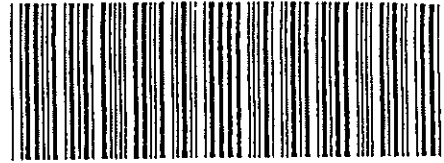


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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CRYSTAL GARDENS

TABLE OF CONTENTS

RECITALS 7

1. Definitions 2

1.1 "Annexation Property" 2

1.2 "Articles" 2

1.3 "Association" 2

1.4 "Architectural Committee" 2

1.5 "Board" 2

1.6 "Bylaws" 2

1.7 "City" 2

1.8 "Common Areas" 2

1.9 "Constituent Documents" 2

1.10 "Declaration" 3

1.11 "Designated Builder" 3

1.12 "Developer" 3

1.13 "Development Agreement" 3

1.14 "Eligible Holder" 3

1.15 "First Mortgage" 3

1.16 "First Mortgagee" 3

1.17 "Fractional Interest" 3

1.18 "Institutional Guarantor" 3

1.19 "Lot" 3

1.20 "Majority of Owners" 3

1.21 "Mortgage" 4

1.22 "Mortgagee" 4

1.23 "Mortgagor" 4

1.24 "Occupant" 4

1.25 "Operating Covenant" 4

1.26 "Owner" 4

1.27 "Parcel" 4

1.28 "Person" 4

1.29 "Plat" 4

1.30 "Perimeter Area" 4

1.31 "Private Yard" 5

1.32 "Property" and "Project" 5

1.33 "Record" or "Recording" 5

1.34 "Servicer" 5

1.35 "Wetland Parcel" 5

1.36 "Wetland Recharge Project" 5

1.37 "Visible from Neighboring Property" 5

Table of Contents

2.	Binding Covenants; Rights and Obligations	5
3.	Property Rights and Rights of Enjoyment in the Common Areas	6
3.1	Right of Enjoyment	6
3.2	Conveyance of Common Areas	6
3.3	Limitations	6
3.4	Delegation of Rights	7
4.	Wetland Recharge Project	7
4.1	Wetland Parcel.	7
4.2	Potential Dangers	7
4.3	Description of Wetland Parcel	7
4.4	Acceptance of Wetland Parcel	8
4.5	Maintenance of Perimeter Area	8
5.	Membership and Voting Rights in the Association	9
5.1	Association	9
5.2	Membership	9
5.3	Classes of Membership; Voting Rights of Classes	9
5.4	Association Board of Directors	10
5.5	Board's Determination Binding	11
5.6	Additional Provisions in Articles and Bylaws	11
5.7	Indemnification	11
5.8	Easements	11
5.9	Accounting	12
5.10	Constituent Documents	12
5.11	Termination of Association	12
6.	Blanket Easements and Use of Common Areas	12
6.1	Creation of Easement	12
6.2	General Use Rights	13
6.3	Wall Easement	13
7.	Managing Agent	13
8.	Common Expenses	13
8.1	Assessments for Common Expenses	13
8.2	Commencement	14
8.3	Payment and Liens	15
8.4	Certificate of Payment	15
8.5	Foreclosure of Lien	15
8.6	Budget	15
8.7	Maximum Assessments	16
8.8	Special Assessments	16

TABLE

9.	Mortgages	17
10.	Exclusive Use Rights	17
11.	Insurance	17
11.1	Authority to Purchase	17
11.2	Coverage	18
11.3	Provisions Required	19
11.4	First Mortgagee Protection	20
11.5	Non-Liability of Association/Board	22
11.6	Premiums	22
11.7	Insurance Claims	22
11.8	Benefit	22
12.	Damage, Destruction and Condemnation	22
12.1	Definitions	22
12.2	Restoration of Common Areas	23
12.3	Construction Contract	23
12.4	Restoration Funds	23
12.5	Special Assessment for Restoration	24
12.6	Special Meeting	24
12.7	Decision Not to Restore	24
12.8	Emergency Repairs	24
12.9	Condemnation of a Lot	24
12.10	Destruction of a Lot	25
13.	Party Walls	25
13.1	Rights and Duties	25
13.2	Restoration	25
13.3	Disputes	25
14.	Maintenance, Repairs and Replacements	25
14.1	Maintenance of Lots	25
14.2	Maintenance of Common Areas	26
14.3	Enforcement of Obligations	26
14.4	Disputes	26
15.	Architectural Control	27
15.1	Architectural Committee	27
15.2	Submission and Review of Plans	27
15.3	Other Approvals; Liability	28
15.4	Fee	28
15.5	Inspection	28
15.6	Waiver	28

