rules, policies, and procedures for internal governance and Association activities; regulates operation and use of Common Elements.

1.5 Priorities and Inconsistencies.

(a) The Governing Documents shall be construed to be consistent with one another to the extent possible. If there exist any irreconcilable conflicts or inconsistencies

among the Governing Documents, the terms and provisions of this Declaration shall prevail (unless and to the extent only that any provision of the Declaration fails to comply with any provision of applicable law), and thereafter, the Governing Document listed first in Section 1.3 shall prevail over any later listed Governing Document.

(b) In the event of any inconsistency between any Community Governing Document and any other Governing Document which is specific to a particular Neighborhood ("Neighborhood Governing Document"), the former shall prevail.

(c) Any inconsistency between any two or more Neighborhood Governing Documents shall be resolved in like manner as set forth above.

(d) Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of the Property from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration.

1.6 Enforcement. The Governing Documents shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, by any means available at law or in equity, subject to the provisions of Article 19.

1.7 Term and Interpretation. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successive Owners and assigns, until terminated in accordance with applicable Arizona law.

(a) The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Area of Association Responsibility. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

(b) The provisions of this Declaration shall be upheld and enforceable to the maximum extent permissible under applicable federal or state law or local ordinance. Subject to the foregoing, if any court of competent jurisdiction should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of any other provision or any other application of such provision.

1.8 Constructive Notice and Acceptance. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of the Property hereby consents and agrees, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such Person acquired such interest, or any portion thereof.

1.9 Compliance with Applicable Laws. The Association shall comply with all applicable laws, including, but not limited to, applicable provisions of: (a) Arizona law; (b) HOPA; and (c) applicable laws prohibiting discrimination against any person in the provision of services or facilities in connection with a Dwelling because of a handicap of such person. The provisions

of the Governing Documents shall be upheld and enforceable to the maximum extent permissible under applicable laws. Subject to the foregoing, in the event of irreconcilable conflict between applicable law and any provision of the Governing Documents, the applicable law shall prevail, and the affected provision of the Government Document shall be deemed amended (or deleted) to the minimum extent necessary to remove such irreconcilable conflict. In no event shall the Association adhere to or enforce any provision of the Governing Documents which irreconcilably contravenes applicable law.

1.10 Exhibits. Exhibits "A," "B," "C" and "D," attached to this Declaration, are incorporated herein by this reference. Amendment of such Exhibits shall be governed by Article 23 below.

ARTICLE 2 CONCEPTS AND DEFINITIONS

Capitalized terms shall be defined as set forth below. Other capitalized terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions (unless otherwise defined in applicable Arizona law, in which case, the statutory definition reasonably shall be used).

2.1 "Age-Qualified Occupant": (a) An Occupant of a Unit who is 55 years of age or older, and thus qualifies under HOPA, or (b) a person 40 years of age or older, who owns and Occupies a Unit and was the original purchaser of the Unit from Declarant, subject to such numerical limitations as Declarant from time to time deems reasonable under HOPA.

2.2 "Annexable Property": The real property which is described on Exhibit "B" attached to this Declaration, together with all improvements located thereon and all easements, rights and appurtenances thereto.

2.3 "Areas of Association Responsibility": The Common Elements, together with such other areas (which may be on or off of the Property and which may be on Lots), if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

2.4 "Articles of Incorporation" or "Articles": The Articles of Incorporation of PROVINCE Community Association, as duly filed with the Arizona Corporation Commission.

2.5 "Assessments": Each and all of Base Assessments, Neighborhood Assessments, Special Assessments, and Specific Assessments.

2.6 "Association": Province Community Association, an Arizona not-for-profit corporation, and its successors or assigns.

2.7 "Association Cards": Any privilege cards which may be issued by the Association in accordance with the terms and conditions set forth in Article 13 and which confer upon the licensee certain privileges of access to and use of the Common Elements.

2.8 "Attached Dwelling" or "Attached Dwellings": Each Dwelling which is connected to another Dwelling.

2.9 "Base Assessment": Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of the Community. Each and all of Neighborhood Assessments, Special Assessments, and Specific Assessments, as applicable, are in addition to Base Assessments.

2.10 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the Bylaws and generally serving the role as the board of directors under Arizona corporate law.

2.11 "Bylaws": The Bylaws of PROVINCE Community Association, as may be amended from time to time.

2.12 "Casita". An ancillary "casita" or "guest house" which may (but need not necessarily) be constructed on a Lot by Declarant, or otherwise subject to DRC approval. Casitas shall be ancillary to Units, and shall not separately comprise Units.

2.13 "Common Elements": All real property or interests therein (including, but not necessarily limited to, certain easements designated on Plats as pedestrian access corridor easements, public utility easements, landscape easements, drainage and/or sewer easements, and any other such easements) owned or leased by the Association, which may include all or any of the following: entry monumentation, Gate House and other private entry gate areas for the Property, Village Center, Community Fitness and Activity Center, Private Streets, street lights (if any), street signs, curbs and gutters, Common Element landscaping, Lake Areas, access and ingress/egress easements, but otherwise, shall exclude Units. The Sales Center is not a Common Element; however, Declarant reserves the right, in its sole and absolute discretion, to convert the Sales Center and/or the land on which the Sales Center is located to a Common Element by conveying all or part of such property to the Association.

2.14 "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of the Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

2.15 "Community": PROVINCE, an age-restricted Arizona master residential common-interest planned community, subject to this Declaration and the other Governing Documents.

2.16 "Community Fitness and Activity Center": The PROVINCE community activity and fitness facility situated in the Village Center, which may include all or any of the following: an indoor and/or outdoor swimming pool, spa, saunas, aerobic facilities, weight-training and cardiovascular equipment, wellness center, locker rooms, tennis courts, bocci courts, library, social cafe, activities rooms, town hall, and related or similar facilities, furniture, fixtures, and/or equipment.

2.17 "Community Standards": The standards of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standards shall be established initially by Declarant and may be more specifically defined in the Design Guidelines, the Rules and Regulations, and Board resolutions. Any subsequent amendments to the standards shall meet or exceed the standards set by Declarant and Board during the Declarant Control Period. Such standards may contain both objective and subjective elements. The Community

Standards may evolve as development progresses and as the needs and demands of PROVINCE, change and mature.

2.18 "County": County of Pinal, Arizona, together with its successors and assigns.

2.19 "Declarant": TOUSA HOMES, INC., a Florida corporation, dba ENGLE HOMES, and/or any successor, successor-in-title, or assign which takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale, and which is designated as the Declarant or a Co-Declarant in an express Recorded assignment executed by Declarant (but specifically excluding Purchasers).

2.20 "Declarant Control Period": The period of time commencing on the date of this Declaration and continuing throughout the period in which Declarant owns any property subject to this Declaration or which may become subject to this Declaration by annexation in accordance with Section 10.1. During the Declarant Control Period, Declarant is entitled to appoint and/or remove the entire Board of Directors (or a majority thereof) pursuant to applicable Arizona law. Nothing in this Section shall preclude Declarant, in its sole discretion, from voluntarily relinquishing control of the Board earlier than required by this Section, by express written instrument. In such event, Declarant reserves the right to veto actions of the Association until such time as the Declarant Control Period would otherwise have expired under this Section.

2.21 "Declarant Rights Period": The period of time during which Declarant owns any property subject to this Declaration or which may become subject to this Declaration by annexation in accordance with Section 10.1 (during which period of time, Declarant has reserved certain rights as set forth in this Declaration).

2.22 "Declaration": This Declaration as amended and supplemented from time to time.

2.23 "Design Guidelines": The architectural, design, and construction guidelines and application and review procedures applicable to the Property, as promulgated and administered pursuant to Article 4, below, as may be duly amended from time to time.

2.24 "Director": A duly appointed or elected and current member of the Board of Directors.

2.25 "DRC": The Design Review Committee, if any, created pursuant to Section 4.2, below.

2.26 "Dwelling": A single Family residential building located on a Unit (or, in a condominium, a condominium Unit) designed and intended for use and occupancy as a residence by a single Family, subject to the Governing Documents.

2.27 "Family": A group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or a group of natural persons not all so related, but who maintain a common household in a Dwelling, all as subject to and in compliance with all applicable federal and Arizona laws and local health codes and other ordinances, subject to the "Qualified Occupant" provisions set forth herein.

2.28 "Gate House": The main private entry gate facility to PROVINCE.

2.29 "Golf Course": The Duke at Rancho El Dorado Golf Club which is situated east of, but not adjacent to, the Property and which is not part of the Property or the Common Elements.

2.30 "Governing Documents": The documents listed in Section 1.3. Any inconsistency between or among Governing Documents shall be governed pursuant to Section 1.5 above.

2.31 "HOPA": The federal Housing for Older Persons Act of 1995, as may be amended from time to time.

2.32 "Improvement": Any structure or appurtenance thereto of every type and kind, whether above or below the land surface, placed on the Property, including, but not limited to, Dwellings and other buildings, including Community Fitness and Activities Center, Gate House, and Sales Center, Lakes, Lake Areas, walkways, sprinkler pipes, swimming pools, spas and other recreational facilities, carports, garages, roads, driveways, parking areas, hardscape, Private Streets, streetlights, curbs, gutters, walls, perimeter walls, fences, screening walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

2.33 "Invitees": Each and all of the following: tenants, guests, and other invitees (including, as may be applicable, agents, employees, suppliers, and contractors).

2.34 "Lakes": The lakes which may be installed by Declarant on the Property, including the land underlying such lakes, all of which are part of the Common Elements.

2.35 "Lake Areas": The Lakes, any Common Elements surrounding the Lakes which provide access to the Lakes, any docks, paths, sidewalks, ramps, landings and other structures or equipment designed for use of, access to and maintenance of the Lakes, and all streams, pipes or other water distribution methods connected to the Lakes.

2.36 "Lake Rules": The Lake Area Restrictions set forth in Section 3.7 of this Declaration, and any rules and guidelines adopted by the Board with respect to the Lake Areas as such restrictions, rules and guidelines may be amended or supplemented from time to time.

2.37 "Land Entity": Any Person which owns any portion of the Property in the capacity of a landbanker or an entity in which Declarant is a principal shareholder, a manager, a member, a partner or other controlling position.

2.38 "Lot" or "Lots": Each parcel designated as a Lot on any of the Plats and on which a Dwelling is intended to be constructed (but specifically excluding the Common Elements), and where the context indicates or requires, the term Lot or Lots shall include any Dwelling, Casita and other Improvements situated thereon.

2.39 "Manager": The Person, if any, whether an employee or independent contractor, hired or appointed by the Association, acting through the Board, and delegated the authority to implement certain duties, powers or functions of the Association as provided in this Declaration.

2.40 "Member": A Person subject to membership in the Association pursuant to Section 6.2.

2.41 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

2.42 "Neighborhood": Any residential area within the Property designated by Declarant as a Neighborhood, whether or not governed by a Neighborhood Association, as more particularly described in Section 6.4, created for the purpose of sharing particular Neighborhood Common Elements, or receiving other benefits or services from the Association which are not provided to all Units within the Property. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Neighborhood, then such benefited Units shall be assessed an additional Specific Assessment for such benefits or services. Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee or Neighborhood Association, if any, having concurrent but subordinate jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 6.4.

2.43 "Neighborhood Assessments": Assessments, levied by the Association (or Neighborhood Association, if applicable) uniformly upon the Units within a particular Neighborhood, to pay for the Neighborhood Expenses within such Neighborhood, as described in Section 8.2. Neighborhood Assessments are additional to each and all of Base Assessments, Special Assessments, and Specific Assessments, as applicable.

2.44 "Neighborhood Association": A homeowners association which is created pursuant to a Supplemental Declaration and which has subordinate but concurrent jurisdiction with the Association over any Neighborhood. Nothing in this Declaration shall require the creation of a Neighborhood Association for any Neighborhood.

2.45 "Neighborhood Common Elements": A portion of the Common Elements which shall be allocated for the primary or exclusive use and benefit of one or more designated Neighborhood(s) (but less than the entire Community), as more particularly described in Article 14; and/or the common elements unique to a Neighborhood established under a Supplemental Declaration.

2.46 "Neighborhood Expenses": The expenditures made by, or financial liabilities of, the Association (or Neighborhood Association, if applicable), together with any allocations to reserves, for maintenance, management, operation, repair, replacement and insurance of Neighborhood Common Elements, or for the particular benefit of Owners of Units within a particular Neighborhood, together with a reasonable administrative charge, all as may be authorized pursuant to this Declaration or in any applicable Supplemental Declaration.

2.47 "Notice and Hearing": Written notice and an opportunity for a hearing before the Board, at which the Owner concerned shall have the opportunity to be heard in person, or by counsel at the Owner's expense, in the manner further provided in the Bylaws.

2.48 "Occupy", "Occupies", or "Occupancy": Unless otherwise specified in the Governing Documents, staying overnight in a particular Unit for at least 90 days in the applicable calendar year. **"Occupant"** shall refer to the individual who Occupies a Unit.

2.49 "Officer": A duly elected or appointed and current officer of the Association.

2.50 "Owner": One or more Persons, which may include Declarant, who holds the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. The term "Owner" shall include sellers under executory contracts of sale, but shall exclude Mortgagees. Except as may be specifically provided herein or in any Supplemental Declaration, Declarant shall, for purposes of the Governing Documents, be deemed to be the "Owner" of Units and other portions of the Property owned by a Land Entity.

2.51 "Person": A natural person, a corporation, limited liability company, partnership, trustee, or any other legal entity.

2.52 "Plats": The final plat maps of portions of PROVINCE, as Recorded from time to time, as may be amended and supplemented from time to time of Record.

2.53 "Private Streets": All private streets, rights of way, street scapes, and vehicular ingress and egress easements, in the Property, shown as such on a Plat.

2.54 "Property" or "Properties": The real property described in Exhibit "A" which, as of the date of this Declaration constitutes the only real property within PROVINCE and which is subject to the Declaration, together with any portion of the Additional Property which is hereafter annexed into PROVINCE and, in Declarant's sole and absolute discretion, made subject to this Declaration in accordance with Article 10.

2.55 "Purchaser": A purchaser of a Unit who is a member of the home-buying public. Purchaser shall not include Declarant and/or Land Entity.

2.56 "Qualified Occupant": Any of the following individuals who Occupies a Unit": (a) any Age-Qualified Occupant; (b) any Person 19 years of age or older who Occupies a Unit with an Age-Qualified Occupant; and (c) any Person 19 years of age or older who Occupies a Unit with an Age-Qualified Occupant and who continues, without interruption, to Occupy the same Unit after termination of the Occupancy of said Age-Qualified Occupant. (Notwithstanding the foregoing, an Occupant of a Casita on a Lot, unless also a Qualified Occupant of the primary Unit, shall not be a Qualified Occupant).

2.57 "Record," "Recording," or "Recorded": To file, filing, or filed of record in the official records of the Office of the County Recorder of Pinal County, Arizona. The date of Recording shall refer to that time at which a document, map, or Plat is Recorded.

2.58 "Requisite Association Percentage": Sixty-seven percent (67%) or more of the total aggregate voting power of the Membership of the Association.

2.59 "Requisite Neighborhood Percentage": Sixty-seven percent (67%) or more of the total aggregate voting power of those certain Association Members who are Owners of Units in the relevant Neighborhood.

2.60 "Rules and Regulations": The restrictions relating to an Owner's use of his or her Unit and conduct of Persons on the Property, as more specifically authorized and provided for in Article 3 below, and applicable Arizona law.

2.61 "Sales Center": The real property which is described on Exhibit "C" to this Declaration together with the Sales Center and Design Center to be installed and/or constructed thereon and which is located adjacent to or nearby the Village Center. The Sales Center shall not initially (and may never) constitute a Common Element. Declarant, in its sole discretion, expressly reserves the right at any time so long as Declarant is the owner of the Sales Center, to convey the Sales Center to the Association as a Common Element, subject to any terms, reservations and restrictions Declarant may impose, to rezone, plat and replat the Sales Center, or to convert the Sales Center to Units or to any other use or purpose Declarant deems appropriate.

2.62 "Special Assessment": Assessments levied in accordance with Section 8.4. Special Assessments are additional to each and all of Base Assessments, Neighborhood Assessments, and Specific Assessments, as applicable.

2.63 "Specific Assessment": Assessments levied against a particular Unit or Units for expenses incurred or to be incurred by the Association for the purposes described in Sections 7.4 and 8.5 below (or in any other section of this Declaration specifically referring to Specific Assessments). Specific Assessments are additional to each and all of Base Assessments, Neighborhood Assessments, and Special Assessments, as applicable.

2.64 "Supplemental Declaration": An instrument Recorded by Declarant or with the express prior written consent of Declarant, which shall be supplemental to this Declaration, and which may create a Neighborhood Association and/or impose supplemental obligations, assessments, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. Any purported Supplemental Declaration Recorded without the express prior written consent of Declarant shall be null and void.

2.65 "Unit": A portion of the Property, whether improved or unimproved (other than Common Elements, any Neighborhood Common Elements, Areas of Association Responsibility, and property dedicated to the public), which may be independently owned and conveyed and which is intended to be developed, used, and occupied as a Dwelling for a single Family (as shown and separately identified on a Plat). The term shall refer to the Lot, if any, which is part of the Unit as well as any Improvements thereon. The boundaries of each Unit shall be delineated on a Plat.

2.66 "Village Center": A portion of the Property which is described on Exhibit "D", together with all Improvements thereon and all personalty and amenities thereon to the extent owned by the Association which shall serve as the primary gathering and activity center within PROVINCE and which shall, without limitation, include the Community Fitness and Activity Center. The Village Center shall not include the Sales Center unless and until Declarant, in its sole and absolute discretion, converts the Sales Center and/or the land on which the Sales Center is located to a Common Element by conveying all or part of such property to the Association.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and architecture at PROVINCE, are what give the Community its identity and make it a place which people, as "good neighbors", want to call "home." Each Owner and Occupant in upholding such standards, can take pride in the results of that common effort. This Declaration establishes procedures for adopting,

modifying, applying and enforcing such standards, while providing flexibility for Community Standards to evolve as PROVINCE, grows and matures over time.

ARTICLE 3 USE AND CONDUCT

3.1 Restrictions on Use, Occupancy and Alienation. The restrictions set forth in this Section 3.1 may be amended only in accordance with Article 23.

(a) Residential and Related Uses. The Property shall be used only for residential, recreational, and related purposes. Related purposes may include, without limitation, offices for any management agent or agents retained by the Association, business offices for Declarant and/or the Association consistent with this Declaration and any Supplemental Declaration and any business use permitted under Section 3.1(c). In addition, any commercial activity that directly advances the residential and recreational character of the Property may be authorized by Declarant or the Association, if not inconsistent with the Governing Documents. Any Supplemental Declaration or any additional Recorded covenants may impose stricter standards than those contained in this Article and the Association shall have standing and the power to enforce such standards.

(b) Age Restricted Housing. PROVINCE is intended to provide housing primarily for persons 55 years of age or older, pursuant to HOPA, subject to the rights reserved to Declarant in Article 11 below. The Property shall be operated as an age restricted community in compliance with any and all applicable Arizona and federal laws. Subject to the foregoing, persons under 19 years of age may stay overnight in a Unit for up to 90 days during the year, but shall not Occupy any Unit. Subject to Article 11, each Unit, if Occupied, shall be Occupied by an Age Qualified Occupant; provided, however, that once a Unit is Occupied by an Age-Qualified Occupant, other Occupants of that Unit may continue to Occupy the Unit, regardless of the termination of Occupancy by said Age-Qualified Occupant. Notwithstanding the above, or any other term or provision in this Declaration, at all times, at least 80% of the Units within the Property shall be Occupied by at least one person 55 years of age or older. The Board shall establish policies and procedures from time to time as necessary to maintain its status as an age restricted community under applicable Arizona or federal law. The Association shall provide, or contract for the provision of, those facilities and services designed to meet the physical and social needs of older persons as may be required under such laws. Each Owner, by acceptance of a deed to its Unit, and each Occupant, by Occupying a Unit, shall be deemed to have agreed to comply with, and to reasonably cooperate as required from time to time by Declarant and/or Association, in their respective efforts to comply with HOPA (including, but not necessarily limited to, timely completion and delivery of any statement or affidavit circulated by the Association for the purpose of verifying compliance with HOPA or any annual or other periodic surveys when and as required by HUD).

(c) Business Use. No business or trade shall be conducted in or from any Unit, provided that an Owner or Occupant may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Property; (iii) the business activity does not involve regular visits to the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of other persons within the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other persons on the Property, as may be determined in the

sole discretion of the Board. The leasing of a Unit, subject to the Governing Documents, shall not be considered a business or trade within the meaning of this subsection. "Business and trade" shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the Family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (a) such a activity is engaged in on a full or part time basis, (b) such a activity is intended to or does generate a profit, or (c) a license is required. Notwithstanding the foregoing restrictions, an Owner or Occupant may conduct no more than two (2) garage sales, moving sales, rummage sales, estate sales or similar activities within any calendar year, provided that each such sale may only be advertised and accessible to other Owners and Occupants and not members of the general public.

This subsection shall not apply to any activity conducted by Declarant, a Land Entity, or a Person approved by Declarant, with respect to its development and sale of the Property (or resale of Units) or its use of any Lots or any other part of the Property which it owns, including the operation of a "vacation getaway," "holiday getaway," or similar program permitting temporary residential use. Additionally, this subsection shall not apply to any activity conducted by the Association, or a Person approved by the Association for the purpose of operating, maintaining or advancing the residential and recreational character of the Property.

(d) Leasing of Units. For purposes of this Declaration, "leasing" is defined as regular, exclusive residency in a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, rent, a fee, service or gratuity. No lease of a Unit shall be for a term of less than six months, and Units may be leased only in their entirety. No fraction or portion of a Unit may be leased. No structure on a Lot other than the primary residential Unit shall be leased or otherwise occupied for residential purposes, except that Casitas may be Occupied, but not independently or separately leased. There shall be no subleasing of Units or assignment of leases except with the Board's prior written approval. All leases shall be in writing. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board or its designee by the Owner within ten days of execution of the lease. The Owner must make available to the lessee copies of the Governing Documents. The Board may adopt reasonable Rules and Regulations further regulating leasing and subleasing. Any lease of a Unit shall provide that the tenant and all Occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

(e) Maximum Occupancy. Units shall not be Occupied or used in violation of any applicable law.

(f) Occupants Bound. All provisions of the Governing Documents shall apply to all Occupants, guests, and invitees of any Unit. Every Owner shall cause all Occupants, guests, and invitees of his or her Unit to comply with the Governing Documents and shall be responsible for all violations and losses to the Areas of Association Responsibility caused by such Persons, notwithstanding the fact that such Persons also are fully liable and may be sanctioned for any violation.

(g) Subdivision of Units and Sales Center and Fractional Interests. No Unit shall be subdivided or its boundary lines changed, except with the Board's prior written approval; provided, however, that Declarant hereby expressly reserves the right unilaterally to subdivide, change the boundary line of, and replat any Unit(s) owned by Declarant, and, for so

long as Declarant owns any portion of the Property, convert Units into Common Elements. Declarant also reserves the right to rezone, plat and replat the Sales Center, to convert the Sales Center to Units and/or Common Elements, or to any other use or purpose Declarant deems appropriate. No Unit shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years. However, Declarant hereby reserves the right for itself and its assigns to operate such program and/or to develop any portion of the Property for such uses.

3.2 General Framework for Regulation. The Governing Documents establish, as part of the general plan of development for the Property, a framework of affirmative and negative covenants, easements, and restrictions governing the Property. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology, which inevitably will affect PROVINCE, its Owners and Occupants. Therefore, this Article 3 establishes procedures for modifying and expanding the initial Rules and Regulations, and for creating and/or revising additional Rules and Regulations from time to time.

3.3 Rule Making Authority.

(a) **Authority of Board.** Subject to the Governing Documents, applicable Arizona law, and the Board's duty to exercise prudent business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand, the Rules and Regulations, and may create, modify, and enforce reasonable Rules and Regulations governing the use of the Property, consistent with other provisions in the Governing Documents.

(b) **Members' Authority.** Alternatively, the Members, at an Association meeting duly called for such purpose and in accordance with the Bylaws, may adopt provisions which modify, cancel, limit, create exceptions to, or expand, the Rules and Regulations, by a vote of the Requisite Association Percentage.

(c) **Notices.** At least 30 days prior to the effective date of any action taken under subsections (a) or (b) above, the Board shall provide a copy of the new Rule or Regulation or explanation of any modifications to the existing Rules and Regulations to each Owner, specifying the effective date, utilizing any of the following methods. The Board may furnish a copy of the new or modified Rule or Regulation either by U.S. mail, hand delivery, or electronic telecommunication (i.e., facsimile or email) with confirmation of receipt, or by publication in the community newsletter delivered or mailed to each Owner (provided that such notice is clearly identified under a separate headline in the newsletter). Upon written request by a Member or Mortgagee, the Association shall provide, without cost, a single copy of the newly revised Rules and Regulations. The Association may charge a reasonable fee for additional copies of the revised Rules and Regulations.

(d) **Authority to Change Design Guidelines.** During the Declarant Rights Period, Declarant shall have the exclusive right and power to modify, repeal, or expand, the Design Guidelines, as set forth in Section 4.3(a) below. Prior to expiration of the Declarant Rights Period (or any earlier termination or express delegation by Declarant of its rights under Article 4), neither the Board nor the Association shall have any authority to modify, repeal, or expand the Design Guidelines. In the event of a conflict between the Design Guidelines and the Rules and Regulations, the Design Guidelines shall control.

3.4 Owners' Acknowledgment; Notice to Purchasers. All Owners are given notice that use of their Units and the Common Elements is limited by the Rules and Regulations, as may be amended, expanded, and otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit may be affected by this provision, and that the Rules and Regulations may change from time to time, as provided under Section 3.2. All Purchasers of Units are hereby placed on notice that changes may have been adopted by the Association. Copies of the current Rules and Regulations may be obtained from the Association.

3.5 Protection of Owners and Others. Rules and Regulations shall be subject to and consistent with applicable federal and state laws, applicable health codes and other ordinances, the Declaration, Bylaws, and Design Guidelines, and must be adopted without intent to circumvent or evade the requirements and provisions of any of the foregoing. Additionally, no Rule or Regulation, or any other action by the Association or Board, shall hinder or impede the rights of Declarant to develop the Property (in accordance with the rights reserved to the Declarant in this Declaration and applicable Arizona law). Subject to and without limiting the foregoing, no Rule or Regulation shall be adopted or enforced in violation of any of the following provisions:

(a) Equal Treatment. Specifically subject to Section 1.9, above, the Rules and Regulations shall be uniformly applied under the same or similar circumstances with regard to similarly situated Owners; provided that Rules and Regulations may vary by Neighborhood (but shall be uniformly applied in such manner within any particular Neighborhood).

(b) Displays. There shall be no abridgement of the right of Owners to display religious and holiday signs, symbols, and decorations inside Dwellings; provided that the Rules and Regulations may, to the maximum extent permitted by applicable law, regulate the time, place, manner, and duration, of any displays visible from outside the Unit. No Rule or Regulation shall regulate the content of political signs; however, Rules and Regulations may, to the maximum extent permitted by applicable law, regulate the time, place, manner, and duration, of posting such signs (including reasonable design criteria).

(c) Household Composition. Subject to the provisions of this Declaration, no Rule or Regulation shall interfere with the right of an Owner to use a Unit as a residence for a single Family (provided that the foregoing shall not be interpreted under any circumstances to permit any "boarding houses" or to permit any condition or residence which would violate any applicable health code or other ordinance, or any applicable state or federal law).

(d) Activities Within Units. No Rule or Regulation shall interfere with the activities carried on within the confines of Dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and may restrict or prohibit any activities that would: (i) create monetary costs for the Association or other Owners, (ii) devalue property values within any portion of the Property, (iii) create a bona-fide danger to the health, safety and welfare of Owners or Occupants of other Units, (iv) generate excessive noise or traffic, (v) create unsightly conditions visible outside the Dwelling, (vi) create an unreasonable source of annoyance to Owners or Occupants of other Units, or (vii) otherwise violate applicable law.

(e) Alienation. No Rule or Regulation shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided that no such lease shall be for a term of less than six (6) months. The Rules and Regulations

may require that Owners use lease forms reasonably approved by the Board, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer (subject to any limitations set forth in applicable Arizona law).

(f) Abridging Existing Rights. If any new or amended Rule or Regulation would otherwise require Owners to dispose of personal property which they maintained in or on the Unit prior to the effective date of such regulation, or to vacate a Unit in which they resided prior to the effective date of such regulation, and such property was maintained or such occupancy was in compliance with this Declaration and all Rules and Regulations previously in force, such new or amended Rule or Regulation shall not apply to any such Owners without their written consent.

3.6 Initial Use Restrictions. Subject to the rights and exemptions of Declarant as set forth in this Declaration, all real property within the Property shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. The strict application of the limitations and restrictions set forth in this Section 3.6 may be modified or waived in whole or in part by the DRC in specific circumstances where such strict application would be unduly harsh, provided that any such waiver or modification shall not be valid unless in writing and executed by the DRC. Any other provision herein notwithstanding, neither Declarant, the Association, the DRC, nor their respective managers, directors, officers, members, agents or employees shall be liable to any Owner or to any other Person as a result of the failure to enforce any use restriction or for the granting or withholding of a waiver or modification of a use restriction as provided herein. Additional or supplemental use restrictions may be promulgated by Declarant (or, following the Declarant Rights Period, by the Board), from time to time in Recorded supplemental instruments.

(a) Single Family Residence. Each Unit shall be improved and used solely as a residence for a single Family and for no other purpose. No part of the Property shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any "manufactured" or mobile home, or for business, commercial, manufacturing, mercantile, primary storage, vending, "reverse engineering," destructive construction testing, or any other nonresidential purposes; provided that the foregoing restriction shall not apply to the improvements installed by Declarant on or as part of the Sales Center or to Declarant's exercise of the other reserved rights described in Articles 10, 11 and/or 12 of the Declaration. The foregoing sentence shall not modify Article 16, 17 or 18 below. The provisions of this Section shall not preclude a professional or administrative occupation, provided that there is no external evidence of any such occupation, for so long as such occupation is conducted in conformance with all applicable governmental ordinances and is merely incidental to the use of the Dwelling as a residential home. This provision shall not preclude any Owner from renting or leasing his entire Unit by means of a written lease or rental agreement subject to this Declaration and any Rules and Regulations; provided that no such lease shall be for a term of less than six (6) months.

(b) No Further Subdivision. Except as may be expressly authorized by Declarant, no Unit or Common Element may be further subdivided (including, without limitation, any division into time-share estates or time-share uses) without the prior written approval of the Board; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease his entire Unit by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Unit is not leased for transient or hotel purposes; (2) to sell his Unit; or (3) to transfer or sell any Unit to more than one person to

be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be made expressly subject to the Governing Documents. Any failure by the lessee of such Unit to comply with the terms of the Governing Documents shall constitute a default under the lease or rental agreement. Absent prior written approval of the DRC, in its sole discretion, no two or more Units in the Property may be combined in any manner whether to create a larger Unit or otherwise, and no Owner may permanently remove any block wall or other intervening partition between Units.

(c) Insurance Rates. Without the prior written approval of the DRC and the Board, nothing shall be done or kept in the Property which will increase the rate of insurance on any Unit or other portion of the Property, nor shall anything be done or kept in the Property which would result in the cancellation of insurance on any Unit or other portion of the Property or which would be a violation of any applicable law. Any other provision herein notwithstanding, neither the DRC nor the Board shall have any power whatsoever to waive or modify this restriction.

(d) Animal Restrictions. No animals, reptiles, poultry, fish, or fowl or insects of any kind ("animals") shall be raised, bred or kept on any Unit, except that a reasonable number of dogs, cats, household birds or fish may be kept, provided that they are not kept, bred or maintained for any commercial purpose, or in unreasonable quantities or in violation of any applicable municipal or County ordinance or any other provision of the Declaration, and are subject to such limitations as may be set forth in the Rules and Regulations. As used in this Section, "unreasonable quantities" shall ordinarily mean more than three (3) such pets per household; provided, however, that the Board or DRC may determine that a reasonable number in any instance may be more or less. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal in any Unit which constitutes, in the opinion of the Board or DRC, a nuisance to other Owners or Occupants. Subject to the foregoing, animals belonging to Owners, Occupants, or their respective Families, licensees, tenants or invitees within the Property must be either kept within an enclosure or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, any Owner and/or Occupant shall be liable to each and all other Owners, Occupants, and their respective Families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by an Owner or Occupant or respective Family, tenants or guests; and it shall be the absolute duty and responsibility of each such Owner and Occupant to clean up after such animals in the Property or streets abutting the Property. Without limiting the foregoing: (a) no "dog run" or similar improvement pertaining to animals shall be placed or permitted in any Unit, and (b) all Owners shall comply fully in all respects with all applicable County and municipal ordinances and rules regulating and/or pertaining to animals and the maintenance thereof on the Owner's Unit and/or any other portion of the Property.

(e) Nuisances. No rubbish, clippings, refuse, scrap lumber or metal; no grass, shrub or tree clippings; and no plant waste, compost, bulk materials, or other debris of any kind; (all, collectively, hereinafter, "rubbish and debris") shall be kept, stored or allowed to accumulate on any privately owned Unit unless stored within an enclosed structure or container which has been approved by the DRC, or unless such matter is screened from view in a manner approved by the DRC, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary or offensive. Without limiting the foregoing, a refuse container, the use of which has been approved by the DRC, containing such materials, may be placed outside at times reasonably necessary (generally not to exceed twelve (12) hours before or after scheduled trash collection hours) to permit garbage or trash pickup. No noxious or

offensive activities (including, but not limited to the repair of motor vehicles) shall be carried out on the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of a Unit so as to be offensive or detrimental to any other Unit or to occupants thereof, to the Common Elements, or to any Private Amenity. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other similar or unusually loud sound devices (other than devices used exclusively for safety, security or fire protection purposes), noisy or smoky vehicles, large power equipment or large power tools (excluding lawn mowers and other equipment utilized in connection with ordinary landscape maintenance), inoperable vehicle, unlicensed off-road motor vehicle, or other item which may unreasonably disturb other Owners or Occupants, or any equipment or item which may unreasonably interfere with television or radio reception within any Unit, or the Common Elements, shall be located, used or placed on any portion of the Property without the prior written approval of the DRC. No loud motorcycles, dirt bikes or other loud mechanized vehicles may be operated on any portion of the Property without the prior written approval of the DRC, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security of a Dwelling and its contents shall be permitted, provided that such devices do not produce unreasonably annoying sounds or conditions as a result of frequently occurring false alarms. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. Each Owner and Occupant shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the Occupancy and use of a Unit, including Dwelling. Each Owner and Occupant shall be accountable to the Association and other Owners and Occupants for the conduct and behavior of Family members or other persons residing in or visiting his Unit; and any damage to the Common Elements, personal property of the Association, or property of another Owner or Occupant, caused by such persons, shall be repaired at the sole expense of the Owner of the Unit where such persons are residing or visiting.

(f) Exterior Maintenance and Repair; Owner's Obligations. No property or Improvement anywhere within the Property shall be permitted to fall into disrepair, and all property (including any Improvements) in the Property shall at all times be kept in a safe condition, and in good condition and repair. If any Owner or Occupant shall permit any Unit, which is the responsibility of such Owner or Occupant to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the DRC, and after affording such Owner or Occupant reasonable notice, shall have the right but not the obligation to correct such condition, and to enter upon such Owner's Unit, for the purpose of so doing, and such Owner and/or Occupant shall promptly reimburse the Association for the cost thereof. Such cost may be assessed as a Specific Assessment pursuant to the Declaration, and, if not paid timely when due, shall constitute an unpaid or delinquent assessment for all purposes of the Declaration. The Owner and/or Occupant of the offending Unit shall be personally liable for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner and/or Occupant shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor. The Association shall have no liability whatsoever for any damage done to an Owner's Unit as a result of such entrance and repair, provided, however, that the Association was acting in good faith.

(g) Drainage. By acceptance of a deed to a Unit, each Owner agrees for himself and his assigns that he will not in any way interfere with or alter, or permit any Occupant to interfere with or alter, the established drainage pattern over any Unit, so as to affect said Unit, any other Unit, or the Common Elements, unless a dequate alternative provision is made for proper drainage and approved in advance and in writing by the DRC, and any request therefor

shall be subject to Article 4 of the Declaration, including, but not necessarily limited to, any condition imposed by the DRC, and further shall be subject to the Owner obtaining all necessary governmental approvals. For the purpose hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Unit is conveyed to a Purchaser from Declarant, or later grading changes which are shown on plans and specifications approved by the DRC.

(h) Water Supply and Sewer Systems. No individual water supply system, or cesspool, septic tank, or other sewage disposal system, or exterior water softener system, shall be permitted on any Unit unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any water or sewer district or company serving the Property, and any applicable governmental health authorities having jurisdiction, and has been approved in advance and in writing by the DRC.

(i) No Hazardous Activities. No activities shall be conducted, nor shall any Improvements be constructed, anywhere in the Property which are or might be unsafe or hazardous to any Person, Unit, or Common Elements. Without limiting the foregoing, (a) no firearm shall be discharged within the Property, and (b) there shall be no exterior or open fires whatsoever, except a regular barbecue fire or fireplace contained within a receptacle or structure commercially or professionally designed therefor, so that no fire hazard is created, or except as specifically authorized in writing by the DRC (all as subject to applicable ordinances and fire regulations).

(j) No Unsightly Articles. No unsightly article, facility, equipment, object, or condition (including, but not limited to, clotheslines, garden or maintenance equipment, or inoperable vehicle) shall be permitted to remain on any Unit so as to be visible from any street, or from any other Unit, Common Elements, or neighboring property. Without limiting the foregoing or any other provision herein, all refuse, garbage and trash shall be kept at all times in covered, sanitary containers stored in the Garage of a Unit or enclosed areas designed for such purpose so as not to be visible from neighboring Units. Such containers shall be exposed to view of the public, or neighboring Units, only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours).

(k) No Temporary Structures. Unless required by Declarant during the initial construction of Dwellings and other Improvements, or unless approved in writing by the DRC in connection with the construction of authorized Improvements, and except for permitted Casitas or as may be installed by Declarant or as related to the Sales Center, no outbuilding, tent, shack, shed or other temporary or portable structure or Improvement of any kind shall be placed upon any portion of the Property.

(l) No Drilling. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon, in, or below any Unit or the Common Elements, nor shall oil, water or other wells, tanks, tunnels or mineral excavations or shafts be permitted upon or below the surface of any portion of the Property. No derrick or other structure designed for use in boring for water, oil, geothermal heat, natural gas, or other mineral or depleting asset shall be erected. Declarant hereby reserves all water rights, if and to the extent there are any water rights, pertaining to all of the Property and all portions thereof.

(m) Alterations. There shall be no excavation, construction, alteration or erection of any projection which in any way alters the exterior appearance of any Improvement from any street, or from any other portion of the Property without the prior approval of the DRC

pursuant to Article 4 hereof. There shall be no violation of the setback, side yard or other requirements of local governmental authority, notwithstanding any approval of the DRC. This Section shall not be deemed to prohibit minor repairs or rebuilding which may be necessary for the purpose of maintaining or restoring a Unit to its original condition.

(n) Signs. Subject to the reserved rights of Declarant and other relevant provisions in the Declaration, and subject further to First Amendment rights of Owners and Occupants as determined from time to time by courts of competent jurisdiction, no flag, flag pole, balloon, beacon, banner, sign, poster, display, billboard or other advertising device or other display of any kind shall be installed or displayed to public view on any portion of the Property, or on any public street abutting the Property, without the prior written approval of the DRC, except: (a) one (1) sign for each Unit, advertising for sale or lease a privately owned Unit; provided, however, that such sign conforms to the specifications promulgated (from time to time) by the DRC, relating to dimensions, design, number, style and location of display, or (b) traffic and other signs installed by Declarant as part of the original construction of the Property. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the regulations of all applicable governmental ordinances. The foregoing also will not be deemed to prevent an Owner from the appropriate display of the American flag in accordance with A.R.S. § 33-1808, or any successor statute, or any rules and regulations promulgated from time to time by the DRC in accordance with applicable laws.

(o) Improvements.

(1) No Unit shall be improved except with one (1) Dwelling designated to accommodate no more than a single Family and its occasional guests, plus a garage, fencing and such other Improvements as are necessary or customarily incident to a single-Family Dwelling. No part of the construction on any Unit shall exceed the height limitations set forth in the applicable provisions of the Governing Documents, Design Guidelines, or any applicable governmental regulation(s). No projections of any type shall be placed or permitted to remain above the roof of any Unit, except one or more chimneys or vent stacks. Putting greens, croquet lawns, bocce ball and shuffleboard courts, or similar lawn games may be installed in the rear yard areas of a Unit subject to the approval of the DRC as to the design, size, shape, aesthetics, and location thereof. No basketball backboard, jungle gym, play equipment, or other sports apparatus, except as permitted above, whether temporary or permanent, shall be constructed, erected, or maintained on a Unit. Apart from any installation by Declarant as part of its original construction, no patio cover, wiring, air conditioning fixture, water softeners or other devices shall be installed on the exterior of a Dwelling or allowed to protrude through the walls or roof of the Dwelling, unless the prior written approval of the DRC is obtained, subject to subsection 3.6(p), below.

(2) All utility and storage areas and all laundry rooms, including all areas in which clothing or other laundry is hung to dry, must be completely covered and concealed from view from other areas of the Property and neighboring properties.

(3) No fence or wall shall be erected or altered without prior written approval of the DRC. All alterations or modifications of existing fences or walls of any kind shall require the prior written approval of the DRC.

(4) Garages shall be used only for their ordinary and normal purposes (which, in the case of garages designed to accommodate golf carts, shall include the normal parking of golf carts therein). Unless constructed or installed by Declarant as part of its

original construction, no Owner or Occupant may convert the garage on his or her Unit into living space or otherwise use or modify a garage so as to preclude regular and normal parking of vehicles therein, without the prior written approval of the DRC in its sole discretion. The foregoing notwithstanding, Declarant may convert a garage located in any Unit owned by Declarant into a sales office or related purposes.

(5) Except as originally installed by Declarant, swimming pools, spas, and Jacuzzis may be installed within the rear yard of a Unit only after the plans and specifications for the pool, pool fencing, and permanent pool equipment are approved by the DRC. All pool pumps and equipment must be constructed and installed in a manner so as not to be visible from neighboring Units. No aboveground pools may be erected, constructed, or installed on a Unit. Each Owner acknowledges that it is solely responsible for the installation of any pool fencing for the Unit. Pools may not be back washed into other Units, Common Elements, or any portions of the Community other than the Owner's Unit and streets. To the extent fencing is removed to install a permitted pool, the fencing will be replaced immediately after installation of the pool and in a manner substantially similar to the fence condition prior to its removal to install the pool. The DRC may condition any request to install a pool on the posting of a bond (cash or surety) to ensure reinstallation of any fence removed during pool construction.

(p) Antennas and Satellite Dishes. No exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or satellite dish, "C.B." antenna or other antenna or aerial of any type, which is visible from any street or from anywhere in the Property, shall be erected or maintained on any Unit, unless approved by the DRC; provided, however, "**Permitted Devices**" (defined as antennas or satellite dishes: (i) which are one meter or less in diameter and designed to receive direct broadcast satellite service; (ii) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services; (iii) designed to receive television broadcast signals or (iv) any similar antenna or satellite dish, the residential use of which is protected under the Telecommunications Act of 1996 and applicable regulations promulgated thereunder, as either may be amended from time to time (collectively "**Telecommunications Laws**")) shall be permitted. When permitted by the Telecommunications Laws, the DRC may adopt Rules and Regulations requiring Permitted Devices to be placed in specific locations, or screening devices so long as the restrictions do not impair the installation, maintenance, or use of the Permitted Devices. If an Owner reasonably determines that a Permitted Device cannot be located in compliance with such Rules without precluding reception of an acceptable quality signal, then the Owner may install such Permitted Device in the least conspicuous alternative location within the Unit where an acceptable quality signal can be obtained; provided further that Permitted Devices shall be reasonably screened from view from the street or any other portion of the Property, and shall be subject to any further Rules and Regulations adopted by the DRC or Board, establishing a preferred hierarchy of alternative locations, so long as the same do not unreasonably increase the cost of installation, or use of the Permitted Device.

Declarant or the Association may, but are in no way obligated to, provide a master antenna or cable television antenna for use of all or some Owners. Declarant and/or the Association, acting through its Board, may grant easements for installation, maintenance, repair and/or replacement of any such master or cable television service. Without limiting the preceding, Declarant and/or the Association from time to time will or may enter into a Community Television Cable Services Agreement or other similar agreement with Orbitel Communications, LLC or other provider, and, in such event, the provisions of any such agreement shall be incorporated fully herein by this reference, and any easements required

under or pursuant to such agreement shall be deemed set forth fully in this Declaration and/or recorded supplement(s) hereto, which supplement(s) may be recorded unilaterally by Declarant and/or Association pursuant to the foregoing.

(q) Landscaping. Subject to the provisions of the Declaration and except for front yard landscaping installed by Declarant in connection with the sale of an Attached Dwelling Unit to the initial Purchaser under Section 16.1, each Owner shall install and shall thereafter maintain the front and rear landscaping on his Unit within ninety (90) days after the closing of the purchase of such Owner's Unit. All front and rear landscaping plans shall be in conformance with the Governing Documents and shall be approved by the DRC prior to installation of any landscaping materials. Each Owner shall thereafter maintain all front and rear landscaping on his Unit in a neat and attractive condition. The Board may adopt Rules and Regulations proposed by the DRC to regulate landscaping permitted and required in the Property. If an Owner fails to install and maintain landscaping in conformance with the Governing Documents, or allows his landscaping to deteriorate to a dangerous, unsafe, unsightly, or unattractive condition, the Board shall have the right to either (a) after thirty (30) days' written notice, seek any remedies at law or in equity which it may have; or (b) after reasonable notice (unless there exists a condition threatening the health, safety, and welfare of Owners or Occupants, in which case, the right shall be immediate, and no notice shall be required), to correct such condition and to enter upon such Owner's Unit for the purpose of so doing, and such Owner shall promptly reimburse the Association for the cost thereof, as a Specific Assessment enforceable in the manner set forth in the Declaration. Each Owner shall be responsible, at his sole expense, for maintenance, repair, replacement, and watering of any and all landscaping on the Unit, as well as any and all sprinkler or irrigation or other related systems or equipment pertaining to such landscaping; provided that the Association reserves the right to perform, or cause to be performed, such functions, and to assess the Owners therefor.

(r) Prohibited Plant Types. Without limiting the generality of any other provision herein, certain plant types, as listed or set forth from time to time in the Design Guidelines, incorporated herein by this reference, are hereby specifically declared to be nuisances, and shall not be permitted anywhere within the Property. DRC and/or Declarant may, from time to time and at any time, add or delete any plant species to said list of prohibited plants. If DRC and/or Declarant adds a plant species to said list of prohibited plants, each Owner shall refrain from planting or placing such plant species on the Property; provided, however, that Owners shall not be obligated to unearth landscaping existing at such time to remove such newly prohibited plant species from the Property.

(s) Parking and Vehicular Restrictions. No vehicle owned or operated by an Owner or Occupant may be parked on any streets or anywhere else within the Community, except within the garage ("Garage") constructed by Declarant as part of the original construction of the applicable Unit, on the driveway on the Unit (provided that such vehicle does not encroach over the sidewalk), within Common Element parking areas designated as such, subject to the Governing Documents, or emergency repair situations, provided that repairs to such vehicle are completed within seventy-two (72) hours. Notwithstanding the foregoing, no Person shall park, store, or keep anywhere within the Property: any disabled, unregistered, or unlicensed vehicle; or any large commercial-type vehicle (including, but not limited to, any dump truck, cement-mixer truck, oil or gas truck, or any other similar vehicle); provided that the foregoing shall not be deemed to exclude reasonable and temporary parking on streets, where not otherwise prohibited, of moving vans, delivery trucks, maintenance vehicles, landscaping trucks, or similar vehicles, for the sole purpose of reasonably prompt loading, unloading,

delivery, maintenance, and/or landscaping (but in no event shall such vehicles be permitted to remain overnight). No Person shall park, store, or keep on any street (public or private) within or abutting the Property: any recreational vehicle (including, but not limited to, any camper unit, house car or motor home, trailer, trailer coach, camp trailer, watercraft, aircraft, or mobile home); provided that recreational vehicles may, for a period not to exceed six (6) hours, be parked in a driveway and on streets for the sole purpose of promptly loading and unloading such recreational vehicles, subject to all applicable Rules and Regulations. Notwithstanding any of the foregoing, one camper truck, van, or similar vehicle, up to and including one (1) ton, when used for everyday-type transportation, may be kept or parked by an Owner, if wholly enclosed within the Owner's garage. No parking of any vehicle shall be permitted along any curb or otherwise on any street within the Property, except only for ordinary and reasonable guest parking, in specifically designated areas therefor, subject to Rules and Regulations established by the Board. In addition, no Person shall park, store or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed by the Board or the DRC to be a nuisance. No Person shall perform repair or restoration of any motor vehicle, trailer, watercraft, aircraft, or other vehicle, upon any portion of the Property or on any street abutting the Property; provided that repair and/or restoration of one motor vehicle shall be permitted, but only if performed wholly within an Owner's Garage with the garage door closed; provided further that such activity may be prohibited entirely by the Board or DRC if either determines, in its respective reasonable discretion, that such activity constitutes a nuisance. Each Owner and/or Occupant shall maintain his garage in a manner which ensures that the Garage is capable of regularly and normally accommodating as many vehicles as it was originally designed to accommodate. Garage doors shall be kept closed at all times, except when the Garage is in use. The Board may establish Rules and Regulations further governing or restricting parking (including, but not limited to, any guest parking in specifically designated areas). Notwithstanding any of the foregoing, these restrictions shall not be interpreted in such manner as to permit any activity contrary to any applicable law or Municipal or County ordinance.