TABLE OF CONTENTS

15.7 Appeal to Board 28

16. Encroachments 29

17. Rental Lots 29

18. Use and Occupancy Restrictions 29

 18.1 Residential Use 29

 18.2 Restriction on Further Subdivision 30

 18.3 Landscaping 30

 18.4 Repair of Buildings 31

 18.5 No Carports 31

 18.6 Temporary Structures 31

 18.7 Cancellation of Insurance 31

 18.8 Signs 31

 18.9 Pets 31

 18.10 Nuisances 31

 18.11 Vehicles 32

 18.12 Lighting 32

 18.13 Air Conditioners and Roofs 32

 18.14 Reflective Materials 32

 18.15 Cable 32

 18.16 Trash Collection 32

 18.17 Clotheslines 33

 18.18 Vegetation 33

 18.19 No Mining 33

 18.20 Safe Condition 33

 18.21 Enforcement 33

 18.22 Rules and Regulations 33

19. Rights and Duties of First Mortgagee 33

 19.1 No Right of First Refusal 33

 19.2 Mortgagee in Possession 34

 19.3 Consent of Mortgagees Required 34

 19.4 Tax Liens 35

 19.5 Priority of Mortgage 35

 19.6 Amenities 35

 19.7 Notice of Default 35

 19.8 Review of Records 35

 19.9 No Personal Liability 36

 19.10 Enforcement Against Successors 36

 19.11 Exercise of Owner's Rights 36

 19.12 Mortgagee Subject to Declaration 36

 19.13 Lien Subordinate to First Mortgage 36

TABLE OF CONTENTS

19.14 No Impairment of Mortgage 36

19.15 Amendment 37

19.16 Enforcement 37

19.17 Articles and Bylaws 37

19.18 Eligible Holders 37

20. Exemption of Developer from Restrictions 38

21. Remedies 38

 21.1 Power to Enforce 38

 21.2 Expenses 38

 21.3 Lien Rights 38

 21.4 Self Help 39

 21.5 Warning Notice 39

 21.6 Mortgage Priority 39

22. Annexation of Additional Property 39

 22.1 Annexations 40

 22.2 Supplemental Declarations 40

 22.3 Annexation Without Approval of Association 40

23. Amendment 41

 23.1 Adoption 41

 23.2 Effect 41

 23.3 Required Percentages 41

 23.4 Developer Powers 41

 23.5 Institutional Guarantors 42

24. Notices 42

25. Captions and Exhibits; Construction 42

26. Severability 42

27. Power of Attorney 43

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CRYSTAL GARDENS

This Declaration of Covenants, Conditions and Restrictions for Crystal Gardens (the "Declaration") is made and entered into as of the 12th day of May, 1995, by Crystal Gardens Properties L.L.C., an Arizona limited liability company ("Developer").

RECITALS

- A. Developer is the owner of that parcel of real property situated in Maricopa County, Arizona, more particularly described in Exhibit "A" hereto (the "Parcel").
- B. Developer desires to create a planned residential community which will include common facilities for the benefit of the community.
- C. Developer desires to submit and subject the Parcel, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto (all of which are included within the term "Property" as defined in Section 1.32 hereof), to the covenants, conditions and restrictions set forth herein.
- D. Developer desires to establish for its own benefit and for the mutual benefit of all future owners and occupants of the Property, and every part thereof, certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof.
- E. Developer desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and all other Persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each owner thereof, and all of which are declared to be in furtherance of a plan to promote and

protect the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

DECLARATIONS

NOW, THEREFORE, Developer, for the purposes above set forth, declares as follows:

1. Definitions.

Defined terms used in this Declaration have the first letter of each word in the term capitalized. Unless the context otherwise requires, defined terms shall have the following meanings:

1.1 "Annexation Property" means any additional real property which may be annexed to the Property and become a part thereof and subject to this Declaration in accordance with Section 22.