(t) Garage Window Coverings. Each Owner of a Unit with a "side-loading" Garage (with a Garage window) shall be required, by not later than sixty (60) days following Close of Escrow thereof, to have installed (and thereafter to maintain in good condition) "approved" (by the DRC, which may, in its sole discretion, promulgate from time to time written guidelines regarding approved Garage window coverings) window covering on the Garage window.

(u) Outdoor Furniture. Except for patio furniture of the type(s) listed on an "Approved Furniture List" in the Design Guidelines, no furniture (including, but not necessarily limited to, lawn furniture, patio furniture, and so on) shall be placed outdoors on any Unit without the prior written approval of the DRC (which may, in the sole discretion of the DRC, be made by written guidelines promulgated from time to time by the DRC pertaining to such outdoor furniture).

(v) No Waiver. The failure of the Board or DRC to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Board or Manager of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board or Manager of any provision hereof shall be

deemed to have been made unless expressed in writing and signed by the Board or the Manager.

(w) Declarant Exemption. Units and other portions of the Property owned by Declarant shall be exempt from the provisions of this Section 3.6, until such time as Declarant conveys title to the Unit to a Purchaser, and activities of Declarant reasonably related to Declarant's development, construction, marketing and sales efforts, shall be exempt from the provisions of this Section 3.6. This Section 3.6(w) may not be amended without Declarant's prior written consent, and any purported amendment in violation of the foregoing shall be null and void.

3.7 Lake Area Restrictions. The following restrictions shall be applicable to the Lake Areas:

(a) There shall be no swimming in the Lakes except in the case of an emergency or as may be provided by the Lake Rules.

(b) Unless otherwise approved in writing by the Board, only boats and watercraft operated by the Association for maintenance, safety or other community purposes or by Declarant shall be allowed in the Lake Areas.

(c) The Association and Declarant shall have authority to restrict the usage of all or any portion of the Lake Areas by any Persons, including an Owner or Occupant, or their Family, guests or invitees due to negligence or violation of any of the Lake Rules or any other safety regulations, as well as for reasons set forth elsewhere in this Declaration. Any Person whose use of the Lake Areas is restricted by Declarant may request review of such restriction by the Board, the decision of which shall be binding.

(d) If forces of nature or governmental restrictions prohibit or otherwise render maintenance of the Lakes in the size, level or formation as originally shown on the Plats not possible or unreasonable for environmental or other reasons, neither Declarant nor the Association shall be obligated to maintain the Lakes in the size, level or formation as originally shown on the Plats.

(e) It is currently contemplated that effluent water is to be used to fill the Lakes and to maintain the landscaping in certain of the Common Elements. Owners acknowledge that the cost of such water may fluctuate and shall be a Common Expense.

ARTICLE 4 ARCHITECTURE AND LANDSCAPING

4.1 General.

(a) No structure or thing shall be placed, erected, installed, or posted on the Property and no improvements or other work (including staking, clearing, excavation, grading, and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within the Property, except in compliance with this Article 4 and the Design Guidelines. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of

his or her Unit without approval. However, modifications to porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

(b) This Article 4 shall not apply to the activities of Declarant during the Declarant Control Period.

4.2 Architectural Review.

(a) Review By Declarant or Designated DRC. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Property, acknowledges that Declarant (as the developer of the Property and as an Owner of portions of the Property as well as other real estate adjacent to or nearby the Property) has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article 4 ("**Work**") shall be commenced on such Owner's Unit unless and until Declarant or the DRC has given its prior written approval for such Work, which approval may be granted or withheld in the sole discretion of Declarant or DRC. In reviewing and acting upon any request for approval, Declarant or DRC shall be acting solely in the interest of Declarant and shall owe no duty to any other Person. Declarant may from time to time, but shall not be obligated to, delegate all or any portion of its reserved rights under this Article 4 to a Design Review Committee appointed by Declarant ("**DRC**"), comprised of architects, engineers, or any other persons, who need not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. During the Declarant Rights Period, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates.

(b) Period of Declarant's Article 4 Rights. The rights reserved to Declarant under this Article 4 shall continue through the Declarant Rights Period, unless earlier terminated or expressly delegated by a written and Recorded instrument executed by Declarant.

(c) Review by Board-Appointed DRC. Upon expiration or termination of the Declarant Rights Period, or upon express delegation by Declarant of its Article 4 rights: (i) the Board, acting through the DRC, shall assume jurisdiction over architectural matters, and (ii) the DRC, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the DRC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, whose compensation, if any, the Board shall establish from time to time. Until such time as the Declarant Rights Period expires or terminates, or unless and until such time as Declarant expressly in writing delegates its Article 4 rights to the Board, neither the Board nor the Association shall have any jurisdiction or authority whatsoever over architectural matters.

(d) Review Fees: Assistance. For purposes of this Article 4, the person or entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**" The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects,

engineers, or other professionals. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

(e) Notwithstanding the foregoing or any other provision herein, the DRC's jurisdiction shall extend only to the external appearance or "aesthetics" of any Improvement, and shall not extend to structural matters, method of construction, or compliance with building code or other applicable legal requirement or requirement of a governmental authority. DRC approval shall be subject to all applicable legal requirements, requirements of applicable governmental authority, drainage, and other similar matters, and shall not be deemed to encompass or extend to possible impact on neighboring Lots.

4.3 Design Guidelines and Procedures.

(a) Design Guidelines. Declarant may prepare the initial Design Guidelines, which may contain general provisions applicable to all of the Property as well as specific provisions which may vary by Neighborhood. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications. The Reviewer shall make the Design Guidelines available to Owners who seek to engage in development or construction within PROVINCE. In Declarant's sole discretion, such Design Guidelines may be Recorded (in which event the Recorded version, as unilaterally may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time). Declarant shall have sole and full authority to amend the Design Guidelines during the Declarant Rights Period, notwithstanding a delegation of reviewing authority to the DRC (unless Declarant also expressly delegates such power to amend). Upon termination or delegation of Declarant's right to amend, the DRC shall have the authority to amend the Design Guidelines, with the Board's consent. Any amendments to the Design Guidelines shall be prospective only, and shall not require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

(b) Procedures. The Design Guidelines may include or incorporate certain DRC procedural guidelines which may be promulgated by the DRC from time to time ("DRC Procedural Guidelines"). Unless a waiver contemplated by Section 4.2(c) above applies, prior to commencing any Work within the scope of this Article 4, an Owner shall submit to the relevant Reviewer an application for approval of the proposed Work in such form as the Design Guidelines or the Reviewer may specify. Such application shall include plans and specifications ("**Plans**") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Guidelines and the Reviewer may require the submission of such additional information as reasonably deemed necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems reasonably relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters

of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall, after receipt of a completed application and all required information, and in accordance with DRC Procedural Guidelines, respond in writing to the applicant at the address specified in the application. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

In the event that the Reviewer fails to respond in accordance with DRC Procedural Guidelines, approval shall be deemed to have been given, subject to Declarant's veto right pursuant to this Section. However, no approval (whether expressly granted or deemed granted pursuant to the foregoing) shall be inconsistent with the Design Guidelines, unless a variance has been expressly granted pursuant to Section 4.5. There shall be no deemed variances.

Until expiration of the Declarant Rights Period, the DRC shall notify Declarant in writing within five (5) business days after the DRC has approved any application relating to proposed Work within the scope of matters Declarant delegated to the DRC. The notice shall be accompanied by a copy of the application and any additional information Declarant may require. Declarant shall have 10 business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC and the applicant.

If construction does not commence on a project for which Plans have been approved within 120 days after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any Work. Once construction is commenced, it shall be diligently pursued to completion. All Work (other than installation or modification of landscaping) shall be completed within 180 days of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article 4, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Article 4 will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar applications or proposals in the future. Approval of applications or Plans for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances. The Reviewer may authorize written variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted regulations. Such variances may only be granted, however,

when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or other financial considerations, shall not be considered a hardship warranting a variance. Notwithstanding the above, the Reviewer may not authorize variances without the written consent of Declarant, during the Declarant Rights Period.

4.6 Limitation of Liability. The standards and procedures in this Article 4 are intended as a Community mechanism for maintaining and enhancing the overall aesthetics of the Property but shall not create any duty to any Person. Review and approval of any application are made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility whatsoever for ensuring (a) the structural integrity or soundness of approved construction or modifications; (b) compliance with building codes and other governmental requirements; (c) that Units are of comparable quality, value, size, or of similar design, aesthetically pleasing, or otherwise acceptable to neighboring property owners; (d) that views from any other Unit are protected; or (e) that no defects exist in approved construction. Neither Declarant, the Association, the Board, any committee, nor member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor, subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board and its Directors, and the DRC and its members, shall be defended and indemnified by the Association as provided in Section 7.6.

4.7 Certificate of Compliance. Any Owner may request that the Reviewer (or other designated Association representative) routinely issue a certificate of architectural compliance certifying that there are no known violations of this Article 4 or the Design Guidelines. The Association shall either routinely grant or deny such request within 45 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate and which may violate this Article 4 or the Design Guidelines, but shall raise absolutely no presumption or inference of compliance with the requirements of any governmental agency with jurisdiction. All Owners are responsible, notwithstanding any Association certificate, for complying, at the Owner's expense, with all requirements of all governmental agencies with jurisdiction.

4.8 Cure of Nonconforming Work; Enforcement. Any construction, alteration, or other work done in violation of this Article 4 or the Design Guidelines shall be deemed to be nonconforming. Upon written request from Declarant, the Association, or Reviewer, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, Declarant, the Association, or their designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by applicable law), may be assessed against the benefited Unit and collected as a Specific Assessment unless otherwise prohibited in this Declaration or by applicable Arizona law.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved Work and all Work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved Work by the deadline set forth in the approval, Declarant or the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the Bylaws, to enter upon the Unit and remove or complete any incomplete Work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment unless otherwise prohibited in this Declaration.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. The Association and/or Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article 4 and the decisions of the Reviewer.

ARTICLE 5 MAINTENANCE AND REPAIR

5.1 Maintenance of Units. Each Owner shall maintain his or her Unit, and all landscaping and other improvements comprising the Unit, in a manner consistent with the Governing Documents, the Community Standards, and all applicable covenants, unless some or all of such maintenance responsibility is otherwise assumed by or assigned to the Association (or by a Neighborhood Association pursuant to Supplemental Declaration). In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred in accordance with Section 8.5. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.2 Maintenance of Neighborhood Property. Each Neighborhood Association shall maintain its Neighborhood Common Elements, and any other property for which it has maintenance responsibility, in a manner consistent with the Governing Documents, the Community Standards, and all applicable covenants. Upon resolution of the Board, the Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Association Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads or Area of Association Responsibility, Private Streets within the Neighborhood, and Lakes or other features which are a part of the Neighborhood. The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the reasonable judgment of the Board, the level and quality of service than being provided is not consistent with the Community Standards. All costs of maintenance of such property within the Neighborhood shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided.

5.3 Responsibility for Repair and Replacement: Unless otherwise specifically provided for in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community Standards. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full

replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the applicable Neighborhood Association (if any) or the Association carries such insurance (which they may, but are not obligated to do). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

(a) Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 4. In the event that such repair and reconstruction cannot be promptly undertaken, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community Standards and shall present a timetable for repair and reconstruction to the Board within 30 days of the damaging or destructive event. The Owner shall pay any costs which are not covered by insurance proceeds.

(b) The requirements of this Section shall apply to any Neighborhood Association responsible for Neighborhood Common Elements in the same manner as if the Neighborhood Association were an Owner and the Neighborhood Common Elements were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of PROVINCE. While many powers and responsibilities are vested in the Association's Board of Directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's Membership.

ARTICLE 6 THE ASSOCIATION AND ITS MEMBERS

6.1 Function of the Association. The Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Association Responsibility. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and applicable laws.

6.2 Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Unit. In the event that more than one Person holds fee title to a Unit ("co-owners"), all such co-owners shall constitute one Member, and may attend any meeting of the Association, but only one (1) such co-owner ("**Designated Co-Owner**"), designated from time to time by all of the co-owners in a written instrument provided to the Secretary of the Association, shall be entitled to exercise the vote to which the Unit is entitled. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. All co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Unit

and shall be entitled to all other benefits of ownership, subject to the Governing Documents and to reasonable Board regulation.

6.3 Voting.

(a) The Association shall have one class of membership, comprised of all Owners. Each Owner shall have one equal vote for each Unit in which it holds the interest required for membership under Section 6.2, except that there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.10. Accordingly, the total number of votes for the Association shall equal the total number of Units created under and subject to this Declaration.

(b) Special Declarant Rights, including the right to approve, or withhold approval of, actions proposed under the Governing Documents during the specified times, are specified in the relevant sections of the Governing Documents. Declarant may appoint the entire Board of Directors and may remove the entire Board of Directors (or a majority thereof) during the Declarant Control Period.

(c) Where a Unit is owned jointly by co-owners, only the Designated Co-Owner, designated from time to time by all of the co-owners in a written instrument provided to the Secretary of the Association, shall be entitled to exercise the one (1) vote to which the Unit is entitled. Where no Designated Co-Owner has been designated, or if such designation has been revoked, the vote for such Unit shall be exercised as the majority of the co-owners of the Unit mutually agree. Fractional votes shall not be allowed. No vote shall be cast for any Unit where the co-owners present in person or by proxy owning the majority interests in such Unit cannot agree to said vote or other action. Absent such advice and in the event that more than one such co-owner casts a vote, the Unit's vote shall be suspended and shall not be included in the final vote tally on the matter being voted upon.

(d) Notwithstanding the foregoing, the voting rights of an Owner shall be automatically suspended during any time period that any Assessment levied against such Owner is delinquent.

6.4 Neighborhoods. Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration may initially assign the property submitted thereby to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. During the Declarant Rights Period, Declarant unilaterally may amend this Declaration or any Supplemental Declaration, or unilaterally may Record a separate Instrument from time to time to redesignate Neighborhood boundaries; provided that two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

The following is a summary of the formation and function of Neighborhoods:

NEIGHBORHOOD

- Created by Declarant when Neighborhood property is annexed or afterward.
- Or, subsequently created by Declarant when additional land is annexed or afterward.
- Units in a Neighborhood share any Neighborhood Common Elements.
- Neighborhood may request that the Association provide special services or a higher level of services.

Any Neighborhood, acting either through a Neighborhood Committee elected as provided in the Bylaws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to the Property, or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of the Requisite Neighborhood Percentage, the Association shall provide the requested services. The cost of such services, which may include an administrative charge in such amount as the Board reasonably deems appropriate (provided that any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the benefited Units within such Neighborhood as a Neighborhood Assessment. For additional Neighborhood provisions, refer to Article 14, below.

ARTICLE 7 ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Association Property.

(a) To further its functions as set forth above, the Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal and real property. The Association may enter into leases, licenses, or operating agreements for portions of the Areas of Association Responsibility, to permit use of such portions of the Areas of Association Responsibility by community organizations and by others, whether nonprofit or for profit, or for the provision of goods or services for the general benefit or convenience of Owners and Occupants of PROVINCE.

(b) Declarant and its designees may convey to the Association personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Property originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Areas of Association Responsibility, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Areas of Association Responsibility as it deems appropriate.

7.2 Maintenance of Area of Association Responsibility.

(a) Generally. The Association shall maintain, in accordance with the Community Standards, the Areas of Association Responsibility, which shall include, but need not be limited to:

(i) all portions of and structures situated upon the Common Elements;

(ii) such portions of any additional property included within the Areas of Association Responsibility (which may include landscaping within public rights-of-way within or abutting the Property) as may be dictated by the Resolution No. 032603-TH of the Pinal County Board of Supervisors authorizing Pinal County to enter into the Development Agreement for Rancho El Dorado South (East Side) recorded on the 1st day of April 2003, as Instrument No. 2003-021386 of the records of Pinal County, Arizona ("**Development Agreement**"), this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(iii) all Lakes, Lake Areas and/or wetlands located within the Property which serve as part of the stormwater drainage system for the Property, including improvements and equipment installed therein or used in connection therewith;

(iv) any property and facilities Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities must be identified by written notice from Declarant to the Association and shall remain a part of the Areas of Association Responsibility and shall be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association; and

(v) the exterior of all perimeter walls or fences Declarant constructs surrounding the Property or which separate a Unit from Areas of Association Responsibility (regardless of whether such wall or fence is located on the Areas of Association Responsibility or on a Unit). Except for wrought iron and like fences or walls and other fences for which the Association assumes complete maintenance responsibility, each Owner shall be responsible for maintaining the interior surface of perimeter walls or fences located on such Owner's Unit and each Owner shall be responsible for the costs to repair or replace any damage to such perimeter walls or fences caused by such Unit Owner's Family members, guests, Invitees and licensees. A perimeter wall or fence shall not be a party wall or party fence as set forth in Article 15.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community Standards.

The Association shall also have the right and power, but not the obligation, to take such actions and adopt such rules as may be necessary for control, relocation, and management of wildlife, snakes, rodents, and pests within the Areas of Association Responsibility.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to any property which the Association is obligated to maintain by this Declaration or any Supplemental Declaration, either by agreement with the Neighborhood

Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community Standards. All costs of such maintenance shall be assessed as a Neighborhood Assessment against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(b) Continuous Operation. The Association shall maintain the facilities and equipment within the Areas of Association Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless the Requisite Association Percentage or Declarant (during the Declarant Rights Period) agree in writing to discontinue such operation. The Areas of Association Responsibility shall not be reduced during the Declarant Rights Period by amendment of this Declaration or any other means except with the prior written approval of Declarant.

(c) Maintenance as Common Expense. The costs associated with maintenance, repair, and replacement of the Areas of Association Responsibility and such other costs as provided in Section 7.2(a), or any other cost or expense of the Association incurred by the Association in furtherance of its functions or reasonably related thereto, shall be a Common Expense; provided that the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Areas of Association Responsibility pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Neighborhood Common Elements shall be a Neighborhood Expense assessed to the Neighborhood(s) to which such Neighborhood Common Elements are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3 Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Areas of Association Responsibility to the extent that the Association has responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Areas of Association Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary

and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage, with umbrella coverage of at least \$5,000,000; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage (including coverage for committee members);

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood, which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Areas of Association Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Neighborhood Common Elements may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Neighborhood Common Elements are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate. In addition, the Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Phoenix area.

(b) Policy Requirements. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after Notice and Hearing, that the loss is the result of the negligence or willful misconduct of one or more Owners and/or Occupants, or their respective Families or Invitees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Arizona which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Elements shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, Occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association;

(vii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer conditioning recovery on account of an act or omission of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(viii) include an endorsement precluding the insurer from denying a claim by a Member or Owner or conditioning recovery under the policy based on or due to the negligent acts or omissions of the Association, any other Member, or any other Owner.

(ix) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners (as a class) as additional insureds and provide:

(x) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and manager, and the Owners and Occupants and their respective Families and Invitees;

(xi) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(xii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(xiii) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(xiv) a cross-liability provision; and

(xv) a provision vesting in the Board's exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Elements or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Elements shall be repaired or reconstructed unless the Requisite Association Percentage or Declarant (during the Declarant Rights Period) decides within 60 days after the loss not to repair or reconstruct. If the damage is to Neighborhood Common Elements, the Neighborhood Common Elements shall be repaired or reconstructed unless the Requisite Neighborhood Percentage or Declarant (during the Declarant Rights Period) decides within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Elements shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community Standards.

If Owners to which Neighborhood Common Elements is assigned vote not to repair or reconstruct improvements on such Neighborhood Common Elements, any insurance proceeds attributable to such Neighborhood Common Elements, minus the costs of clearing and landscaping, shall be distributed to such Owners. If Members vote not to repair or reconstruct improvements on Common Elements, the foregoing provision shall also apply to all Owners within PROVINCE, with respect to insurance proceeds attributable to such Common Elements. This provision may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

7.4 Compliance and Enforcement.

(a) Every Owner and Occupant shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after Notice and Hearing. The Board shall establish a range of penalties for such violations, with violations of the Declaration, unsafe conduct, harassment, or intentionally malicious conduct treated more severely than other violations. Such sanctions may include, without limitation:

(i) imposing a graduated range of reasonable monetary fines which shall constitute a lien upon the violator's Unit; provided such fines shall not exceed such maximum amount as may be established from time to time by applicable Arizona law or other applicable law. Before the Association may impose such a fine, it must first deliver, personally or by mail, a schedule of such fines to all Owners at their address as it appears on the records of the Association. In the event that any Invitee of an Owner, any Occupant, or any Family or Invitee of an Occupant, violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided that if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board. For each failure to comply, the amount of said fine shall not exceed the maximum permitted by applicable Arizona law (subject to the exceptions set forth in applicable Arizona law if the violation is of a type that threatens the health and welfare of the Community);

(ii) suspending an Owners' right to vote;

(iii) suspending any Person's right to use any recreational or park facilities within the Common Elements; provided that nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article 4 and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vi) (without liability to any Person) precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 and the Design Guidelines from continuing or performing any further activities in the Property;

(vii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents; and

(viii) in addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of Notice and Hearing:

(A) exercising other reasonable measures in any emergency situation (which shall specifically include, but not limited to, the towing of vehicles that are parked in violation of the Rules and Regulations);

(B) subject to Article 19, bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(ix) In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the

Association against the Unit and the Owner as a Specific Assessment, subject to the limitations expressly set forth in applicable Arizona law. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable State and local laws and ordinances, and shall permit local governmental bodies to enforce their respective laws and ordinances within the Property for the benefit of the Association and its members.

7.5 Implied Rights: Board Authority. Subject to the Governing Documents, and applicable Arizona law and other applicable law, the Association may exercise any right or privilege given to it expressly by the Governing Documents or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by applicable law, all rights and powers of the Association may reasonably be exercised by the Board without a vote of the membership. Subject to Article 19, the Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Areas of Association Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

7.6 Indemnification of Officers, Directors, and Committee Members.

(a) Indemnification. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys fees and costs, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member; provided that such obligation to indemnify shall be limited to those actions for which liability is limited under this Declaration, the Articles of Incorporation, the Bylaws, and applicable Arizona law.

(b) Claims Related to Breach of Duty. The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors are also Members of the Association).

(c) Exclusion from Liability for Other Tortious Acts.

(i) Volunteer Directors, Officers, and committee members of the Association shall not be personally liable in excess of the coverage of insurance specified in subparagraph (4) below, to any Person who suffers injury, including but not limited to, bodily injury, emotional distress, wrongful death, or property damage or loss as a result of his or her tortious act or omission as long as the following requirements are met by the volunteer director, officer, or committee member and the Association:

(1) the director's, officer's, or committee member's act or omission was performed within the scope of their duties;

(2) the director's, officer's, or committee member's act or omission was performed in good faith;

(3) the director's, officer's, or committee member's act or omission was not willful, wanton, or grossly negligent; and

(4) the Association maintained and had in effect (at the time the act or omission of the director, officer, or committee member and at the time a claim was made) one or more insurance policies which included coverage for general liability of the Association and individual liability of directors, officers, and committee members for negligent acts or omissions in that capacity, both in the amount of at least \$2,000,000.00.

(ii) The payment for actual expenses, subject to limitation set forth in the Governing Documents, incurred in the execution of his or her duties shall not affect the status of an officer or director as a volunteer under this subsection (c).