1.2 "Articles" means the Articles of Incorporation for the Association, and any properly adopted amendments and supplements to them.

1.3 "Association" means Crystal Gardens Homeowners' Association, an Arizona nonprofit corporation, its successors and assigns.

1.4 "Architectural Committee" means the committee created pursuant to Section 15 hereof.

1.5 "Board" means the Board of Directors of the Association.

1.6 "Bylaws" means the Bylaws of the Association and any properly adopted amendments and supplements to them.

1.7 "City" means the City of Avondale, Arizona.

1.8 "Common Areas" means that portion of the Property owned by the Association, together with the improvements and facilities constructed thereon, which is not part of any Lot as shown on the Plat and which has not been dedicated to the public as a public street or otherwise; and, if the Wetland Parcel is conveyed to the Association as provided in Section 4.4, the "Common Areas" shall include the Wetland Parcel, including the Wetland Recharge Project.

1.9 "Constituent Documents" means this Declaration, the Articles of Incorporation and Bylaws of the Association, any rules and regulations of the Association, and

all such other similar documents as pertain to the Project, together with any properly adopted amendments to any of them.

1.10 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Crystal Gardens, as amended from time to time.

1.11 "Designated Builder" means any Person designated by Developer in writing engaged in the business of constructing and selling residences in the Property to the public and entitled to enjoy the privileges and benefits provided for in this Declaration.

1.12 "Developer" means the above-recited Developer or any Person to whom Developer's rights hereunder are hereafter assigned in whole or in part by recorded instrument.

1.13 "Development Agreement" means that certain Development Agreement by and between the City and Developer, recorded concurrently herewith in the official records of Maricopa County, Arizona.

1.14 "Eligible Holder" means any First Mortgagee or Institutional Guarantor that requests notice of certain matters in accordance with Section 19.18 hereof.

1.15 "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property.

1.16 "First Mortgagee" means the holder of the note secured by the First Mortgage and includes, as appropriate in the context of the regulations of any interested Institutional Guarantor, any such Institutional Guarantor with respect to such a note or First Mortgage.

1.17 "Fractional Interest" means that fraction, the numerator of which is one and the denominator of which is the total number of Lots then in the Project.

1.18 "Institutional Guarantor" means the Federal Housing Administration ("FHA"), the Veterans Administration ("VA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), and the Federal National Mortgage Association ("FNMA"), including any successor thereto, if such an agency purchases any note, or guarantees or insures the payment of any note, secured by a First Mortgage.

1.19 "Lot" means each portion of the Property separately designated and described as a lot on the Plat, together with the improvements thereon.

1.20 "Majority of Owners" means the Owners holding more than 50% of the total weighted voting strength (irrespective of the total number of Owners); and, any

specified fraction or percentage of Owners means the Owners holding that fraction or percentage of the total weighted voting strength (irrespective of the total number of Owners).

1.21 "Mortgage" means any recorded, filed or otherwise perfected instrument pertaining to a portion of the Property (which is not a fraudulent conveyance under Arizona law), given in good faith and for valuable consideration as security for the performance of an obligation including, but not limited to, deeds of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.22 "Mortgagee" means the holder of a note secured by a Mortgage, including the trustee and beneficiary under any deed of trust.

1.23 "Mortgagor" means the party executing a Mortgage as obligor.

1.24 "Occupant" means a person or persons, other than an Owner, in rightful possession of a Lot.

1.25 "Operating Covenant" means that certain Operating Covenant by and between the City and Developer, recorded concurrently herewith in the official records of Maricopa County, Arizona.