The Association shall indemnify and hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

(d) Notwithstanding the foregoing, the commencement and/or prosecution and/or maintenance of, or intervention in, any proceeding in connection with any non-operational controversy, without having fully and completely allowed, or in violation of, the mandatory requirements and procedures set forth in the Declaration, shall be ultra vires.

(e) A "Code of Ethics" may be promulgated by Declarant (during the Declarant Control Period) or the Board, with a requirement for each Director to review and to comply in good faith with the same.

(f) After the Declarant Control Period, each Director shall, within thirty (30) days of his appointment or election, certify in writing that he or she has read and reasonably understands the Governing Documents and applicable provisions of applicable Arizona law to the best of his or her ability.

7.7 Security. THE GATE HOUSE AND ANY GUARD SERVICE FOR THE COMMUNITY IS INTENDED TO LIMIT ACCESS TO THE COMMUNITY BUT IS NOT INTENDED TO CONSTITUTE ANY ASSURANCE THAT THE COMMUNITY IS SECURE FROM ENTRY OR INTRUSION BY NON-OWNERS AND OCCUPANTS AND THEIR RESPECTIVE FAMILY AND INVITEES. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE PROPERTY DESIGNED TO MAKE THE PROPERTY SAFER THAN THEY OTHERWISE MIGHT BE. HOWEVER, NEITHER THE ASSOCIATION, THE BOARD, THE MANAGER, ANY NEIGHBORHOOD ASSOCIATION, DECLARANT NOR ANY LAND ENTITY SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY, NOR SHALL ANY OF THE ABOVE-MENTIONED PARTIES BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SYSTEMS OR MEASURES, INCLUDING ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO THE PROPERTY (OR ONSITE ROVING PATROL OR RESOURCES, IF APPLICABLE) CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED.

EACH OWNER ACKNOWLEDGES, UNDERSTANDS, AND COVENANTS TO INFORM ALL OCCUPANTS OF ITS UNIT, AND THEIR RESPECTIVE FAMILIES AND INVITEES, THAT NEITHER THE ASSOCIATION, THE BOARD, COMMITTEES, NEIGHBORHOOD ASSOCIATIONS, NOR ALL OTHER PERSONS INVOLVED WITH THE GOVERNANCE, MAINTENANCE, AND MANAGEMENT OF THE PROPERTY, INCLUDING DECLARANT AND ANY LAND ENTITY, ARE INSURERS OF SAFETY OR SECURITY WITHIN THE PROPERTY. ALL OWNERS AND OCCUPANTS, AND THEIR RESPECTIVE FAMILIES AND INVITEES, ASSUME ALL RISKS OF PERSONAL INJURY AND LOSS OR DAMAGE TO PERSONS, UNITS, AND THE CONTENTS OF UNITS, AND FURTHER ACKNOWLEDGE THAT NEITHER THE ASSOCIATION, ITS BOARD AND COMMITTEES, THE MANAGEMENT COMPANY OF THE ASSOCIATION, ANY NEIGHBORHOOD ASSOCIATION, DECLARANT NOR ANY LAND ENTITY HAVE MADE REPRESENTATIONS OR WARRANTIES REGARDING ANY ATTENDED OR UNATTENDED ENTRY GATE, PATROLLING OF THE PROPERTY, ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY. ALL OWNERS AND OCCUPANTS, AND THEIR RESPECTIVE FAMILIES AND INVITEES, FURTHER ACKNOWLEDGE THAT THEY HAVE

NOT RELIED UPON ANY SUCH REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED.

7.8 Provision of Services. The Association shall enter into contracts or agreements required by Declarant pursuant to the Development Agreement. Additionally, the Association shall be authorized, but not obligated, to enter into and terminate, in the Board's discretion, subject to applicable law, contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Owners and Occupants, and their Families and Invitees, and to charge use and consumption fees for such services and facilities. For example only, services and facilities offered might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, and similar services and facilities.

7.9 Change of Services and Use of Areas of Association Responsibility. The Board shall have the power and right to terminate services the Association provides or to change the use of portions of the Area of Association Responsibility during the Declarant Control Period without having to obtain the approval or consent of the Members. After the Declarant Control Period, the Board may do so only with the vote of a majority of the voting power of the Board (provided that the Board reasonably determines that such change shall not materially or substantially adversely affect the Association and the Owners), and the written consent of Declarant (during the Declarant Rights Period or until such time as Declarant expressly relinquishes such rights under this Section 7.9). Any such change shall be made by Board resolution stating that: (a) the present use or service is no longer in the best interest of the Association and the Owners; (b) the new use is for the benefit of the Association and the Owners; (c) the new use is consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Areas of Association Responsibility; and (d) the new use is consistent with the then effective Master Plan.

7.10 View Impairment. NEITHER DECLARANT NOR THE ASSOCIATION GUARANTEES OR REPRESENTS THAT ANY VIEW OVER AND ACROSS THE OPEN SPACE FROM ADJACENT UNITS OR OTHER PROPERTY WILL BE PRESERVED WITHOUT IMPAIRMENT. WITHOUT LIMITING THE FOREGOING, NEITHER DECLARANT NOR THE ASSOCIATION SHALL HAVE THE OBLIGATION TO RELOCATE, PRUNE, OR THIN TREES OR OTHER LANDSCAPING EXCEPT AS SET FORTH IN ARTICLE 5 ABOVE. ANY EXPRESS OR IMPLIED EASEMENTS FOR VIEW PURPOSES AND/OR FOR THE PASSAGE OF LIGHT AND AIR ARE HEREBY EXPRESSLY DISCLAIMED.

7.11 Relationship with Neighborhoods. The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community Standards. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor. A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs of such action, an administrative charge, and sanctions.

7.12 Relationship with Governmental and Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or

non-exclusive easements over the Common Elements to state or local governments, public school systems, and non-profit, tax-exempt organizations for the benefit of the Property, the Association, its Members, and Occupants. For purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("**Code**"), such as, but not limited to entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.13 Manager. The Association shall have the power to employ or contract with a Manager, to perform all or any part of the duties and responsibilities of the Association, subject to the Governing Documents, for the purpose of operating and maintaining the Property, and helping the Board to enforce the Governing Documents, subject to the following:

(a) Any agreement with a Manager shall be in writing and shall be for a term not in excess of one (1) year, subject to cancellation by the Association at any time upon thirty (30) days written notice. In the event of any explicit conflict between the Governing Documents and any agreement with a Manager, the Governing Documents shall prevail.

(b) The Manager shall possess sufficient experience, in the reasonable judgment of the Board, in managing residential subdivision projects, similar to the Community, and shall be duly licensed as required from time to time by the appropriate licensing and governmental authorities (and must have the qualifications, including education and experience, when and as required for the issuance of the relevant certificate by the Arizona Real Estate Division, subject to provisions of applicable law pertaining to exemption therefrom). Any and all employees of the Manager with responsibilities to or in connection with the Association and/or the Community shall have such experience with regard to similar projects. (If no Manager meeting the above-stated qualifications is available, the Board shall retain the most highly qualified management entity available, which is duly licensed by the appropriate licensing authorities).

(c) No Manager, or any director, officer, shareholder, principal, partner, or employee thereof may be a Director or Officer of the Association.

(d) As a condition precedent to the employ of, or agreement with, a Manager, the Manager (or any replacement Manager) first shall be required, at its expense, to review the Governing Documents, and any and all Association records and inspection reports pertaining to the Property.

(e) By execution of its agreement with the Association, a Manager shall be conclusively deemed to have covenanted: (1) in good faith to be bound by, and to faithfully perform all duties (including, but not limited to, full and faithful accounting for all Association funds within the possession or control of Manager) required of the Manager under the Governing Documents (and, in the event of irreconcilable conflict between the Governing Documents and the contract with the Manager, the Governing Documents shall prevail); (2) that any penalties, fines or interest levied upon the Association as the result of Manager's error or omission shall be paid (or reimbursed to the Association) by the Manager; and (3) at Manager's sole expense, to promptly turn over, to the Board, possession and control of all funds, documents, books, records and reports pertaining to the Property and/or Association, and to coordinate and cooperate in good faith with the Board in connection with such turnover, in any event not later than ten (10) days of expiration or termination of the Association's agreement with Manager (provided that, without limiting its other remedies, the Association shall be entitled

to withhold all amounts otherwise due to the Manager until such time as the Manager turnover in good faith has been completed).

(f) Upon expiration or termination of an agreement with a Manager, a replacement Manager meeting the above-stated qualifications shall be retained by the Board as soon as possible thereafter and a limited review performed of the books and records of the Association, to verify assets.

(g) The Association shall also maintain and pay for the services of such other personnel, including independent contractors, as the Board shall determine to be necessary or desirable for the proper management, operation, maintenance, and repair of the Association and the Property, pursuant to the Governing Documents, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts. Such other personnel shall not all be replaced concurrently, but shall be replaced according to a "staggered" schedule, to maximize continuity of services to the Association.

(h) Notwithstanding any of the foregoing, the Manager shall not undertake any action requiring approval or vote of the Board or Membership (or the consent of Declarant) unless such approval or vote (or consent) shall have been first obtained, and, under no circumstances, shall the Manager undertake any action which circumvents the provisions of the Governing Documents.

7.14 Continuing Rights of Declarant. Declarant shall preserve the right, without obligation, to enforce the Governing Documents (including, without limitation, the Association's duties of maintenance and repair, and reserve study and reserve fund obligations). After the end of the Declarant Control Period, throughout the following term of this Declaration, the Board shall deliver to Declarant notices and minutes of all Board meetings and Membership meetings, and Declarant shall have the right, without obligation, to attend such meetings, on a non-voting basis. Declarant shall also receive notice of, and have the right, without obligation, to attend, all inspections of the Property or any portion(s) thereof. The Board shall also, throughout the term of this Declaration, deliver to Declarant (without any express or implied obligation or duty on Declarant's part to review or to do anything) all notices and correspondence to Owners, all inspection reports, all Reserve Studies, and all audited annual reports. Such notices and information shall be delivered to Declarant at its most recently designated address.

ARTICLE 8 ASSOCIATION FINANCES

8.1 Association Budgets for Base Assessments. Until the first Unit is conveyed to a Purchaser, the Declarant shall be responsible for all Common Expenses. Thereafter, assessments for Common Expenses shall be levied annually in accordance with this Article 8.

From the date of the closing of conveyance of the first Unit by Declarant to a Purchaser until January 1 of the first full calendar year following the conveyance of the first Unit to a Purchaser, the maximum Base Assessment shall be established by Declarant in its sole discretion. Thereafter, the Board shall annually determine and fix the amount of the Base Assessment against each Unit and shall notify the Owner of each Unit in writing as to the amount of such Base Assessment not less than thirty (30) days prior to the date that such Base Assessment is to commence. Along with such notification, the Board shall endeavor to provide the Owners with a proposed budget for the next fiscal year and a summary of the Association's finances for the previous fiscal year. In addition to including amounts for the estimated

Common Expenses and cash requirements of the Association, each budget shall also provide for contributions to Association Reserve Funds in such amounts as shall be determined by the Board to be reasonably adequate, taking into account the number and nature of replaceable property within the Areas of Association Responsibility, the expected life of each such item and each item's expected repair or replacement cost. Not later than thirty (30) days prior to the end of each fiscal year the Board shall cause a copy of the budget and a statement of the amount of the Base Assessments for the fiscal year in question to be delivered or mailed to each Owner, using any method permitted by the Bylaws of the Association. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of the fiscal year, then until and unless a budget is adopted, the budget (and the amount of the Base Assessments provided for therein) for the year immediately preceding shall remain in effect.

Nothing herein shall obligate the Board to levy, in any fiscal year, Base Assessments in the full amount of the maximum Base Assessment for the fiscal year, and the election by the Board not to levy Base Assessments in the full amount of the maximum Base Assessments for the fiscal year shall not prevent the Board from levying Base Assessments in subsequent years in the full amount of the maximum Base Assessments for the subsequent fiscal year (as determined in accordance with this Section). In the event that for any fiscal year the Board elects to levy a Base Assessment at less than the full amount of the maximum Base Assessment for the fiscal year the Board may, in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Base Assessment during the same fiscal year so long as the total of the Base Assessments levied during the fiscal year have not exceeded the maximum Base Assessments for such fiscal year. All Base Assessments shall be payable in advance in accordance with such payment schedule as the Board may determine. Upon the transfer of any Unit to a Purchaser, the Base Assessment shall be prorated through the date of the close of escrow for each Unit based on the number of full and partial months remaining in the then current payment period.

Notwithstanding any provision in this Declaration, Declarant, in its sole and absolute discretion, reserves the right through January 1, 2005 to provide temporary discounts in the amount of the Base Assessments.

8.2 Allocation and Budgeting of Neighborhood Expenses. As part of the annual Budget process set forth in Section 8.1 above, the Board shall cause to be prepared and delivered, to each Owner of a Unit in a Neighborhood, a supplemental budget covering the estimated Neighborhood Expenses, if any, for a Neighborhood (which shall also include a reasonably prudent allocation for reserves for capital repairs and replacement of Neighborhood Common Elements). Notwithstanding anything in this Declaration to the contrary, the costs, including overhead and administrative costs, of providing maintenance, repair and replacement services to the roof, stucco systems, painted exterior surfaces and front landscaping of Attached Dwellings as provided in Section 16.1 shall constitute Neighborhood Expenses and shall be assessed to the Owners of Attached Dwellings as Neighborhood Assessments. The Association is hereby authorized to levy Neighborhood Assessments uniformly against all Units in the Neighborhood subject to assessment, to fund Neighborhood Expenses. If the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood, and the amount of any Neighborhood Assessment from time to time during the year. Notwithstanding the foregoing, if a Supplemental Declaration has been duly Recorded, and a Sub-Association has been duly created, with respect to such Neighborhood, then, subject to express delegation set forth in said Supplemental Declaration or separate Recorded delegation by Declarant, the Sub-Association

shall be obligated to prepare, notice, and administer a Neighborhood budget in like manner as set forth in Section 6.4 above.

8.3 Budgeting for Reserves. The Board shall cause to be prepared and reviewed at least annually a reserve budget for the Areas of Association Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Association budget adopted pursuant to Section 8.1 or the Neighborhood budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves ("**Reserve Funds**") in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period. The Board shall also cause to be prepared periodic reserve studies, and shall periodically review and analyze the same, all in compliance with applicable Arizona law.

The Board may adopt resolutions regarding the expenditure of Reserve Funds, including policies designating the nature of assets for which Reserve Funds may be expended. Such policies may differ for general Association purposes and for each Neighborhood. During the Declarant Rights Period, neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent.

8.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership (if such Special Assessment is for Common Expenses), or against the Units within any Neighborhood (if such Special Assessment is for Neighborhood Expenses). Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of the Requisite Association Percentage (if a Common Expense) or Requisite Neighborhood Percentage (if a Neighborhood Expense), or the written consent of Declarant (during the Declarant Rights Period). Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.8). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) following Notice and Hearing, to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of an Owner or Occupant, or their respective Families or Invitees.

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, subject to Notice and Hearing with respect to such Owners in the Neighborhood before levying any such assessment.

8.6 Authority To Assess Owners: Time of Payment. Declarant establishes and the Association is hereby authorized to levy assessments as provided for in this Article 8 and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the relevant Assessment Commencement Date. The "**Assessment Commencement Date**" hereunder shall be: (a) with respect to all Units (other than Units located on property set forth in Exhibit "B"), the first day of the calendar month following the close of escrow to a Purchaser of the first Unit in the Property; and (b) with respect to each Unit located on property set forth in Exhibit "B," the date on which the instrument annexing such Unit is Recorded; provided that Declarant, in its sole and absolute discretion, may establish a later Assessment Commencement Date uniformly as to all Units by agreement of Declarant to pay all Common Expenses for the Property up through and including such later Assessment Commencement Date. The first monthly Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of days remaining in the fiscal calendar quarter at the time assessments commence on the Unit. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Initially, Base Assessments and Neighborhood Assessments (if any), shall be a monthly charge, payable quarterly in advance. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require such Owner to immediately pay in full all assessments for the current year.

8.7 Obligation for Assessments. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Property, covenants and agrees to timely pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a maximum rate of 18% per annum or such higher rate as the Board may establish, subject to the limitations of Arizona law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Elements, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The

Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.8 Lien for Assessments. Subject to the limitations of any applicable provision of applicable Arizona law, the Association shall have an automatic statutory lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, and costs of collection (including attorneys' fees), as set forth in further detail in Article 9 below.

8.9 Limitation on Increases of Assessments. Notwithstanding any provision to the contrary, except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Section 8.5 and except as provided under applicable laws, the Board may not impose a Base Assessment, Neighborhood Assessment, or Specific Assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year nor impose a Special Assessment which in the aggregate exceeds ten percent (10%) of the budgeted Common Expenses or Neighborhood Expenses, as the case may be, for the current fiscal year, without the Requisite Association Percentage (if a Common Expense) or Requisite Neighborhood Percentage (if a Neighborhood Expense) or written consent of Declarant (during the Declarant Rights Period).

For purposes of this Section: (a) the term "Base Assessment" or "Neighborhood Assessment" shall be deemed to include the amount assessed against each Unit plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased; and (b) an "emergency situation" is any one of the following:

- (1) an extraordinary expense required by an order of a court;
- (2) an extraordinary expense necessary to repair or maintain the Property or any part of them for which the Association is responsible where a threat to personal safety on the Property is discovered; or
- (3) an extraordinary expense necessary to repair or maintain the Property or any part of them for which the Association is responsible which the Board could not have reasonably foreseen in preparing and distributing the budget pursuant to Section 8.3. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the Members with the notice of such assessment.

8.10 Exempt Property. The following property shall be exempt from payment of Assessments (including, but not necessarily limited to, Base Assessments, Neighborhood Assessments, Special Assessments, and Specific Assessments):

- (c) all Common Elements (and all portions of the Areas of Association Responsibility, pursuant to Section 5.1, which are not encumbered by this Declaration);
- (d) any property dedicated to and accepted by any governmental authority or public utility;
- (e) any Neighborhood Common Elements;

(f) any Lot, Unit and any other portion of the Property owned by Declarant and/or the Land Entity during the Declarant Control Period;

(g) the Sales Center unless it is converted by Declarant to Lots; and

(h) in addition, both Declarant and the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code, so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.11 Capitalization of Association/Transfer Fee. Upon acquisition of record title to a Unit by the first Purchaser thereof, a contribution shall be made by or on behalf of the Purchaser to the working capital of the Association in an amount equal to the greater of: (a) three full installments of the then-current monthly Base Assessment per Unit, or (b) \$250, whichever is greater. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of any assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents. Thereafter, upon acquisition of record title to a Unit by a subsequent Purchaser thereof, a transfer fee shall be made by or on behalf of such Purchaser in an amount equal to the greater of: (a) three full installments of the then-current monthly Base Assessment per Unit, or (b) \$250, whichever is greater. The transfer fee is not intended to compensate the Association for the costs incurred in preparation of the statement which the Association is required to furnish to a purchaser under A.R.S. § 33-1806(A) and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806(C). The transfer fee shall be in addition to, not in lieu of, the annual Base Assessment and shall not entitle the initial Owner to the return of any working capital contribution made by the initial Owner pursuant to this Section 8.11.

8.12 Declarant's Assessments. Notwithstanding any other provision contained in this Declaration during the Declarant Control Period, no Assessments shall be levied against Lots owned or leased by Declarant. In lieu thereof, Declarant agrees that it shall, during the Declarant Control Period, subsidize the Association by paying the difference, if any, between the amount of Base Assessments levied by the Association and the actual cost of operating and administering the Association (other than costs for which a Special Assessment or Specific Assessment is levied); provided, however, in no event shall Declarant's subsidy obligation exceed an amount calculated by multiplying the total number of Lots owned or leased by Declarant by the per Unit amount of Base Assessments levied against the other Units within the Community which amount is to be adjusted and prorated based upon the actual number of days such Lots are owned or leased by Declarant. Such payments by Declarant shall be made at such times as Declarant and the Board shall agree. Declarant's obligations under this Section may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both.

ARTICLE 9 NONPAYMENT OF ASSESSMENTS; REMEDIES OF ASSOCIATION

9.1 Nonpayment of Assessments. Any Assessment or installment of an Assessment shall be delinquent if not paid within thirty (30) days of the due date as established by the Board. Such delinquent installment shall bear interest from the due date until paid, late charges, and related charges, fees, and costs, as set forth in Section 8.7. No such late charge

or related charge or interest on any delinquent installment may exceed the maximum rate or amount allowable by applicable law. The Association may bring an action at law against the Owner personally obligated to pay any delinquent installment or late charge, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or other portion of the Area of Association Responsibility or by abandonment of his Unit.

9.2 Notice of Delinquent Assessment. If any installment of an assessment is not paid within thirty (30) days after its due date, the Board may mail notice of delinquent assessment to the Owner and to each first Mortgagee of the Unit. The notice shall specify: (a) the amount of assessments and other sums due; (b) a description of the Unit against which the lien is imposed; (c) the name of the record Owner of the Unit; (d) the fact that the installment is delinquent; (e) the action required to cure the default; (f) the date, not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured; and (g) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of such assessment for the then-current Fiscal Year and sale of the Unit. The notice shall further inform the Owner of his right to cure after acceleration. If the delinquent installment of assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of such assessments levied against such Owner and his Unit to be immediately due and payable without further demand, and may enforce the collection of the full assessments and all charges thereon in any manner authorized by law or this Declaration.

9.3 Notice of Default and Election to Sell. No action shall be brought to enforce any assessment lien herein, unless at least sixty (60) days have expired following the later of: (a) the date a notice of default and election to sell is Recorded; or (b) the date the Recorded notice of default and election to sell is mailed in the United States mail, certified or registered, return receipt requested, to the Owner of the Unit. Such notice of default and election to sell must recite a good and sufficient legal description of such Unit, the Record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment as described in Section 8.7 above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by such lien), the name and address of the Association, and the name and address of the Person authorized by the Association to enforce the lien by sale. The notice of default and election to sell shall be signed and acknowledged by an Association Officer, Manager, or other Person designated by the Association for such purpose, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

9.4 Foreclosure Sale. Subject to the limitation set forth in Section 9.5 below, any such sale provided for above may be conducted by the Board, its attorneys, or other Person authorized by the Board in accordance with the provisions of applicable Arizona law. The Association, through its duly authorized agents, shall have the power to bid on the Unit at the foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Notices of default and election to sell, and notice of time and place of sale shall be provided as required by applicable Arizona law.

9.5 Limitations on Foreclosure. Any other provision in the Governing Documents notwithstanding, the Association may not foreclose a lien by sale for the assessment of a fine or for a violation of the Governing Documents, unless the violation is of a type that threatens the health, safety, and welfare of the Owners and Occupants of the Community. The foregoing

limitation shall not apply to foreclosure of a lien for a Base Assessment, Neighborhood Assessment, or Special Assessment, or any portion respectively thereof.

9.6 Cure of Default. Upon the timely cure of any default for which a notice of default and election to sell was filed by the Association, the Officers thereof shall Record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any two (2) Directors or the Manager, stating the indebtedness secured by the lien upon any Unit created hereunder, shall be conclusive upon the Association and, if acknowledged by the Owner, shall be binding on such Owner as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request, at a reasonable fee, to be determined by the Board.

9.7 Cumulative Remedies. The assessment liens and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law or in equity, including a suit to recover a money judgment for unpaid assessments, as provided above.

9.8 Mortgagee Protection. Notwithstanding all other provisions hereof, no lien created under this Article 9, nor the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the beneficiary under any Recorded first deed of trust encumbering a Unit, made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Unit by judicial foreclosure, other foreclosure, or exercise of power of sale, such Unit shall remain subject to this Declaration and the payment of all installments of assessments accruing subsequent to the date such Beneficiary or other Person obtains title. The lien of the assessments, including interest and costs, shall be subordinate to the lien of any first Mortgage upon the Unit. The release or discharge of any lien for unpaid assessments by reason of the foreclosure or exercise of power of sale by the first Mortgagee shall not relieve the prior Owner of his personal obligation for the payment of such unpaid assessments.

9.9 Priority of Assessment Lien. Recording of the Declaration constitutes Record notice and perfection of a lien for assessments. A lien for assessments, including interest, costs, and attorneys' fees, as provided for herein, shall be prior to all other liens and encumbrances on a Unit, except for: (a) liens and encumbrances Recorded before the Declaration was Recorded, (b) a first Mortgage Recorded before the delinquency of the assessment sought to be enforced (except to the extent of assessments which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to foreclose the lien), and (c) liens for real estate taxes and other governmental charges, and is otherwise subject to applicable Arizona law. The sale or transfer of any Unit shall not affect an assessment lien. However, subject to the provisions of this Section 9.9, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments which thereafter become due. Where the Beneficiary of a First Mortgage of Record or other purchaser of a Unit obtains title pursuant to a judicial or nonjudicial foreclosure or "deed in lieu thereof," the Person who obtains title and his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such Person (except to the extent of assessments which would have become due in the absence of

acceleration during the six (6) months immediately preceding institution of an action to enforce the lien). Such unpaid share of Common Expenses and assessments shall be deemed to become expenses collectible from all of the Units, including the Unit belonging to such Person and his successors and assigns.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to Declarant in order to facilitate the smooth and orderly development of PROVINCE, and to accommodate changes in the Master Plan which inevitably occur as a Community the size of PROVINCE, grows and matures.

ARTICLE 10 ANNEXATION; EXPANSION OF THE COMMUNITY

10.1 Annexation and Expansion by Declarant.

(a) Declarant may, from time to time, subject to the provisions of this Declaration, annex all or any portion of the Annexable Property to the Property covered by this Declaration, by Recording an Annexation Notice or Supplemental Declaration describing the property to be annexed. An Annexation Notice or Supplemental Declaration Recorded by Declarant pursuant to this Section shall not require the consent of any other Person (except the owner of such property, if other than Declarant).

(b) Annexation shall be accomplished by Recording a Notice of Annexation or Supplemental Declaration describing the property being annexed. Any such annexation shall be effective upon the Recording of such Annexation Notice or Supplemental Declaration unless otherwise provided therein. All Units subject to this Declaration, whether initially described in Exhibit "A" or annexed pursuant to an Annexation Notice or Supplemental Declaration, shall have equal voting rights and an equal, pro rata share of liability for Base Assessments.

(c) Declarant reserves the right, but not the obligation, to annex additional property not described in Exhibit "B", to the maximum extent not expressly prohibited by applicable Arizona law. Nothing in this Declaration shall be construed to require Declarant or any successor to subject Additional Property or any portion thereof to this Declaration or to develop any of the Annexable Property in any manner whatsoever.

(d) Declarant's right to expand the Community pursuant to this Section shall expire when all Annexable Property has been annexed and subjected to this Declaration. Until then, Declarant may transfer or assign this right to any Person who is the owner or developer of at least a portion of the Annexable Property. Any such transfer shall be memorialized in a written, Recorded instrument executed by Declarant.

10.2 Expansion by the Association. The Association may also subject property other than the Annexable Property to this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of the Requisite Association Percentage at a meeting duly called for such purpose and the consent of the owner of the property. In addition, during the Declarant Rights Period, the Association shall have no authority or power to undertake such action, absent prior written consent of Declarant. Supplemental Declaration shall not be valid unless signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

10.3 Additional Covenants and Easements. During the Declarant Rights Period, Declarant may subject any portion of the Property to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighborhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by a Person other than Declarant, then the consent of such Person shall be necessary and shall be evidenced by such Person's execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

10.4 Effect of Filing Supplemental Declaration. Any Supplemental Declaration Recorded pursuant to this Article 10 shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, the Units in any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration. Any Supplemental Declaration Recorded pursuant to this Article 10 shall comply with the requirements of Arizona law as may be applicable.

10.5 Contraction of Annexable Area. So long as relevant real property has not been annexed to the Property subject to this Declaration, the Annexable Property may be contracted to remove such real property effective upon the Recordation of a written instrument describing such real property, executed by Declarant (and all other owners, if any, of such real property), and declaring that such real property shall thereafter be deleted from Exhibit "B". Such real property may be so deleted without a vote of the Association or the approval or consent of any other Person.

ARTICLE 11 ADDITIONAL RIGHTS RESERVED TO DECLARANT

11.1 Withdrawal of Property. Declarant reserves the right to amend this Declaration, during the Declarant Rights Period, for the purpose of removing and withdrawing any portion of the Property from the coverage of this Declaration, whether originally described in Exhibit "A" or added by Supplemental Declaration; provided, no property described on a particular Plat shall be withdrawn after a Unit shown on that Plat has been conveyed by Declarant to any Purchaser (other than a Purchaser in which Declarant has a direct or indirect ownership, management, or other similar interest). Such a withdrawal shall reduce the number of Units subject to the Declaration, the number of votes in the Association and the Units subject to assessment. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn (if not Declarant), but shall be subject to applicable provisions of Arizona law. If the property is shown on a Plat as Common Elements, but has not yet been conveyed by deed to the Association, then the Association shall consent to such withdrawal (and shall execute and Record a quitclaim deed thereto) upon the request of Declarant.

11.2 Marketing and Sales Activities; Sales Center. Declarant may construct and maintain upon the Sales Center (and other portions of the Property), such facilities and activities as may be reasonably required, desired, convenient, or incidental, to the construction, sale, or re-sale of Units, including, but not limited to, business offices, signs, model Units, and sales offices. Declarant and its employees, Invitees, contractors, agents, successors and assigns

shall have an easement over all Common Elements as may be necessary or convenient in connection with the ownership, use, maintenance, sale or lease of the Sales Center. The provisions of this Section 11.2 shall not in any way operate to limit or restrict any right reserved by the Declarant to elect to convey the Sales Center to the Association as a Common Element, subject to any terms, reservations and restrictions Declarant may impose, to rezone, plat and replat the Sales Center, to convert the Sales Center to Units or to any other use or purpose Declarant deems appropriate.

11.3 Right To Develop; Construction Easement. During the Declarant Rights Period, Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Property for the purpose of making, constructing, and installing such improvements to the Property as it deems appropriate in its sole discretion. To the maximum extent permitted by applicable law, each Person that acquires any interest in the Property acknowledges that PROVINCE, is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

11.4 Right To Designate Sites for Governmental and Public Interests. During the Declarant Rights Period, Declarant may designate sites within the Property for governmental, educational, or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. So long as such sites have not previously been conveyed by deed to the Association, the Association shall take whatever action is required with respect to such site to permit such use, including dedication of the site and/or Recordation of a quitclaim deed to the site (if so requested by Declarant).

11.5 Right To Approve Additional Covenants. Subsequent to this Declaration, no Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent. Any attempted Recording without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by Recorded, written consent signed by Declarant.

11.6 Right To Approve Changes in Community Standards. No amendment to or modification of any Rules and Regulations or Design Guidelines shall be effective without prior notice to and the written approval of Declarant during the Declarant Rights Period.

11.7 Right To Merge or Consolidate the Association. Declarant reserves the right to merge or consolidate the Association with another master planned or common interest community of the same or similar form of ownership or make it subject to a master association.

11.8 Right To Appoint and Remove Directors During the Declarant Control Period. During the Declarant Control Period, Declarant may appoint, remove, and/or replace any director or officer of the Association previously appointed or elected by Declarant pursuant to the Bylaws.

11.9 Right To Transfer or Assign Declarant Rights . Any or all of the special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided that (a) the transfer shall not reduce an obligation

nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws; and (b) no such transfer or assignment shall be effective unless it is in a Recorded, written instrument signed by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

11.10 Easement to Inspect and Right to Correct.

(a) Easement. Declarant reserves, for itself and such other Persons as it may designate, perpetual, non-exclusive easements throughout PROVINCE, to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, correcting, or improving any portion of PROVINCE, including Units and the Areas of Association Responsibility. Declarant shall have the right to redesign, correct, or improve any part of PROVINCE, including Units and the Areas of Association Responsibility.

(b) Right of Entry. In addition to the above easement, Declarant reserves a right of entry onto a Unit upon reasonable notice to the Owner; provided, in an emergency, no such notice need be given. Entry into a Unit shall be only after Declarant notifies the Owner (or Occupant) and agrees with the Owner regarding a reasonable time to enter the Unit to perform such activities. Each Owner agrees to cooperate in a reasonable manner with Declarant in Declarant's exercise of the rights provided to it by this Section.

Entry onto the Areas of Association Responsibility and into any improvements and structures thereon may be made by Declarant at any time, provided advance notice is given to the Association; provided, in an emergency, no notice need be given.

(c) Damage. Any damage to a Unit or the Areas of Association Responsibility resulting from the exercise of the easement and right of entry described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, Declarant. The exercise of these easements shall not unreasonably interfere with the use of any Unit and entry onto any Unit shall be made only after reasonable notice to the Owner or Occupant.

11.11 Use of "PROVINCE" in Name of Development. Each Person, by acceptance of a deed to a Unit or other portion of the Property, shall be deemed to have acknowledged and agreed that Declarant ("**Trademark Owner**"), has registered, and owns, at both federal and state levels, the sole and exclusive right to the designation "PROVINCE" and has the sole and exclusive right to all related "PROVINCE" trade names, trademarks, service marks and logos ("**Trademarks**"). Each such Person covenants and warrants that it shall not use, nor permit others to use, in any manner whatsoever, the Trademarks or any of them, without the prior written consent of Trademark Owner (and Trademark Owner, as to the foregoing covenant and warranty, is an intended third party beneficiary of this Declaration). However, the Association shall be entitled to use the words "PROVINCE" in its name.

11.12 Equal Treatment. During the Declarant Rights Period, neither the Association nor any Neighborhood Association shall, without the prior written consent of Declarant, adopt any policy, rule, or procedure that:

(a) limits the access of Declarant, its successors, assigns, and/or affiliates, or their respective Invitees, including personnel and/or visitors, to Neighborhood Common Elements, Common Elements, or other Areas of Association Responsibility;

(b) limits or prevents Declarant, its successors, assigns, and/or affiliates or their personnel from advertising, marketing, or using the Association or the Common Elements or any property owned by any of them in promotional materials;

(c) limits or prevents Purchasers of new residential housing constructed by Declarant, its successors, assigns, and/or affiliates in PROVINCE, from becoming Members of the Association or enjoying full use of the Common Elements, subject to the membership provisions of this Declaration and the Bylaws;

(d) impacts the ability of Declarant, its successors, assigns, and/or affiliates, to carry out to completion its development plans and related construction activities for PROVINCE, as such plans are expressed in the Master Plan. Policies, rules, or procedures affecting the provisions of existing easements established by Declarant and limiting the establishment by Declarant of easements necessary to complete PROVINCE, shall be expressly included in this provision. Easements that may be established by Declarant shall include but shall not be limited to easements for development, construction, and landscaping activities and utilities; or

(e) impacts the ability of Declarant, its successors, assigns, and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

Neither the Association nor any Neighborhood Association shall at any time exercise its authority over the Areas of Association Responsibility or Neighborhood Common Elements (including, but not limited to, any gated entrances and other means of access to the Property or the Annexable Property) to interfere with Declarant's rights set forth in this Declaration or to impede access to any portion of: (1) the Property or (2) the Annexable Property.

11.13 Right To Use Common Elements for Special Events. During the Declarant Rights Period, in addition to all other reserved rights, Declarant shall have the right to use all Common Elements, including any recreational facilities, to sponsor special events for charitable, philanthropic, political, or marketing purposes as determined by Declarant in its sole discretion. Any such event shall be subject to the following conditions: (a) reasonable availability of the facilities at the time a request is submitted to the Association; and (b) payment by Declarant of all reasonable costs and expenses incurred. Declarant shall have the right to assign the rights contained in this Section 11.13 to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Elements for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

11.14 Sales by Declarant. Notwithstanding the restriction set forth in Section 3.1, Declarant reserves the right to sell Lots to persons between 40 to 55 years of age, inclusive; provided such sales shall not affect PROVINCE's compliance with all applicable Arizona and federal laws under which PROVINCE may be developed and operated as an age-restricted community.

11.15 Other Rights Reserved. Any other provision herein notwithstanding, Declarant reserves, in its sole discretion, the following developmental rights and other special Declarant's

rights, on the terms and conditions and subject to the expiration deadlines, if any, set forth below:

(a) Exercise of Developmental Rights. Pursuant to applicable Arizona law, Declarant reserves the right to annex all or portions of the Annexable Property to the Community, pursuant to the provisions of Article 10 hereof, for as long as Declarant owns any portion of the Annexable Property. No assurances are made by Declarant with regard to the boundaries of those portions of the Annexable Property which may be annexed or the order in which such portions may be annexed. Declarant also reserves the right to withdraw real property from the Community.

(b) Amendments. Declarant reserves the right to amend this Declaration from time to time, as set forth in detail in Section 23.1, below, during the time periods set forth therein.

(c) Appointment and Removal of DRC. Declarant reserves the right to appoint and remove the DRC, for the time period set forth in Section 4.2(b), above.

(d) Easements. Declarant has reserved certain easements, and related rights, as set forth in this Declaration.

(e) Vacation Getaways. Declarant has reserved certain rights pertaining to Vacation Getaways, as set forth in Section 18.8, below.

(f) Control of Entry Gates. Declarant reserves the right, during the Declarant Rights Period, to unilaterally control all entry gates, and to keep all entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

(g) Restriction of Traffic. Declarant reserves the right, during the Declarant Rights Period, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Property, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Property.

(h) Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by applicable Arizona law, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under Applicable Arizona law, for the maximum period of time permitted by applicable Arizona law.

11.16 Exemption of Declarant. Notwithstanding anything to the contrary in this Declaration, the following shall apply:

(a) Nothing in this Declaration shall limit, and no Owner or Association or Neighborhood Association shall do anything to interfere with, the right of Declarant to complete excavation and grading and the construction of improvements to and on any portion of the Property and the Annexable Property, or to alter the foregoing and Declarant's construction plans and designs, or to construct such additional improvements as Declarant deems advisable in the course of development of the Property.

(b) This Declaration shall in no way limit the right of Declarant to grant additional licenses, easements, reservations and rights-of-way to itself, to governmental or public authorities (including without limitation public utility companies), or to others, as from time to time may be reasonably necessary to the proper development and disposal of Units.

(c) Prospective Purchasers and Declarant shall have the right to use all and any portion of the Common Elements for access to the sales facilities of Declarant.

(d) Without limiting any other provision herein, Declarant may use any structures owned or leased by Declarant, as model home complexes or real estate sales or management offices, subject to the time limitations set forth herein, after which time, Declarant shall restore the Improvement to the condition necessary for the issuance of a final certificate of occupancy by the appropriate governmental entity.

(e) The prior written approval of Declarant, as developer of the Community, shall be required before any amendment to the Declaration affecting Declarant's rights or interests (including, without limitation, this Article 11) can be effective.

11.17 Termination of Rights. Unless otherwise specifically stated in this Declaration, the rights contained in this Article 11 shall terminate as specifically provided in Applicable Arizona law, or upon the earlier of (a) thirty (30) years from the conveyance of the first Unit to a Purchaser (provided that if Declarant still owns any property in the Property on such thirtieth (30th) anniversary date, then such rights and reservations shall continue for one successive period of twenty (20) years thereafter), or (b) Recording by Declarant of a written statement that all new Unit sales activity has ceased in PROVINCE. (Thereafter, Declarant may continue to use the Common Elements for the purposes stated in this Article 11 only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Elements). This Article 11 shall not be amended during the Declarant Rights Period without the prior written consent of Declarant.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, the Association, Declarant, and others within or adjacent to the Community.

ARTICLE 12 CERTAIN EASEMENTS

12.1 Easements in Common Elements. Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Elements, subject to:

- (a) the Governing Documents and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;

(c) the Board's rights set forth under Section 7.4, above, including, but not limited to, the Board's right to:

(i) impose reasonable Rules and Regulations with regard to use of any recreational facility situated upon the Common Elements, including rules limiting the number of Family or guests who may use the Common Elements;

(ii) suspend the right of an Owner to use any recreational facilities on the Common Elements:

(1) for any period during which any assessment or other charge against such Owner's Unit remains delinquent; and

(2) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after Notice and Hearing;

(iii) permit use of any recreational facilities situated on the Common Elements by persons other than Owners and Occupants and their respective Families and Invitees, upon payment of use fees established by the Board;

(iv) dedicate or transfer all or any part of the Common Elements, subject to such approval requirements as may be set forth in this Declaration and subject further to Applicable Arizona law;

(v) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in this Declaration, and subject further to Applicable Arizona law;

(vi) limit the use of Neighborhood Common Elements to the exclusive use of Owners in the relevant Neighborhood;

(vii) create, enter into agreements with, and grant easements to tax-exempt organizations under Section 7.12;

(d) the right of the Association to rent or lease any portion of any recreational facilities on the Common Elements on a short-term basis to any Person approved by the Association for the exclusive use of such Person and such Person's Family and/or Invitees; and

(e) the right of the Association to require Members (and/or their Families and guests) to present Association Cards, as may be issued by the Association, for access and use of recreational facilities on the Property.

12.2 Easements of Encroachment. Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Elements and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment

exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

12.3 Easements for Utilities, Etc.

(a) Association and Utility Easements. Declarant reserves for itself, during the Declarant Rights Period, and hereby grants to the Association and all utility providers, perpetual non-exclusive easements throughout all of the Property (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Property, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways, trails, drainage systems, street lights, and signage on property which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 12.3(a)(i); and

(iii) reading utility meters.

(b) Recorded Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and/or "B."

(c) Property Restoration. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or Occupant.

12.4 Easements To Save Annexable Property. Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Elements for the purposes of enjoyment, use, access, and development of the Annexable Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Elements for construction of roads and for connecting and installing utilities on such property.

12.5 Easements for Maintenance, Emergency, and Enforcement. Declarant grants to the Association easements over the Property as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall be only during reasonable hours and after

notice to the Owner. Any damage caused as a result of the Association fulfilling its maintenance responsibilities shall be repaired by the Association at its expense.

Declarant grants to the Association an easement and the right to enter a Unit to abate or remove, using such measures as may be reasonably necessary, any structure, thing, or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Specific Assessment.

12.6 Easements for Lake Maintenance and Flood Water. Declarant reserves for itself, the Association, and their successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon the Lakes and Lake Areas and any other bodies of water (if any) located within the Areas of Association Responsibility to: (a) install, operate, maintain and replace pumps to supply irrigation water to the Areas of Association Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; (c) maintain such areas in a manner consistent with the Community Standards; and (d) replace, remove and/or fill in the Lakes and/or such other bodies of water. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any of the Property abutting or containing Lakes or other bodies of water to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Elements and Units (but not the dwellings thereon) adjacent to or within 100 feet of Lakes or other bodies of water constituting a part of the Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) alter in any manner and generally maintain the Lakes and other bodies of water within the Areas of Association Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

12.7 Easements for Cross-Drainage. Declarant hereby reserves for itself and grants to the Association easements over every Unit and the Common Elements (and other portions of the Areas of Association Responsibility, to the extent practicable) for natural drainage of storm water runoff from other portions of the Property; provided, no Person shall alter the natural drainage on any Unit to increase materially the drainage of storm water onto adjacent portions of the Property without the consent of the Owner(s) of the affected property, the Board, and Declarant (during the Declarant Rights Period).

12.8 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Property, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Property for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section 12.8 may not be amended without the consent of Declarant or its successor, and the rights created in this Section 12.8 shall survive termination of this Declaration.

12.9 Easements for Parking; Easements for Vehicular and Pedestrian Traffic.

The Association, through the Board, is hereby empowered to establish "parking" and/or "no parking" areas within the Common Elements, and to establish Rules and Regulations governing such matters, as well as to enforce such parking limitations and rules by all means lawful for such enforcement on public streets, including the removal of any violating vehicle, by those so empowered, at the expense of the Owner of the violating vehicle. If any temporary guest or recreational parking is permitted within the Common Elements, such parking shall be permitted only within any spaces and areas clearly marked for such purpose.

In addition to the general easements for use of the Common Elements reserved herein, there hereby are reserved to Declarant, the Association, and their respective successors, assigns, Invitees, nonexclusive, appurtenant easements for vehicular and pedestrian traffic over the Gate House, the entry gate areas and all Private Streets and sidewalks within the Property (including, but not limited to, those which may yet be built from time to time, and those which, when or after being built (by Declarant, or other authorized third party), comprise or will comprise Neighborhood Common Elements).

12.10 Easements Incident to Construction, and Marketing and Sales Activities.

In addition to the general easements for use of the Common Elements reserved herein, there shall be reserved to Declarant, its successors and assigns, and their respective Invitees, during the Declarant Rights Period, for access, ingress, and egress over, in, upon, under, and across the Property, including the Common Elements (including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's use, development, marketing and/or sales of the Property, or any portion thereof); provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, or its Family or Invitees, to or of that Owner's Unit, or the Common Elements.

12.11 Easements for Public Service Use. In addition to the foregoing easements over the Common Elements, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Property, easements for: (a) placement of any fire hydrants on portions of certain Units and/or Common Elements, and other purposes normally related thereto; and (b) municipal, County, state, and federal public services, including but not limited to, the right of postal, law enforcement, and fire protection services and their respective employees and agents, to enter upon any part of the Common Elements or any Unit, for the purpose of carrying out their official duties.

12.12 Telecommunications System. Declarant, in cooperation with one or more telecommunications service provider(s), hopes to develop an integrated broadband communications network to interconnect homes within the Property. Subject to the preceding sentence: (a) the network will or may define and deliver voice, data, messaging, video and multimedia applications throughout the Community; (b) the technology master planning will or may define a program and network requirement that provides the network infrastructure to deliver high speed data, video teleconferencing, entertainment, distance learning, remote diagnostic health care and energy information services to facilities within the Community; and (c) in addition to those general services, a managed "intranet" will create locally based applications and services that facilitate on-line interconnection to all homes. Pursuant to the foregoing: (i) the network facilities (exclusive of in-home wiring) shall be the property of Declarant, or at its option, of the telecommunications service provider selected thereby; and (ii) Declarant hereby reserves ownership of any conduit or network facilities outside any Dwelling;

and (iii) Declarant hereby reserves a non-exclusive easement in gross on, over, under or across the Property and all portions thereof (including, but not limited to, each Unit) for purposes of installation and maintenance of such system, for the benefit of Declarant or other telecommunication service provider(s) as may be selected by Declarant. At the election of Declarant and/or the Board, the charges for certain basic telecommunication services may be paid by the Association and the charge for such service shall be a Common Expense and be part of the Base Assessment for each Unit.

12.13 Mailbox Easements. Mailbox structures shall be installed at such locations within the Community as Declarant and the U.S. Postal Service determine to be appropriate. If mailbox structures benefiting more than a single Unit are constructed or installed on Lots, an easement shall be deemed to exist over such portion of the Lot(s) on which such structures are constructed or installed so as to facilitate the use of such mailbox structure by the U.S. Postal Service, the Owners of Units to be served by such structures, and the Association. All such common mailbox structures shall be Areas of Association Responsibility.

ARTICLE 13 ASSOCIATION CARDS

13.1 Issuance by the Board. The Declarant or the Board shall have the right, but not the obligation, to design, implement, operate and/or discontinue a program or process pursuant to which the Association shall require the presentation of Association Cards as a condition to the use of some or all of the Common Elements. The provisions of this Section 13 shall not apply unless such an Association Card program is implemented. If an Association Card program is so implemented, one (1) Association Card shall be allocated to each Qualified Occupant of a Lot, up to a maximum of two (2) Association Cards per Lot. No Activity Cards shall be allocated to any Lot which is not Occupied by a Qualified Occupant. The Board shall determine entitlement to Association Cards on an annual basis. Association Cards shall be renewed annually without charge, provided, the Lot continues to be Occupied by a Qualified Occupant and all applicable assessments and other charges pertaining to the Lot have been paid. The Board may establish policies, limits, and charges with regard to the issuance of additional cards and guest privilege cards. The Board may issue Association Cards to persons who have signed binding contracts to purchase a Lot, subject to such policies as the Board may determine from time to time.

13.2 Assignment of Rights. If an Association Card program is implemented, the right to an Association Card shall be based upon Occupancy of a Lot. Any Owner who leases or otherwise transfers Occupancy of his or her Lot shall be deemed to have assigned his or her rights to an Association Card to the lessee of such Lot. The lessee of the Lot shall be entitled to an Association Card only if the Lot continues to be Occupied by a Qualified Occupant. Any Owner who leases or otherwise transfers Occupancy of his or her Lot shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Association Card. Association Cards shall be surrendered by any holder who ceases to Occupy a Lot, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Association Card.

13.3 Vacation Getaways. Each Vacation Getaway located within the Property, if any, shall be allocated three (3) temporary Association Cards for use by the temporary Occupants of the Vacation Getaway. If Declarant is the operator of such Vacation Getaway, then during the Period of Declarant Control, no fee or charge will be payable by Declarant for any Association Cards Declarant requests for use in connection with such Vacation Getaways. Vacation

Getaways located adjacent to the Property may be issued Association Cards based on the arrangements set forth in a contract or covenant to share costs between the Association and the owner of such Vacation Getaways.

13.4 Issuance to Declarant. As long as Declarant owns any portion of the Property or has the right to annex property pursuant to Section 10.1 above, the Association shall provide Declarant, free of charge, with as many Association Cards as Declarant, in its sole discretion, deems necessary. Declarant may transfer the Association Cards to prospective purchasers of Lots subject to such terms and conditions as it, in its sole discretion, may determine. Association Cards provided to Declarant shall entitle the bearer to use all Common Elements and recreational facilities (subject to the payment of admission fees or other use fees charged to Qualified Occupants holding Association Cards).

ARTICLE 14 NEIGHBORHOODS; SUPPLEMENTAL DECLARATIONS

14.1 Neighborhood Common Elements. Certain portions of the Common Elements from time to time may be designated by Declarant (or with the prior written consent of Declarant, from time to time) as Neighborhood Common Elements, which shall constitute Limited Common Elements allocated and reserved for the exclusive use or primary benefit of Owners and Occupants within a particular Neighborhood. By way of illustration and not limitation, Neighborhood Common Elements may include Neighborhood entry features, entry gates, Private Streets, landscaping, and other Limited Common Elements within a particular Neighborhood. All costs associated with maintenance, management, operation, repair, replacement, and insurance of Neighborhood Common Elements shall be a Neighborhood Expense, allocated uniformly and among the Owners in the Neighborhood to which the Neighborhood Common Elements are allocated.

14.2 Designation of Neighborhood Common Elements. Neighborhood Common Elements initially shall be designated as such from time to time in: (a) a separate instrument Recorded by Declarant (or with the prior written consent of Declarant, in its sole discretion); or (b) in the deed conveying such Neighborhood Common Elements to the Association (or, if applicable, to a Sub-Association for the Neighborhood); or (c) on the relevant Recorded subdivision plat; provided, however, that any such designation shall not preclude Declarant from later assigning use of the same Neighborhood Common Elements to additional Units and/or Neighborhood(s), so long as Declarant has a right to subject additional property to this Declaration pursuant to Article 10, above. Thereafter, allocation of Neighborhood Common Elements may be reassigned upon written approval of the Board and the affirmative vote of a majority of the votes within the Neighborhood(s) affected by the proposed reallocation. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 10 above, any such allocation or reallocation shall also require Declarant's prior written consent, in its sole discretion.

14.3 Use of Neighborhood Common Elements. Subject to all of the other provisions of this Declaration (including, without limitation, the easements, use restrictions, maintenance and repair obligations, and architectural and landscaping control provisions), Neighborhood Common Elements (which, by way of illustration and not limitation, may include separate Neighborhood entry gates and Private Streets within the Neighborhood) are exclusively allocated to and reserved for the exclusive use of Owners and Occupants of Units within the Neighborhood to which the Neighborhood Common Elements are allocated.

14.4 Maintenance, Repair, and Replacement of Neighborhood Common Elements.

(a) Costs of management, operation, maintenance, repair, replacement and insurance of Neighborhood Common Elements shall be a Neighborhood Expense assessed as Neighborhood Assessments to the Owners of Units in the Neighborhood(s) to which the Neighborhood Common Elements are allocated.

(b) In the event a Supplemental Declaration is duly Recorded with respect to a particular Neighborhood, and a Sub-Association is created, then the Association's maintenance and repair obligations under this Declaration pertaining to the Neighborhood may (but need not necessarily) be delegated to and assumed by the Sub-Association by written instrument, subject to the following. The Association shall maintain the continuing right to perform maintenance and repair of property within any Neighborhood, either by agreement with the Neighborhood or because, in the reasonable business judgment of the DRC, the standards set forth or referenced in the Governing Documents are not reasonably being met. If a Sub-Association fails to perform its maintenance and repair responsibilities, the Association may perform such maintenance and/or repair, and assess the costs as a Special Assessment against all Units within such Neighborhood.

(c) In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Special Assessment. Except in an emergency situation, the Association shall provide the Owner (or any Sub-Association) reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

14.5 Supplemental Declarations. Supplemental Declaration(s) may, but need not necessarily, be Recorded from time to time by Declarant (or with the express prior written consent of Declarant, in its sole discretion). A Supplemental Declaration shall be supplemental to this Declaration, and may create a Sub-Association and/or impose supplemental obligations, covenants, conditions, or restrictions, or reservations of easements, with respect to a particular Neighborhood or other land described in such instrument. This Declaration and any Supplemental Declaration shall be construed to be consistent with each other to the greatest extent reasonably possible; however, in the event of any irreconcilable conflict, the provisions of this Declaration shall prevail. Any purported Supplemental Declaration Recorded by a Person other than Declarant, without the express prior written consent of Declarant, shall be null and void.

14.6 Sub-Associations. Sub-Associations may be created from time to time, to administer designated Neighborhoods; provided that no Sub-Association may be validly organized except pursuant to the authority and jurisdiction of a Supplemental Declaration as set forth in Section 14.5, above. A duly created Sub-Association shall be a supplemental Neighborhood homeowners association, organized pursuant to the authority and jurisdiction of a Supplemental Declaration, with concurrent and supplemental jurisdiction (subject to this Declaration and the other Community Governing Documents) with the Association with respect to a particular Neighborhood.

14.7 Special Powers Relating to Sub-Associations. A Sub-Association shall have the power to establish standards and conduct activities for the property under its responsibility, subject to the Community Governing Documents and the Neighborhood Governing Documents.

Notwithstanding the foregoing, the Association shall have the power and authority to veto any action taken or contemplated to be taken by any Sub-Association which the Board reasonably determines to be in violation of the Community Governing Documents, or adverse or detrimental to the best interests of the Association, or its Members. The Association also shall have the power to reasonably require specific action to be taken by any Sub-Association in connection with the Sub-Association's obligations and responsibilities (for example, without limitation, requiring specific maintenance or repairs, or requiring that a proposed Neighborhood budget include certain items and that expenditures be made therefor). A Sub-Association shall take appropriate action required by the Association by written notice, within the reasonable time frame set forth in such notice. If the Sub-Association fails to so comply, the Association shall have the power and authority to effectuate such action on behalf of the Sub-Association and to levy Special Assessments to cover the reasonable costs thereof.

ARTICLE 15 PARTY WALLS AND OTHER SHARED STRUCTURES

15.1 General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units, other than a perimeter wall or fence as provided in Section 7.2, which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of this Declaration.

15.2 Maintenance, Damage, and Destruction. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure. If a party structure is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and is not repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of PROVINCE, as a community in which mature people enjoy living, requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in PROVINCE.

ARTICLE 16 ATTACHED DWELLINGS

16.1 Association Installation and Maintenance of Certain Exterior Components of Attached Dwellings. The front yard landscaping of Attached Dwellings shall be installed by Declarant in connection with the sale of an Attached Dwelling Unit to the initial Purchaser. Thereafter, to maintain an integrated, consistent and high quality appearance, the roof, stucco systems, painted exterior surfaces and front yard landscaping for each Attached Dwelling Unit shall be maintained, repaired and replaced by the Association and the costs associated with

such maintenance, repair or replacement, including overhead and administrative costs, shall be separately assessed to Owners of Attached Dwellings (each, an "**Attached Dwelling Unit Owner**") as a Neighborhood Assessment under Section 8.2. To keep all front yard landscaping consistent with community standards, no additions, deletions, alterations or replacement of plants or landscaping materials within the initial front yard landscaping of Attached Dwellings by an Attached Dwelling Unit Owner shall be permitted without the prior approval of DRC pursuant to the processes set forth in Section 4.3 of this Declaration. Notwithstanding anything herein to the contrary, each Attached Dwelling Owner shall keep all front yard landscaping, in the event Attached Dwelling Units are equipped with independent front yard watering systems, and all rear yard landscaping located on its Unit watered and fertilized at such times and in such quantities as required to keep all plants alive and attractive and each Owner shall keep all such areas properly cultivated and free of trash, weeds and other unsightly materials.

16.2 Maintenance of Other Exterior Components of Attached Dwellings. Except as provided herein, portions of Attached Dwellings not otherwise maintained by the Association pursuant to Section 16.1, including but not limited to the shared wall area and foundation of Attached Dwellings (collectively, the "**Attached Dwelling Shared Expense Items**") are integrated and, therefore, any maintenance, repair and replacement thereof, which requires maintenance, repair or replacement of such items in the adjacent Attached Dwelling Unit must be coordinated between the Attached Dwelling Owners of adjacent Attached Dwellings. The costs associated with the maintenance, repair and replacement of any Attached Dwelling Shared Expense Items shall be allocated equally between each of the affected Attached Dwelling Owners, unless otherwise agreed. Notwithstanding the provisions of Section 16.1 and this Section 16.2 of this Declaration, each Attached Dwelling Owner, at its sole cost and expense, shall be solely responsible for all repairs, replacement and maintenance related to the shared wall area and foundation of its Attached Dwelling which do not require any maintenance, repair or replacement of such items in the adjacent Attached Dwelling Unit and all exterior surfaces and attachments, including but not limited to windows, doors, and lights, as well as all plumbing, heating, ventilation and air conditioning facilities or improvements for its Attached Dwelling. In addition, each Attached Dwelling Owner shall immediately repair any portion of its Attached Dwelling known or reasonably suspected to cause leaks or other damage to the adjacent Attached Dwelling (including plumbing, heating, ventilation and air conditioning) and repair any damage to the adjacent Attached Dwelling or any shared features caused by such Attached Dwelling Owner's Family members, guests, Invitees or licensees. All maintenance, repairs, replacements and work to an Attached Dwelling that alter, add to, remove or otherwise change the exterior appearance of the original design elements of the Attached Dwellings or original materials or colors used in connection therewith ("**Attached Dwelling Modifications**") shall be subject to the prior approval of DRC pursuant to the processes set forth in Section 4.3 of this Declaration. Each Attached Dwelling Owner shall have a non-exclusive permanent easement over the adjacent Attached Dwelling if and to the extent reasonably necessary in order to perform any maintenance, repairs and replacements to such Owner's Attached Dwelling and the Attached Dwelling Shared Expense Items in a reasonable manner and upon reasonable notice.

16.3 Fire Wall. The "Fire Wall" area consists of the shared wall area of the Attached Dwellings. The Fire Wall is an essential part of the fire protection design for the Attached Dwellings and therefore, each Attached Dwelling Owner covenants and agrees to preserve the integrity of the Fire Wall and not to penetrate the Fire Wall to any degree or in any way which could interfere with the integrity of the Fire Wall or affect the fire protection design and characteristics of the Fire Wall.

16.4 Repair and Maintenance Procedures. In the event an Attached Dwelling Owner believes that an Attached Dwelling Shared Expense Item with respect to the Attached Dwelling to which such Owner's Unit is attached requires maintenance, repair or replacement, such Attached Dwelling Owner shall notify the adjacent Attached Dwelling Owner and DRC, where applicable, and endeavor to reach an agreement with such Attached Dwelling Owner prior to proceeding with such work within ten (10) days (five (5) days in the case of proposed work involving an emergency repair).

16.5 Dispute Resolution Procedures. In the event the Attached Dwelling Owners and DRC, where applicable, cannot achieve an agreement within ten (10) days with respect to the repair, replacement or maintenance of an Attached Dwelling Shared Expense Item, the Attached Dwelling Owner who believes such work is necessary or appropriate shall provide the Association, the adjacent Attached Dwelling Owner, and the DRC, where applicable, with a written request for a determination by the Board as to the necessity or appropriateness of such work together with any proposals and cost estimates for such work (a "**Request for Determination**"). The Board shall provide the affected Attached Dwelling Owners with a written determination (a "**Determination Notice**") regarding any such Request for Determination within thirty (30) days of its receipt thereof unless the proposed work involves an emergency repair, in which case the Board shall endeavor to provide a Determination Notice with respect thereto as soon as possible following its receipt thereof. The Board's determination regarding matters addressed in any Request for Determination as set forth in a Determination Notice issued by the Board shall be binding upon the affected Attached Dwelling Owners, and the affected Attached Dwelling Owners shall proceed with any work ordered to be done in any Determination Notice as soon as practical following the receipt of such a Determination Notice. In the event any Attached Dwelling Owner fails to pay its share of the work covered by any such Determination Notice, the Association may advance the costs allocable to the defaulting Attached Dwelling Owner, in which event an amount equal to one hundred twenty percent (120%) of the costs so advanced by the Association together with interest thereon at the rate provided for in Section 8.8 of this Declaration, shall constitute an assessment lien under Section 8.8 against the Unit owned by the defaulting Attached Dwelling Owner.

ARTICLE 17 GOLF COURSE

17.1 Golf Course and Golf Agreement. The Golf Course is not a Common Element and is not part of the Community. Furthermore, Declarant does not own any interest in the Golf Course. However, a Declaration of Covenants, Conditions and Restrictions for Rancho El Dorado Golf Course has been recorded May 30, 2003 at Fee No. 2003-035613 in the Official Records of Pinal County Arizona (the "**Golf Agreement**") for the purpose of providing Members of the Association with certain privileges with respect to the Golf Course. Each Owner, by accepting a deed to a Unit, shall be deemed to have acknowledged that it has received, reviewed and understands the Golf Agreement and except for the limited rights granted in the Golf Agreement, neither being an Owner of a Unit within PROVINCE or a Member of the Association, confers upon such Owners/Members any ownership or other interest in the Golf Course or the right to use the Golf Course.

17.2 No Representation or Warranties. Each Owner, by accepting a deed to a Unit, acknowledges that ownership or operation of the Golf Course may change (i.e., the Golf Course could change from a public course to a private club) and that such change could adversely affect the rights and privileges set forth in the Golf Agreement. Declarant makes no representation or warranty regarding the continuing existence, ownership, operation, condition

or nature of the Golf Course, nor the nature, scope or duration of any rights or privileges provided for in the Golf Agreement.

ARTICLE 18 MULTI-FAMILY COMPONENT AND VACATION GETAWAYS

18.1 Multi-Family Component. No multi-family component is currently planned for inclusion within the Community. However, Declarant reserves the right to modify the plan for the Community to include multi-family and/or other uses. If Declarant elects to change its current plan for the community to include multi-family or other uses, Declarant shall have the right to Record a Supplemental Declaration which, among other things, shall prescribe any rights which the occupants of any multi-family property may have to use the Common Elements.

18.2 Vacation Getaways.

(a) Declarant may, in its discretion, construct residential improvements for temporary Occupancy in or adjacent to the Property and designate such improvements as "**Vacation Getaways.**"

(b) Vacation Getaways located outside of the Property shall not be Lots or Units, and their owners shall not be Members of the Association; provided, however, that such Vacation Getaways and their occupants may be granted the right to use and enjoy Common Elements in consideration for the payment of such reasonable fees as established by Declarant (during the Declarant Rights Period) and thereafter by the Association.

(c) Owners of Vacation Getaways located within the Property shall be Members of the Association. Declarant may transfer or lease Vacation Getaways and make Vacation Getaways available for use by guests selected in its discretion. Occupants of the Vacation Getaways shall have a non-exclusive easement for use, access, and enjoyment in and to the Common Elements, including but not limited to any recreational facilities within the Common Elements. The Board shall assign Association Cards to Declarant on behalf of all Owners of Vacation Getaways for the purpose of exercising such easement. Each Vacation Getaway shall remain a Vacation Getaway until Declarant otherwise provides in written notice to the Owner of such Vacation Getaway and to the Association.

ARTICLE 19 PROCEEDINGS

19.1 Proceedings. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "**Proceeding**"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Elements and as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

(a) Any Proceeding commenced by the Association: (i) to enforce the payment of an assessment or an assessment lien or other lien against an Owner as provided for in this Declaration, or (ii) to otherwise enforce compliance with the Governing Documents by, or

to obtain other relief from, any Owner who has violated any provision thereof, or (iii) to protect against any matter which imminently and substantially threatens all of the health, safety and welfare of the Owners, or (iv) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course of business, or (v) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Fifty Thousand Dollars (\$50,000.00) in the aggregate; shall be referred to herein as an "**Operational Proceeding**." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

(b) Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "**Non-Operational Controversy**" or "**Non-Operational Controversies**." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Section 19.1 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board:

(i) The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the Members for such additional amount for mediation before proceeding to arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(1) The Board shall first investigate the legal merit, feasibility and expense of prosecuting the Non-Operational Controversy, by obtaining the written opinion of a licensed Arizona attorney regularly residing in Pinal or Maricopa County, Arizona, with a Martindale-Hubbell rating of "av" or better, expressly stating that such attorney has reviewed the underlying facts and data in sufficient, verifiable detail to render the opinion, and expressly opining that the Association has a substantial likelihood of prevailing on the merits with regard to the Non-Operational Controversy, without substantial likelihood of incurring any material liability with respect to any counterclaim which may be asserted against the Association. The Board shall be authorized to spend up to an aggregate of Five Thousand Dollars (\$5,000.00) to obtain such legal opinion, including all amounts paid to said attorney therefor, and all amounts paid to any consultants, contractors and/or experts preparing or processing reports and/or information in connection therewith. The Board may increase said \$5,000.00 limit, with the express consent of more than fifty percent (50%) of all of the Members of the Association, at a special meeting called for such purpose.

(2) Said attorney opinion letter shall also contain the attorney's best good faith estimate of the aggregate maximum "not-to-exceed" amount of legal fees and costs, including, without limitation, court costs, costs of investigation and all further reports or studies, costs of court reporters and transcripts, and costs of expert witnesses and forensic specialists (all collectively, "**Quoted Litigation Costs**") which are reasonably expected to be incurred for prosecution to completion (including appeal) of the Non-Operational Controversy. Said opinion letter shall also include a draft of any proposed fee agreement with such attorney. If the attorney's proposed fee arrangement is contingent, the Board shall nevertheless obtain the Quoted Litigation Costs with respect to all costs other than legal fees, and shall also obtain a written draft of the attorney's proposed contingent fee agreement. (Such written legal opinion, including the Quoted Litigation Costs, and also including any proposed fee agreement, contingent or non-contingent, are collectively referred to herein as the "**Attorney Letter**").

(3) Upon receipt and review of the Attorney Letter, if two-thirds (2/3) or more of the Board affirmatively vote to proceed with the institution or prosecution of, and/or intervention in, the Non-Operational Controversy, the Board thereupon shall duly notice and call a special meeting of the Members. The written notice to each Member of the Association shall include a copy of the Attorney Letter, including the Quoted Litigation Costs and any proposed fee agreement, contingent or non-contingent, together with a written report ("**Special Assessment Report**") prepared by the Board: (A) itemizing the amount necessary to be assessed to each Member ("**Special Litigation Assessment**"), on a monthly basis, to fund the Quoted Litigation Costs, and (B) specifying the probable duration and aggregate amount of such Special Litigation Assessment. At said special meeting, following review of the Attorney Letter, Quoted Litigation Costs, and the Special Assessment Report, and full and frank discussion thereof, including balancing the desirability of instituting, prosecuting and/or intervening in the Non-Operational Controversy against the desirability of accepting any settlement proposals from the adversary party or parties, the Board shall call for a vote of the Members, whereupon: (x) if not more than fifty percent (50%) of the total voting power of the Association votes in favor of pursuing such Non-Operational Controversy and levying the Special Litigation Assessment, then the Non-Operational Controversy shall not be pursued further, but (y) if more than fifty percent (50%) of the total voting power of the Association (i.e., more than fifty percent (50%) of all of the Members of the Association) affirmatively vote in favor of pursuing such Non-Operational Controversy, and in favor of levying a Special Litigation Assessment on the Members in the amounts and for the duration set forth in the Special Assessment Report, then the Board shall be authorized to proceed to institute, prosecute, and/or intervene in the Non-Operational Controversy. In such event, the Board shall engage the attorney who gave the opinion and quote set forth in the Attorney Letter, which engagement shall be expressly subject to the Attorney Letter. The terms of such engagement shall require (i) that said attorney shall be responsible for all attorneys' fees and costs and expenses whatsoever in excess of one hundred twenty percent (120%) of the Quoted Litigation Costs, and (ii) that said attorney shall provide, and the Board shall distribute to the Members, not less frequently than quarterly, a written update of the progress and current status of, and the attorney's considered prognosis for, the Non-Operational Controversy, including any offers of settlement and/or settlement prospects, together with an itemized summary of attorneys fees and costs incurred to date in connection therewith.

(4) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the

merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer upon a majority vote of all of the Members of the Association.

(c) In no event shall any Association Reserve Fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Association reserve funds, pursuant to Article 8, above, are to be used only for the specified replacements, painting and repairs of Common Elements, and for no other purpose whatsoever.

(d) Any provision in this Declaration notwithstanding: (i) other than as set forth in this Section 19.1, the Association shall have no power whatsoever to institute, prosecute, maintain, or intervene in any Proceeding, (ii) any institution, prosecution, or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section 19.1, shall be unauthorized and ultra vires as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section 19.1 to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution, or maintenance of, or intervention in, the Proceeding; and (iii) this Section 19.1 may not be amended or deleted at any time without the express prior written approval of both: (1) Members representing not less than seventy-five percent (75%) of the total voting power of Association, and (2) not less than seventy-five percent (75%) of the Board of Directors; and any purported amendment or deletion of this Section 19.1, or any portion hereof, without both of such express prior written approvals shall be void.

19.2 Notice Procedures. Without in any way limited the foregoing Section 19.1: The Association shall promptly notify all Members at all pertinent times, in writing, of the following, stating plainly and concisely: (a) the nature of any claim ("**Claim**") and/or Proceeding, including the Persons involved and their roles; (b) the legal basis of the Claim or Proceeding (i.e., the specific authority out of which the Claim or Proceeding arises); (c) proposed remedy; and (iv) that Claimant will meet to discuss good faith ways to resolve the Claim or Proceeding.

ARTICLE 20 MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Property. The provisions of this Article 20 apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

20.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder,

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

20.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

20.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

20.4 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as PROVINCE, are dynamic and constantly evolving and maturing as circumstances, technology, needs, desires, and laws change over time. PROVINCE, and its governing documents must be able to adapt to these changes while protecting the things that make PROVINCE, unique.

ARTICLE 21 CHANGES IN OWNERSHIP OF UNITS

In the event of the sale or transfer of a Unit by an Owner, the purchaser or transferee of the Unit shall give the Board written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require, within not later than fifteen (15) days of transfer of title to the Unit. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including Assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

ARTICLE 22 CHANGES IN COMMON ELEMENTS

22.1 Condemnation. If a Unit or portion thereof shall be taken by eminent domain, compensation and the Owner's interests in the Common Elements shall be allocated as provided in Applicable Arizona law. If any part of the Common Elements shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written

direction of the Requisite Association Percentage or of Declarant (during Declarant Rights Period), by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Elements on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Elements to the extent available, unless within 60 days after such taking, Declarant (during the Declarant Rights Period) or the Requisite Association Percentage shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Article 8 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Elements, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

22.2 Partition. Except as permitted in this Declaration, the Common Elements shall remain undivided, and no Person shall bring any action partition of any portion of the Common Elements without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration, subject to Applicable Arizona law.

22.3 Transfer or Dedication of Common Elements. The Association may dedicate portions of the Common Elements to Pinal County, Arizona, or to any other local, state, or federal governmental or quasi-governmental entity, subject to such approval as may be required pursuant to Applicable Arizona law.

ARTICLE 23 AMENDMENTS

23.1 Amendment By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Purchaser, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant, or the Board with consent of the Declarant, may amend this Declaration unilaterally if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

Any of the foregoing notwithstanding, during the Declarant Rights Period, Declarant shall have the power from time to time to unilaterally amend this Declaration to correct any scrivener's errors, to clarify any ambiguous provision, to modify or supplement the Exhibits hereto, and otherwise to ensure that the Declaration conforms with the requirements of applicable law. Furthermore, by acceptance of a deed conveying any real property described in

Exhibit "B" hereto, in the event such real property has not theretofore been annexed to the Property encumbered by this Declaration, and whether or not so expressed in such deed, the Purchaser-grantee thereof covenants that Declarant shall be fully empowered and authorized (but not obligated) at any time thereafter (and appoints Declarant as attorney in fact, to the extent permitted by applicable Arizona law, of such Purchaser-grantee and his successors and assigns), to unilaterally execute and Record an Annexation Notice, adding said real property to the Community (and applicable Neighborhood, if any), in the manner provided for in Article 10, above.

23.2 Amendment By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of: (a) the Requisite Association Percentage, and the written consent of Declarant (during Declarant Rights Period); and (b) a majority of the voting power of the Board. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

23.3 Validity and Effective Date of Amendments. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be presumed conclusively that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment validly adopted by the Association shall be certified by the President or Secretary of the Association, and shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within 12 months of its Recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

Nothing in this Article 23 shall be construed to permit termination of any easement created in this Declaration or Supplemental Declaration without the consent of the holder of such easement.

PART EIGHT: ADDITIONAL PROVISIONS

ARTICLE 24

ADDITIONAL DISCLOSURES, DISCLAIMERS, AND RELEASES

24.1 Additional Disclosures And Disclaimers Regarding Lakes and Common Turf Areas. By acceptance of a deed to a Unit, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following disclosures and disclaimers:

(a) Portions of the Community are located adjacent to or nearby Lakes, Lake Areas, and Common Element turf areas ("**Lakes/Turf Areas**"). In connection therewith: (a) the water facilities, hazards, other installations located on the Lakes/Turf Areas may be an attractive nuisance; (b) operation, maintenance, and use, of the Lakes/Turf Areas may result in a certain

loss of privacy, and will entail various operations and applications, including (but not necessarily limited to) all or any one or more of the following: (1) the right of the Association, and its employees, agents, suppliers, and contractors, to (i) enter upon and travel over the Community to and from and between any one or more of the Community entry areas, and portions of the Lakes/Turf Areas, and (ii) enter upon the Community to maintain, repair, and replace, water and irrigation lines and pipes used in connection with Lakes/Turf Areas landscaping; (2) operation and use of noisy electric, gasoline, and other power driven vehicles and equipment, on various days of the week, including weekends, and during various times of the day, including, without limitation, early morning and late evening hours; (3) operation of sprinkler and other irrigation systems during the day and night; (4) storage, transportation, and application of insecticides, pesticides, herbicides, fertilizers, and other supplies and chemical substances (all, collectively, "**chemical substances**"); (5) parking and/or storage of vehicles, equipment, chemical substances, and other items; (6) irrigation of the Lakes/Turf Areas, and supply of water facilities thereon, with recycled or effluent water; (7) "overspray" of recycled or effluent water and chemicals onto the Community; and/or (8) recreational users from time to time may shout and use language (or bodily motions or gestures), which may be distinctly audible (or visible) to persons in the Community, and which language (or bodily motions or gestures) may be profane or otherwise offensive in tone and content; (c) play on the Lakes/Turf Areas may be allowed during all daylight and/or evening hours, up to and including seven days a week; (d) play on the Lakes/Turf Areas may result in damage to the Community, including, without limitation, damage to windows, doors, stucco, roof tiles, sky lights, and other areas of the Unit and other portions of the Community, and damage to real and personal property of Owner or others, whether outdoors or within a residence or other building, and injury to person; and (e) although fencing and other features may (but need not necessarily) be incorporated into the Unit or other portions of the Community in an effort to decrease the hazards associated with such play, the Owner acknowledges that such fencing and other features may protect against some, but certainly not all, damage which may occur.

(b) The Lakes/Turf Areas also may include one or more separate large maintenance and/or warehouse-type building(s), storage area(s) for vehicles, equipment, and chemical substances (as defined above), fuel storage and above-ground fuel island(s), and related facilities (all, collectively, "**Maintenance Facility**"), constructed and/or operated by the Association or owner(s) or operator(s) of the Maintenance Facility, at a location on or adjacent to the Community. The location of the Maintenance Facility will require frequent and recurring travel by Maintenance Facility and other Lakes/Turf Areas personnel, and vehicles (and travel by and transportation of other personnel, equipment, chemicals, fuel, and other items) over Private Streets and other Common Elements of the Community to and from the Maintenance Facility and other portions of the Lakes/Turf Areas and Community entry areas. In connection with the Maintenance Facility: (a) the facilities and related items located on the Maintenance Facility may be an attractive nuisance; (b) operation, maintenance, and use, of the Maintenance Facility may result in a certain loss of privacy, and will entail various operations and applications, including (but not necessarily limited to) all or any one or more of the following: (1) the right of owner(s) and operator(s) of the Maintenance Facility, and their employees, agents, suppliers, and contractors, to enter upon and travel over the Community to and from and between any one or more of the Community entry areas, the Maintenance Facility, and other portions of the Property; (2) operation, maintenance, and repair of noisy electric, gasoline, and other power driven vehicles and equipment, on various days of the week, including weekends, and during various times of the day, including, without limitation, early morning and late evening hours; (3) storage, transportation, and application, of chemical substances; (4) parking and/or storage of vehicles, equipment, chemical substances, fuel, and other items; and (5) fueling and related operations; and (c) although walls, fencing, and other features may be incorporated into

the Maintenance Facility, the Owner acknowledges that such walls, fencing, and other features will certainly not eliminate all sight, noise, or other conditions, on or emanating from the Maintenance Facility.

(c) All and any one or more of the matters described above may cause inconvenience and disturbance to the Owner, and other occupants of and visitors to the Unit and/or Common Elements, and possible injury to person and damage to property, and the Owner has carefully considered the foregoing matters, and the location of the Community (including the Common Elements and the Unit) and their proximity to the Lakes/Turf Areas and to the Maintenance Facility, before making the decision to purchase a Unit in the Property.

24.2 Disclosures and Disclaimers of Certain Other Matters. Without limiting any other provision in this Declaration, by acceptance of a deed to a Unit, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

(a) ELECTRICAL POWER SYSTEMS; EMF. There is presently a major electrical power substation located adjacent to or nearby the Community, and there are presently and may in the future be additional major electrical power system components (including, but not necessarily limited to, other electrical power substations or facilities, high voltage transmission or distribution lines, transformers, and other items) from time to time located within or nearby the Community, which generate certain electric and magnetic fields ("EMF") around them. Without limiting any other provision in this Declaration.

(b) AIRPLANE TRAFFIC. The Community is or may be located within or nearby certain airplane flight patterns or clear zones, and/or subject to significant levels of airplane traffic and noise.

(c) ROADWAYS. The Community is or may be located adjacent to or nearby expressways and/or arterial or major roadways, and subject to levels of traffic thereon and noise, dust, and other nuisance from such roadways and vehicles. Also, each Unit is located in proximity to streets and other Dwellings in the Community, and subject to substantial levels of sound and noise.

(d) COMMERCIAL SITE. The Community is located adjacent to or nearby a designated commercial site, and subject to substantial levels of sound, noise, and other nuisances, from such commercial site, and any commercial buildings or facilities developed thereon.

(e) WATER CHANNEL. There are presently and may in the future be a water reservoir site and/or other water retention facilities located nearby or adjacent to, or within the Community, and the Community is located adjacent to or nearby major water and drainage channels, major washes, and a major water detention basin (all of the foregoing, collectively, "Channel"), the ownership, use, regulation, operation, maintenance, improvement and repair of which are not within Declarant's control, and over which Declarant has no jurisdiction or authority, and, in connection therewith: (1) the Channel may be an attractive nuisance; (2) maintenance and use of the Channel may involve various operations and applications, including (but not necessarily limited to) noisy electric, gasoline or other power driven vehicles and/or equipment used by Channel maintenance and repair personnel during various times of the day, including, without limitation, early morning and/or late evening hours; and (3) the possibility of damage to Improvements and property on the Property, particularly in the event of overflow of

water or other substances from or related to the Channel, as the result of nonfunction, malfunction, or overtaxing of the Channel or any other reason; and (4) any or all of the foregoing may cause inconvenience and disturbance to Owner and other persons in or near the Unit and/or Common Elements, and possible injury to person and/or damage to property.

(f) VIEW. Construction or installation of Improvements by Declarant, other Owners, or third parties (including, but not limited to, the owner of a Private Amenity), and/or growth of trees or other plants, may impair or eliminate the view, if any, of or from any Unit and/or Common Elements; and Owner hereby releases Declarant from any and all claims arising from or relating to said impairment or elimination of view.

(g) EXPECTED MINOR FLAWS. Residential subdivision and home construction is an industry inherently subject to variations and imperfections, and items which do not materially affect safety or structural integrity shall be deemed "**expected minor flaws**" (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; discoloration or irregular lightening of, or deposits on, walls; damage to or need for replacement of, any tree or other plant; structural or cosmetic damage caused by sprinkler overspray or overwatering; damage to pipes and fittings, or leaks in the sprinkler system, caused by maintenance or traffic; frost damage or frozen pipes and sprinkler systems; minor flaws or corrective work; and like items) and not constructional defects, and are not covered by warranty.

(h) INDUSTRY STANDARDS. The finished construction of the Unit and the Common Elements, while within the standards of the industry in the greater Phoenix area, and while in substantial compliance with the plans and specifications, will be subject to expected minor flaws; and issuance of a Certificate of Occupancy by the relevant governmental authority with jurisdiction shall be deemed conclusive evidence that the relevant Improvement has been built within such industry standards.

(i) INDOOR AIR QUALITY. Indoor air quality of the Unit and/or Common Elements may be affected, in a manner and to a degree found in new construction within industry standards, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and other such items.

(j) GATED COMMUNITY; SECURITY. Installation and maintenance of a gated Community, entry gate guard house, or any security device, operation, or method, shall not create any presumption, or duty whatsoever of Declarant or the Association (or their respective officers, directors, managers, employees, agents, and/or contractors), with regard to security or protection of person or property within or adjacent to the Community. Declarant reserves the right, until the Close of Escrow of the last Unit in the Property, to unilaterally control the Gate House (and any other entry gates), and to keep all such entry gates open during such hours established by Declarant, in its sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities.

(k) FUTURE DEVELOPMENT. Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Unit. The Purchaser or Owner of a Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been advised of the same in discussions with sales personnel; however, notwithstanding such plot plans,

sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. A Purchaser or Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions.

(l) GAS LINES. The Property or portions thereof are or may be nearby major regional underground natural gas transmission pipelines.

(m) UNDOMESTICATED CREATURES. The Property is located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures (including, but not limited to, coyotes and foxes), which may from time to time stray onto the Property, and which may otherwise pose a nuisance or hazard.

(n) CONSTRUCTION NUISANCES. Residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, traffic, and other construction-related "nuisances." Each Owner acknowledges and agrees that it is purchasing a Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out.

(o) PRICES. Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new Dwellings and/or Lots.

(p) MODEL HOMES. Model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded carpet, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to a Purchaser unless an authorized officer of Declarant has specifically agreed in a written Addendum to the Purchase Agreement to make specific items a part of the Purchase Agreement.

(q) RESTRICTION OF TRAFFIC. Declarant reserves the right, until the Close of Escrow of the last Unit in the Property, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Property, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Unit shall be deprived of access to a dedicated street adjacent to the Property.

(r) OTHER RIGHTS. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by Applicable Arizona law, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under applicable Arizona law.

(s) THIRD PARTY BUSINESSES. From time to time, certain third party businesses (e.g., landscaper, swimming pool contractor, etc.) may be provided space within the

Model Home complex or within or adjacent to other portions of the Property, as an accommodation and convenience to Purchasers at PROVINCE. Such third party businesses are not a part of or affiliated with Declarant or the Association. Accordingly, Declarant expressly disclaims any responsibility, obligation, or liability whatsoever to Purchasers or Owners at PROVINCE, and/or the Association, for any representations, warranties, acts, or omissions, of such third party businesses (and/or their respective agents, officers, employees, contractors, and suppliers). Without limiting the foregoing, any agreements entered into between a Purchaser or Owner at PROVINCE, and any such third party business, shall be solely between such parties, and Declarant shall have no responsibility, obligation, or liability therefor. Such third party businesses as may be designated by Declarant shall have an easement over the common Elements as may be necessary or convenient to the services they provide to or for Declarant.

(t) NEARBY INDIAN COMMUNITY. The Community is situated in the vicinity of the Gila River Indian Community and the Ak-Chin Indian Community, which may be developed for any possible land use in the future, and Pinal County will not have any jurisdiction regarding such possible land uses on lands owned by such Indian Communities.

(u) ADJACENT AGRICULTURAL USES. Each Owner and Occupant understands and acknowledges that the Community is (a) located in the vicinity of, or is adjacent to, various properties that are farmed or otherwise used for agricultural purposes including, but not limited to, farming and the keeping, breeding, raising, feeding, boarding and transporting of livestock (including horses and cows) (collectively "**Agricultural Properties**"); and (b) the Property is subject to attendant noise during various times of the day, odors, dust, flies, pollen, the migration of pesticides, fertilizers, and other chemicals, and to all other effects that may be caused by or result from the operation and use of the Agricultural Properties for farming or other agricultural purposes. In connection with the foregoing, each Owner and Occupant (on behalf of itself and all Owner's or Occupant's Family, permittees, guests and invitees) covenants and agrees that they knowingly and voluntarily assume all risks associated with these adjacent uses including but not limited to risks of nuisance, noise, disturbance, inconvenience, property damage, and personal injury or sickness; and that Declarant, the Land Entity, the Association, and the County (and their respective shareholders, officers, members, directors, partners, employees and agents) and any owner(s) or operator(s) of all or any portion of the agricultural properties, (and their respective employees, agents, invitees, licensees, contractors, officers, directors, shareholders, affiliates, successors and assigns) shall not be responsible or accountable for, and shall have no liability for any claims, causes of action, losses, damages, costs or expenses arising in connection with or associated with any nuisances, disturbances, noise, inconvenience, property damage or other damage, or personal injury or sickness, directly or indirectly related to, caused by, or associated with the operation and use of the Agricultural Properties for farming or other agricultural purposes.

24.3 Disclaimers and Releases. By acceptance of a deed to a Unit, each Purchaser or Owner, for itself and all Persons claiming under such Purchaser or Owner, shall conclusively be deemed to have acknowledged and agreed: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) to fully and unconditionally release Declarant, Land Entity and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, and their successors and assigns, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, occurrences described in the foregoing Sections 24.1 and 24.2.

ARTICLE 25 GENERAL PROVISIONS

25.1 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Property to the public, or for any public use.

25.2 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association. Notice by personal delivery shall be deemed to have been given at time of delivery.

25.3 Limited Liability. Except to the extent expressly prohibited by any applicable provision of Applicable Arizona law, neither Declarant nor Association, nor any Director or Officer, any committee representative, nor any agent or employee respectively thereof shall be liable to any Owner or any other Person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith. The Association shall indemnify every present and former Officer and Director and every present and former committee representative against all liabilities incurred as a result of holding such office, to the full extent permitted by law.

25.4 Business of Declarant. Except to the extent expressly provided herein or as required by any applicable provision of Applicable Arizona law, no provision of this Declaration shall be applicable, during the Declarant Rights Period, to limit or prohibit any act of Declarant, its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Property.

25.5 Compliance with Federal and Arizona Law. It is the intent of Declarant that this Declaration shall be in all respects consistent with, and not violative of, applicable provisions of Federal and Arizona law.

ARTICLE 26
RESOLUTION OF DISPUTES WITH DECLARANT REGARDING DEVELOPMENT AND
CONSTRUCTION MATTERS

It is the Declarant's intent that all Improvements constructed within the Community shall be built in compliance with all applicable building codes and ordinances and will be of a quality that is consistent with good construction and development practices. Nevertheless, disputes may arise as to whether a defect exists with respect to the construction by a Declarant, any affiliate of a Declarant or another home builder (each which shall be referenced to in this Section 26 as "**a Builder**") of any of the Improvements constructed within the Community and a Builder's responsibility therefor. It is the intent of Declarant that all disputes and claims regarding Alleged Defects (as defined below) be resolved amicably, and without the necessity of time-consuming and costly litigation. Accordingly, the Association, the Board, Declarant, all Builders and all Owners shall be bound by the following claim resolution procedures, provisions and limitations:

26.1 Limitation on Remedies. In the event that the Association, the Board or any Owner (collectively, "**Claimant**") claims, contends or alleges that any portion of a Unit, the Common Elements or any other Improvements constructed within the Community is defective or that one or more of the Builders, their agents, consultants, contractors or subcontractors (collectively, "**Agents**") were negligent in the planning, design, engineering, grading, construction or other development thereof (collectively, an "**Alleged Defect**"), the only right or remedy that any Claimant may have with regard to any such Alleged Defect is the right to have the Alleged Defect repaired and/or replaced by the Builder which was responsible for the construction of the Improvements which is the subject of the Alleged Defect, but such right or remedy shall only be available if and to the extent such Builder is, at that time, still obligated to repair such Alleged Defect pursuant to applicable statutes and common law and any applicable rules, regulations and guidelines imposed by the Arizona Registrar of Contractors (the "**Applicable Laws**"), but subject to the time frames imposed by such Applicable Laws. Except for such remedy, each Owner, by accepting a deed to a Unit, shall be deemed to have waived the right to seek damages or other legal or equitable remedies from the applicable Builder(s) or from any affiliates, subcontractors, agents, vendors, suppliers, design professionals and materialmen of such Builder(s) under any common law, statutory or other theories of liability, including, but not limited to, negligence, tort and strict liability. Under no circumstances will any Builder or Declarant be liable for any consequential, indirect, special, punitive or other damages, including, but not limited to, any damages based on a claim of diminution in the value of the Claimant's Unit and each Owner, by accepting a deed to a Unit, shall be deemed to have waived its right to pursue any such damages. It shall be a condition to a Claimant's rights and a Builder's obligations under this Article that the Claimant fully and timely abide by the requirements and conditions set forth in this Article 26. Consistent with the limitation on a Claimant's rights to have a Builder repair and/or replace the Alleged Defect, the Builders hereby reserve the right for themselves to be notified of such Alleged Defect and to inspect, repair and/or replace such Alleged Defect(s) as set forth herein prior to instituting any other actions.

26.2 Notice of Alleged Defect. In the event that a Claimant discovers any Alleged Defect, Claimant shall notify the Builder which constructed the Improvement which is the subject of the Alleged Defect, in writing within thirty (30) days of discovery of the Alleged Defect, and of the specific nature of such Alleged Defect ("**Notice of Alleged Defect**").

26.3 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Builder of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Builder, such Builder shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Unit, the Dwelling Unit, Common Element or other part of the Community as may be necessary or appropriate for the purposes of inspecting and/or conducting testing and, if deemed necessary by the Builder, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacements, Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances to repair or correct any such Alleged Defect.

26.4 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Builders to inspect, test, repair or replace any item or Alleged Defect for which Builders are not otherwise obligated under Applicable Laws or contract. Specifically, a Builder's obligation to repair and/or replace an Alleged Defect shall expire on the applicable date which the Applicable Laws state or impose as the date(s) through which a contractor is responsible for such Alleged Defect. The right of Builders to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and recorded by Builders.

26.5 Tolling of Statutes of Limitations. In no event shall any statutes of limitations be tolled during the period in which a Builder conducts any inspection or testing of any Alleged Defects.

26.6 Legal Actions. All legal actions initiated by a Claimant against a Builder shall be brought in accordance with and be subject to Section 26.7 (Binding Arbitration) of this Declaration. In the event the Claimant is the Association, the Association or the Board must, before initiation or becoming involved in such dispute and proceedings, comply with and satisfy all requirements set forth in Section 19.1(b) of this Declaration.

26.7 Binding Arbitration. In the event of a dispute between or among a Builder, its contractors, subcontractors or brokers or their agents or employees (a "**Constructing Party**"), on the one hand, and any Owner or the Association, on the other hand, regarding any controversy or claim between the parties, including any claim based on contract, tort, statute or any other theory of liability arising out of or relating to the rights or duties of the parties under this Declaration, the design or construction of the Community, any Unit, any Common Elements or any Alleged Defect, the Constructing Party involved in such dispute may elect to have the dispute submitted to and resolved by binding arbitration, and in the event of such an election by the involved Constructing Party, such dispute shall be submitted to and resolved by binding arbitration conducted in accordance with the following rules:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association ("**AAA**") Commercial Arbitration Rules, as amended from time to time (the "**AAA Rules**").

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. §12-1501 *et seq.* In the event of a conflict between the AAA Rules and this Section, the provisions of this Section shall govern.

(c) Appointment of Arbitrator. The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection is referred to in this Section as the "Arbitrator".

(d) Qualifications of Arbitrator. The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(e) Disclosure. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in subsection Section 26.7(c) above.

(f) Compensation. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's standard hourly rate, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) Preliminary Hearing. Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Guidelines, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious and cost-effective conduct of the proceeding.

(h) Management of the Arbitration. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties and the parties attorneys and expert witnesses (where applicable to their testimony), except that, upon the prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) Hearings. Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) Final Award. The Arbitrator shall promptly, within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree, determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a party therefor to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

(l) Statute of Limitations. All statutes of limitation applicable to claims which are subject to binding arbitration pursuant to this Section shall apply to the commencement of arbitration proceedings under this Section. If arbitration proceedings are not initiated within the applicable period, the claim shall forever be barred.

(m) Warranty Dispute Resolution Procedures. If Declarant or a Builder has provided to an Owner a warranty which includes a dispute resolution process which is different than the processes forth in this Section 26.7, then the provisions of the dispute resolution process in the warranty shall control and shall supercede the provisions of this Section 26.7 with respect to any matter that is covered by such warranty.

26.8 Repurchase Option for Alleged Defect Claims. Notwithstanding anything in this Declaration to the contrary, in the event any Owner, either directly or through the Association, shall commence an action against a Builder in connection with any Alleged Defects on or to such Owner's Unit, the Builder (or any assignee of such Builder) that constructed and/or sold such Unit shall have the option (but not the obligation) to purchase such Unit on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following less any sums, if any, paid to such Owner under any homeowner's warranty in connection with the Alleged Defect:

(i) The purchase price paid by the Owner of the Unit which purchased such Unit from the Builder;

(ii) The value of any documented Improvements made to the Unit by third-party contractors or decorators after the conveyance thereof to the initial Owner that added an ascertainable value to the Unit;

(iii) The Owner's reasonable moving costs; and

(iv) Any closing costs, including loan fees and/or "points" incurred by the Owner in connection with the purchase of another primary residence within ninety (90) days after the closing of the repurchase provided for herein.

(b) Close of escrow for the Builder's repurchase of the Unit shall not occur later than forty-five (45) days after written notice from the Builder to the Owner of the Builder's intent to exercise the option herein.

(c) Title shall be conveyed to the applicable Builder free and clear of all monetary liens and encumbrances other than non-delinquent real estate taxes.

(d) All closing costs in connection with the repurchase shall be paid by the applicable Builder who is repurchasing the Unit.

(e) Exercise of the repurchase option as provided hereinabove shall constitute full and final satisfaction of all claims relating to the subject Unit, including claims relating to the Alleged Defect. The Owner of an affected Unit (or Association, as applicable) shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

26.9 As-Built Conditions. Various engineering and architectural plans pertaining to the Community, including, but not limited to, plats, drawings, subdivision maps, grading plans, plot plans, improvement plans and building plans (collectively, the "**Plans**"), contain dimensions regarding certain aspects of the Lots, Units, Common Elements and other parts and aspects of the Community. By accepting a deed to a Unit, each Owner shall be deemed to have acknowledged and agreed that (a) if there is a discrepancy between the Plans and the actual as-built conditions of any Unit, Common Element or any other Improvement within the Community, the as-built conditions will control and be deemed to be accepted as-is by the Owner of the Unit; (b) the usable or buildable area, location and configuration of the Units, Common Elements and any other Improvements located within the Community may deviate from the Plans or from any other display or configuration related thereto; (c) the location, size, height and composition of all walls and fences to be constructed on or as part of a Unit or adjacent thereto shall be determined by Builders in their sole and absolute discretion. Despite the Plans or any other materials that may exist, neither Declarant nor any other Builder shall be deemed to have made any representations, warranties or assurances with respect to any such matters or with respect to the size, height, location or composition of any wall or fence to be constructed on or adjacent to any Units; and (d) each Owner waives the right to make any demands of or claims against Builders as a result of any discrepancies between the Plans any actual as-built conditions on any Unit.

26.10 Limitation on Declarant's' and Builders' Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner, and each other person, by acquiring any interest in the Community, acknowledges and agrees, that neither Declarant nor any other Builder (including, but not limited to, any assignee of the interest of a Declarant or a Builder) nor any partner, shareholder, officer, director, employee or affiliate of a Declarant or a Builder shall have any personal liability to the Association, or to any Owner, Member or other person, arising under or in connection with this Declaration or resulting from any action or failure to act with respect to this Declaration, the Association except, in the case of Declarant and Builders (or their assignees), to the extent of their respective interests in the Property; and, in the event of a judgment against any such parties no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor. Neither Declarants nor the Association shall be liable for any theft, vandalism, disturbance, accident, unauthorized entrance or other similar occurrence or breach of the peace or security which may occur or take place within the Community.

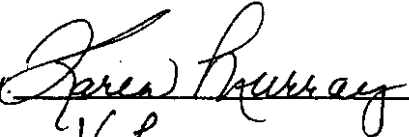
26.11 Declarant's Option to Litigate. Notwithstanding the foregoing provisions in this Article and any other provisions contained in the Declaration, Declarant shall, in its sole and absolute discretion, have the right to elect to waive the Binding Arbitration provisions set forth above and require that any Claim be resolved in a court of law rather than by Binding Arbitration. Declarant shall make such election on or before the fifteenth (15th) day of its receipt of notice from a Claimant of Claimant's decision to submit the Claim to binding arbitration.

26.12 Warranty Agreement Provisions Control. Notwithstanding anything in this Declaration to the contrary, in the event of a dispute between or among a Constructing Party and any Owner or the Association with respect to construction defects in any Unit or Common Elements that are covered by a separate warranty agreement, the dispute resolution processes and procedures, including notice requirements set forth in such warranty agreement shall control and supercede the dispute resolution processes and procedures set forth in this Article 26.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE AND WAIVES THE RIGHT TO PURSUE DECLARANT OR ANY OTHER BOUND PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN THIS ARTICLE. THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGES THAT, BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE, IT IS GIVING UP ITS RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION AND EACH OWNER FURTHER WAIVES ITS RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH OWNER VOLUNTARILY ACKNOWLEDGES THAT IT IS GIVING UP ANY RIGHTS IT MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date and year first written above.

DECLARANT: TOUSA HOMES, INC., a Florida corporation
dba ENGLE HOMES

By: 
Its: _____

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

This instrument was acknowledged before me on this 5th day of March, 2004, by Karen Murray as Vice President, of TOUSA HOMES, INC., a Florida corporation, dba ENGLE HOMES.

Angela M. Thuringer
NOTARY PUBLIC
(seal)

My Commission Expires:
8/9/05

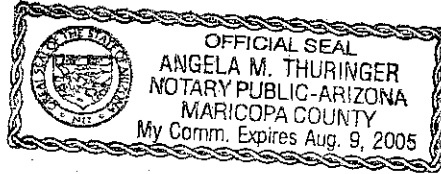


EXHIBIT "A"

LAND INITIALLY COVERED BY DECLARATION

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF PINAL, STATE OF ARIZONA,
DESCRIBED AS FOLLOWS:

A portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona known as Province Phase 1 according to the final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXCLUDING Parcel 3, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXCLUDING the Exception Parcel, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

TOGETHER WITH a non-exclusive easement, appurtenant respectively thereto, for use and enjoyment in, to, and over Common Elements of the Property (as said terms are defined in the foregoing Declaration).

EXHIBIT "B"

ANNEXABLE PROPERTY

[ALL, OR ANY PORTIONS FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTY]

[NOTE: DECLARANT SPECIFICALLY RESERVES THE RIGHT FROM TIME TO TIME TO UNILATERALLY SUPPLEMENT OR MODIFY OF RECORD ANY AND ALL OF THE FOREGOING OR FOLLOWING LEGAL DESCRIPTIONS]

That portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona, described as follows:

COMMENCING at the northwest corner of said Section 23 that bears South 87 degrees 05 minutes 54 seconds West a distance of 2672.84 feet from the north quarter corner of said section;

Thence South 00 degrees 15 minutes 07 seconds East along the west line of the northwest quarter of said section, a distance of 50.05 feet to the POINT OF BEGINNING;

Thence North 87 degrees 05 minutes 53 seconds East a distance of 2672.50 feet to the north quarter corner of said section;

Thence North 87 degrees 25 minutes 31 seconds East a distance of 2139.46 feet;

Thence South 00 degrees 10 minutes 16 seconds West a distance of 200.23 feet;

Thence North 87 degrees 25 minutes 33 seconds East a distance of 500.57 feet;

Thence South 00 degrees 10 minutes 16 seconds West along the east line of the northeast quarter corner a distance of 2433.02 feet to the east quarter corner of said section;

Thence South 00 degrees 10 minutes 12 seconds West along the east line of the southeast quarter corner a distance of 2683.49 feet to the southeast corner of said section;

Thence South 87 degrees 54 minutes 07 seconds West along the south line of the southeast quarter corner a distance of 2635.21 feet to the south quarter corner of said section;

Thence South 87 degrees 54 minutes 04 seconds West along the south line of the southwest quarter corner a distance of 2635.82 feet to the southwest corner of said section;

Thence North 00 degrees 15 minutes 07 seconds West along the west line of the southwest quarter corner a distance of 2652.97 feet to the west quarter corner of said section;

Thence North 00 degrees 15 minutes 07 seconds West along the west line of the northwest quarter corner a distance of 2602.92 feet to the POINT OF BEGINNING

EXCEPT therefrom the following described land:

COMMENCING at the west quarter corner of said Section 23;

Thence North 87 degrees 35 minutes 01 seconds East along the east-west mid-section line of said section, a distance of 1463.04 feet to the POINT OF BEGINNING. Said point bears South 87 degrees 35 minutes 01 seconds West 1190.63 feet along said line from a found ½" rebar with aluminum cap accepted for the center of said section;

Thence North 02 degrees 05 minutes 47 seconds West a distance of 466.70 feet;

Thence North 87 degrees 54 minutes 13 seconds East a distance of 468.00 feet;

Thence South 02 degrees 05 minutes 43 seconds East a distance of 464.09 feet to the east-west mid-section line;

Thence South 87 degrees 35 minutes 01 seconds West along said mid-section line a distance of 468.00 feet to the POINT OF BEGINNING

AND EXCEPT therefrom the following described land:

COMMENCING at the southwest corner of said Section 23; that bears South 87 degrees 54 minutes 07 seconds West a distance of 2635.21 feet from the south quarter corner of said section;

Thence along the south line of the southeast quarter corner of said section a distance of 975.00 feet;

Thence North 02 degrees 05 minutes 53 seconds West a distance of 33.00 feet to THE POINT OF BEGINNING;

Thence North 02 degrees 05 minutes 53 seconds West a distance of 100.00 feet;

Thence South 87 degrees 54 minutes 07 seconds West a distance of 100.00 feet;

Thence South 02 degrees 05 minutes 53 seconds East a distance of 100.00 feet;

Thence North 87 degrees 54 minutes 07 seconds East a distance of 100.00 feet to the POINT OF BEGINNING

EXCLUDING the following property:

A portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona known as Province Phase 1 according to the final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

BUT INCLUDING the following property:

Parcel 3, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

The Exception Parcel, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXHIBIT "C"

SALES CENTER PROPERTY

A portion of Parcel 2 of Province Phase 1 according to the Final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186, the exact boundaries of which shall be determined by Declarant, in its sole and absolute discretion and which shall be set forth in Supplemental Declaration.

EXHIBIT "D"

VILLAGE CENTER PROPERTY

A portion of Parcel 2 of Province Phase 1 according to the Final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186, the exact boundaries of which shall be determined by Declarant, in its sole discretion, and which shall be set forth in a Supplemental Declaration.

ARTICLE 26
RESOLUTION OF DISPUTES WITH DECLARANT REGARDING DEVELOPMENT AND
CONSTRUCTION MATTERS

It is the Declarant's intent that all Improvements constructed within the Community shall be built in compliance with all applicable building codes and ordinances and will be of a quality that is consistent with good construction and development practices. Nevertheless, disputes may arise as to whether a defect exists with respect to the construction by a Declarant, any affiliate of a Declarant or another home builder (each which shall be referenced to in this Section 26 as "**a Builder**") of any of the Improvements constructed within the Community and a Builder's responsibility therefor. It is the intent of Declarant that all disputes and claims regarding Alleged Defects (as defined below) be resolved amicably, and without the necessity of time-consuming and costly litigation. Accordingly, the Association, the Board, Declarant, all Builders and all Owners shall be bound by the following claim resolution procedures, provisions and limitations:

26.1 Limitation on Remedies. In the event that the Association, the Board or any Owner (collectively, "**Claimant**") claims, contends or alleges that any portion of a Unit, the Common Elements or any other Improvements constructed within the Community is defective or that one or more of the Builders, their agents, consultants, contractors or subcontractors (collectively, "**Agents**") were negligent in the planning, design, engineering, grading, construction or other development thereof (collectively, an "**Alleged Defect**"), the only right or remedy that any Claimant may have with regard to any such Alleged Defect is the right to have the Alleged Defect repaired and/or replaced by the Builder which was responsible for the construction of the Improvements which is the subject of the Alleged Defect, but such right or remedy shall only be available if and to the extent such Builder is, at that time, still obligated to repair such Alleged Defect pursuant to applicable statutes and common law and any applicable rules, regulations and guidelines imposed by the Arizona Registrar of Contractors (the "**Applicable Laws**"), but subject to the time frames imposed by such Applicable Laws. Except for such remedy, each Owner, by accepting a deed to a Unit, shall be deemed to have waived the right to seek damages or other legal or equitable remedies from the applicable Builder(s) or from any affiliates, subcontractors, agents, vendors, suppliers, design professionals and materialmen of such Builder(s) under any common law, statutory or other theories of liability, including, but not limited to, negligence, tort and strict liability. Under no circumstances will any Builder or Declarant be liable for any consequential, indirect, special, punitive or other damages, including, but not limited to, any damages based on a claim of diminution in the value of the Claimant's Unit and each Owner, by accepting a deed to a Unit, shall be deemed to have waived its right to pursue any such damages. It shall be a condition to a Claimant's rights and a Builder's obligations under this Article that the Claimant fully and timely abide by the requirements and conditions set forth in this Article 26. Consistent with the limitation on a Claimant's rights to have a Builder repair and/or replace the Alleged Defect, the Builders hereby reserve the right for themselves to be notified of such Alleged Defect and to inspect, repair and/or replace such Alleged Defect(s) as set forth herein prior to instituting any other actions.

26.2 Notice of Alleged Defect. In the event that a Claimant discovers any Alleged Defect, Claimant shall notify the Builder which constructed the Improvement which is the subject of the Alleged Defect, in writing within thirty (30) days of discovery of the Alleged Defect, and of the specific nature of such Alleged Defect ("**Notice of Alleged Defect**").

26.3 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Builder of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Builder, such Builder shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Unit, the Dwelling Unit, Common Element or other part of the Community as may be necessary or appropriate for the purposes of inspecting and/or conducting testing and, if deemed necessary by the Builder, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacements, Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances to repair or correct any such Alleged Defect.

26.4 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Builders to inspect, test, repair or replace any item or Alleged Defect for which Builders are not otherwise obligated under Applicable Laws or contract. Specifically, a Builder's obligation to repair and/or replace an Alleged Defect shall expire on the applicable date which the Applicable Laws state or impose as the date(s) through which a contractor is responsible for such Alleged Defect. The right of Builders to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and recorded by Builders.

26.5 Tolling of Statutes of Limitations. In no event shall any statutes of limitations be tolled during the period in which a Builder conducts any inspection or testing of any Alleged Defects.

26.6 Legal Actions. All legal actions initiated by a Claimant against a Builder shall be brought in accordance with and be subject to Section 26.7 (Binding Arbitration) of this Declaration. In the event the Claimant is the Association, the Association or the Board must, before initiation or becoming involved in such dispute and proceedings, comply with and satisfy all requirements set forth in Section 19.1(b) of this Declaration.

26.7 Binding Arbitration. In the event of a dispute between or among a Builder, its contractors, subcontractors or brokers or their agents or employees (a "**Constructing Party**"), on the one hand, and any Owner or the Association, on the other hand, regarding any controversy or claim between the parties, including any claim based on contract, tort, statute or any other theory of liability arising out of or relating to the rights or duties of the parties under this Declaration, the design or construction of the Community, any Unit, any Common Elements or any Alleged Defect, the Constructing Party involved in such dispute may elect to have the dispute submitted to and resolved by binding arbitration, and in the event of such an election by the involved Constructing Party, such dispute shall be submitted to and resolved by binding arbitration conducted in accordance with the following rules:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association ("**AAA**") Commercial Arbitration Rules, as amended from time to time (the "**AAA Rules**").

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. §12-1501 et seq. In the event of a conflict between the AAA Rules and this Section, the provisions of this Section shall govern.

(c) Appointment of Arbitrator. The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection is referred to in this Section as the "Arbitrator".

(d) Qualifications of Arbitrator. The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(e) Disclosure. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in subsection Section 26.7(c) above.

(f) Compensation. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's standard hourly rate, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) Preliminary Hearing. Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Guidelines, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious and cost-effective conduct of the proceeding.

(h) Management of the Arbitration. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties and the parties attorneys and expert witnesses (where applicable to their testimony), except that, upon the prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) Hearings. Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) Final Award. The Arbitrator shall promptly, within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree, determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a party therefor to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

(l) Statute of Limitations. All statutes of limitation applicable to claims which are subject to binding arbitration pursuant to this Section shall apply to the commencement of arbitration proceedings under this Section. If arbitration proceedings are not initiated within the applicable period, the claim shall forever be barred.

(m) Warranty Dispute Resolution Procedures. If Declarant or a Builder has provided to an Owner a warranty which includes a dispute resolution process which is different than the processes forth in this Section 26.7, then the provisions of the dispute resolution process in the warranty shall control and shall supercede the provisions of this Section 26.7 with respect to any matter that is covered by such warranty.

26.8 Repurchase Option for Alleged Defect Claims. Notwithstanding anything in this Declaration to the contrary, in the event any Owner, either directly or through the Association, shall commence an action against a Builder in connection with any Alleged Defects on or to such Owner's Unit, the Builder (or any assignee of such Builder) that constructed and/or sold such Unit shall have the option (but not the obligation) to purchase such Unit on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following less any sums, if any, paid to such Owner under any homeowner's warranty in connection with the Alleged Defect:

(i) The purchase price paid by the Owner of the Unit which purchased such Unit from the Builder;

(ii) The value of any documented Improvements made to the Unit by third-party contractors or decorators after the conveyance thereof to the initial Owner that added an ascertainable value to the Unit;

(iii) The Owner's reasonable moving costs; and

(iv) Any closing costs, including loan fees and/or "points" incurred by the Owner in connection with the purchase of another primary residence within ninety (90) days after the closing of the repurchase provided for herein.

(b) Close of escrow for the Builder's repurchase of the Unit shall not occur later than forty-five (45) days after written notice from the Builder to the Owner of the Builder's intent to exercise the option herein.

(c) Title shall be conveyed to the applicable Builder free and clear of all monetary liens and encumbrances other than non-delinquent real estate taxes.

(d) All closing costs in connection with the repurchase shall be paid by the applicable Builder who is repurchasing the Unit.

(e) Exercise of the repurchase option as provided hereinabove shall constitute full and final satisfaction of all claims relating to the subject Unit, including claims relating to the Alleged Defect. The Owner of an affected Unit (or Association, as applicable) shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

26.9 As-Built Conditions. Various engineering and architectural plans pertaining to the Community, including, but not limited to, plats, drawings, subdivision maps, grading plans, plot plans, improvement plans and building plans (collectively, the "**Plans**"), contain dimensions regarding certain aspects of the Lots, Units, Common Elements and other parts and aspects of the Community. By accepting a deed to a Unit, each Owner shall be deemed to have acknowledged and agreed that (a) if there is a discrepancy between the Plans and the actual as-built conditions of any Unit, Common Element or any other Improvement within the Community, the as-built conditions will control and be deemed to be accepted as-is by the Owner of the Unit; (b) the usable or buildable area, location and configuration of the Units, Common Elements and any other Improvements located within the Community may deviate from the Plans or from any other display or configuration related thereto; (c) the location, size, height and composition of all walls and fences to be constructed on or as part of a Unit or adjacent thereto shall be determined by Builders in their sole and absolute discretion. Despite the Plans or any other materials that may exist, neither Declarant nor any other Builder shall be deemed to have made any representations, warranties or assurances with respect to any such matters or with respect to the size, height, location or composition of any wall or fence to be constructed on or adjacent to any Units; and (d) each Owner waives the right to make any demands of or claims against Builders as a result of any discrepancies between the Plans any actual as-built conditions on any Unit.

26.10 Limitation on Declarant's' and Builders' Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner, and each other person, by acquiring any interest in the Community, acknowledges and agrees, that neither Declarant nor any other Builder (including, but not limited to, any assignee of the interest of a Declarant or a Builder) nor any partner, shareholder, officer, director, employee or affiliate of a Declarant or a Builder shall have any personal liability to the Association, or to any Owner, Member or other person, arising under or in connection with this Declaration or resulting from any action or failure to act with respect to this Declaration, the Association except, in the case of Declarant and Builders (or their assignees), to the extent of their respective interests in the Property; and, in the event of a judgment against any such parties no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor. Neither Declarants nor the Association shall be liable for any theft, vandalism, disturbance, accident, unauthorized entrance or other similar occurrence or breach of the peace or security which may occur or take place within the Community.

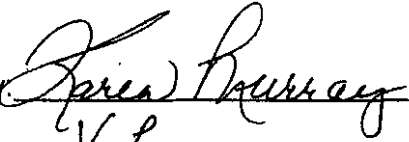
26.11 Declarant's Option to Litigate. Notwithstanding the foregoing provisions in this Article and any other provisions contained in the Declaration, Declarant shall, in its sole and absolute discretion, have the right to elect to waive the Binding Arbitration provisions set forth above and require that any Claim be resolved in a court of law rather than by Binding Arbitration. Declarant shall make such election on or before the fifteenth (15th) day of its receipt of notice from a Claimant of Claimant's decision to submit the Claim to binding arbitration.

26.12 Warranty Agreement Provisions Control. Notwithstanding anything in this Declaration to the contrary, in the event of a dispute between or among a Constructing Party and any Owner or the Association with respect to construction defects in any Unit or Common Elements that are covered by a separate warranty agreement, the dispute resolution processes and procedures, including notice requirements set forth in such warranty agreement shall control and supercede the dispute resolution processes and procedures set forth in this Article 26.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE AND WAIVES THE RIGHT TO PURSUE DECLARANT OR ANY OTHER BOUND PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN THIS ARTICLE. THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGES THAT, BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE, IT IS GIVING UP ITS RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION AND EACH OWNER FURTHER WAIVES ITS RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH OWNER VOLUNTARILY ACKNOWLEDGES THAT IT IS GIVING UP ANY RIGHTS IT MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date and year first written above.

DECLARANT: TOUSA HOMES, INC., a Florida corporation
dba ENGLE HOMES

By: 
Its: _____

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

This instrument was acknowledged before me on this 5th day of March, 2004, by Karen Murray as Vice President, of TOUSA HOMES, INC., a Florida corporation, dba ENGLE HOMES.

Angela M. Thuringer
NOTARY PUBLIC
(seal)

My Commission Expires:
8/9/05

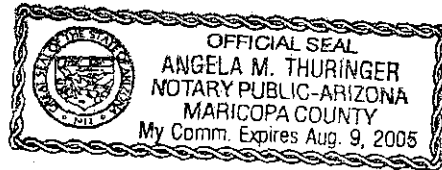


EXHIBIT "A"

LAND INITIALLY COVERED BY DECLARATION

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF PINAL, STATE OF ARIZONA,
DESCRIBED AS FOLLOWS:

A portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona known as Province Phase 1 according to the final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXCLUDING Parcel 3, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXCLUDING the Exception Parcel, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

TOGETHER WITH a non-exclusive easement, appurtenant respectively thereto, for use and enjoyment in, to, and over Common Elements of the Property (as said terms are defined in the foregoing Declaration).

EXHIBIT "B"

ANNEXABLE PROPERTY

[ALL, OR ANY PORTIONS FROM TIME TO TIME MAY, BUT NEED NOT NECESSARILY, BE ANNEXED BY DECLARANT TO THE PROPERTY]

[NOTE: DECLARANT SPECIFICALLY RESERVES THE RIGHT FROM TIME TO TIME TO UNILATERALLY SUPPLEMENT OR MODIFY OF RECORD ANY AND ALL OF THE FOREGOING OR FOLLOWING LEGAL DESCRIPTIONS]

That portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona, described as follows:

COMMENCING at the northwest corner of said Section 23 that bears South 87 degrees 05 minutes 54 seconds West a distance of 2672.84 feet from the north quarter corner of said section;

Thence South 00 degrees 15 minutes 07 seconds East along the west line of the northwest quarter of said section, a distance of 50.05 feet to the POINT OF BEGINNING;

Thence North 87 degrees 05 minutes 53 seconds East a distance of 2672.50 feet to the north quarter corner of said section;

Thence North 87 degrees 25 minutes 31 seconds East a distance of 2139.46 feet;

Thence South 00 degrees 10 minutes 16 seconds West a distance of 200.23 feet;

Thence North 87 degrees 25 minutes 33 seconds East a distance of 500.57 feet;

Thence South 00 degrees 10 minutes 16 seconds West along the east line of the northeast quarter corner a distance of 2433.02 feet to the east quarter corner of said section;

Thence South 00 degrees 10 minutes 12 seconds West along the east line of the southeast quarter corner a distance of 2683.49 feet to the southeast corner of said section;

Thence South 87 degrees 54 minutes 07 seconds West along the south line of the southeast quarter corner a distance of 2635.21 feet to the south quarter corner of said section;

Thence South 87 degrees 54 minutes 04 seconds West along the south line of the southwest quarter corner a distance of 2635.82 feet to the southwest corner of said section;

Thence North 00 degrees 15 minutes 07 seconds West along the west line of the southwest quarter corner a distance of 2652.97 feet to the west quarter corner of said section;

Thence North 00 degrees 15 minutes 07 seconds West along the west line of the northwest quarter corner a distance of 2602.92 feet to the POINT OF BEGINNING

EXCEPT therefrom the following described land:

COMMENCING at the west quarter corner of said Section 23;

Thence North 87 degrees 35 minutes 01 seconds East along the east-west mid-section line of said section, a distance of 1463.04 feet to the POINT OF BEGINNING. Said point bears South 87 degrees 35 minutes 01 seconds West 1190.63 feet along said line from a found ½" rebar with aluminum cap accepted for the center of said section;

Thence North 02 degrees 05 minutes 47 seconds West a distance of 466.70 feet;

Thence North 87 degrees 54 minutes 13 seconds East a distance of 468.00 feet;

Thence South 02 degrees 05 minutes 43 seconds East a distance of 464.09 feet to the east-west mid-section line;

Thence South 87 degrees 35 minutes 01 seconds West along said mid-section line a distance of 468.00 feet to the POINT OF BEGINNING

AND EXCEPT therefrom the following described land:

COMMENCING at the southwest corner of said Section 23; that bears South 87 degrees 54 minutes 07 seconds West a distance of 2635.21 feet from the south quarter corner of said section;

Thence along the south line of the southeast quarter corner of said section a distance of 975.00 feet;

Thence North 02 degrees 05 minutes 53 seconds West a distance of 33.00 feet to THE POINT OF BEGINNING;

Thence North 02 degrees 05 minutes 53 seconds West a distance of 100.00 feet;

Thence South 87 degrees 54 minutes 07 seconds West a distance of 100.00 feet;

Thence South 02 degrees 05 minutes 53 seconds East a distance of 100.00 feet;

Thence North 87 degrees 54 minutes 07 seconds East a distance of 100.00 feet to the POINT OF BEGINNING

EXCLUDING the following property:

A portion of Section 23, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona known a Province Phase 1 according to the final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

BUT INCLUDING the following property:

Parcel 3, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

The Exception Parcel, as set forth in the Final Plat for Province Phase 1, recorded in the Official Records of Pinal County in Cabinet D, Slide 186.

EXHIBIT "C"

SALES CENTER PROPERTY

A portion of Parcel 2 of Province Phase 1 according to the Final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186, the exact boundaries of which shall be determined by Declarant, in its sole and absolute discretion and which shall be set forth in Supplemental Declaration.

EXHIBIT "D"

VILLAGE CENTER PROPERTY

A portion of Parcel 2 of Province Phase 1 according to the Final Plat for Province Phase 1 recorded in the Official Records of Pinal County in Cabinet D, Slide 186, the exact boundaries of which shall be determined by Declarant, in its sole discretion, and which shall be set forth in a Supplemental Declaration.