1.26 "Owner" means the record owner, whether one or more Persons, of fee simple title to any Lot, whether or not subject to any Mortgage, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. If fee simple title to a Lot is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., fee simple title shall be deemed to be in the trustor.

1.27 "Parcel" means the parcel of real estate hereinabove described, which is initially subjected to this Declaration.

1.28 "Person" means an individual, corporation, partnership, trustee or other legal entity.

1.29 "Plat" means the plat of subdivision of the Parcel, recorded in the official records of Maricopa County, Arizona, as amended from time to time and any plats of subdivision of any Annexation Property. Although any recorded plat may include real property in addition to the Parcel, the platting of such additional real property shall not in any way be deemed to subject the additional property to this Declaration or to obligate Developer to annex the additional property to the Project or to develop it in any particular manner.

1.30 "Perimeter Area" means the lands within the Wetland Parcel that are not used for water treatment purposes which are generally depicted on Exhibit "B" attached hereto.

1.31 "Private Yard" means that portion of a Lot other than the residential structure, which is enclosed or shielded from view by walls, fences, hedges or the like so that it is not generally Visible from Neighboring Property.

1.32 "Property" and "Project" are synonymous, and shall mean the Parcel, and any other real property annexed to the Parcel pursuant to the provisions of Section 22 of this Declaration, but only after completion of annexation, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. The Property shall include the Lots, the Common Areas, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.33 "Record" or "Recording" refers to the act of recording a document in the office of the County Recorder of Maricopa County, Arizona.

1.34 "Servicer" means the Person servicing a First Mortgage (including the First Mortgagee, if applicable), its successors and assigns, pursuant to the regulations of any interested Institutional Guarantor.

1.35 "Wetland Parcel" means the property described on Exhibit "C" attached hereto, upon which the Wetland Recharge Project will be constructed, as that legal description may hereafter be amended as provided in Section 4.3.

1.36 "Wetland Recharge Project" means the water processing, refinement and recharge system to be constructed on the Wetland Parcel, as a water processing system for purposes of refining said water into high-quality drinking water to be used to recharge the City's underground aquifer.

1.37 "Visible from Neighboring Property" means capable of being clearly seen without artificial sight aids by an individual six feet tall standing at ground level on any Lot or on any public street in or abutting the Property.

2. Binding Covenants; Rights and Obligations.

Developer hereby submits and subjects the Property to the rights, easements, privileges, covenants and restrictions set forth in this Declaration, and hereby declares that all of the Property, including the Lots and Common Areas, shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and provisions of this Declaration. Each grantee of Developer, by the acceptance of a deed of conveyance, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and each Person at any time hereafter owning or acquiring any interest in any part of the Property, accepts the interest subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character

hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, binding upon any Person having any interest or estate in the land at any time, and inuring to the benefit of the grantee, purchaser or Person as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument whereby each such Person acquires an interest in the Property.

3. Property Rights and Rights of Enjoyment in the Common Areas.

3.1 Right of Enjoyment. Subject to the provisions of Section 3.3, every Owner shall have a right and easement of enjoyment in and to the Common Areas. The easement shall be appurtenant to, and shall pass with the title to, every Lot. Except as to the Association's right to grant easements for utilities and similar and related purposes, as herein provided, the Common Areas may not be alienated, released, transferred, hypothecated or otherwise encumbered without the prior approval of two-thirds of each class of members in the Association and all First Mortgagees.

3.2 Conveyance of Common Areas. At such time as improvements on the Common Areas have been completed and the Association has been formed and is able to operate and maintain the Common Areas, legal title to the Common Area as shall be conveyed to the Association, free and clear of all liens and encumbrances except the lien for real property taxes (if any) not yet due and payable. Developer shall provide to the Association, at Developer's expense, a title insurance policy insuring good and marketable title to the Common Areas in the Association.

3.3 Limitations. The rights and easements of enjoyment created in this Declaration shall be subject to the following:

(a) The right of the Association, in accordance with this Declaration and the Articles and Bylaws of the Association, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the properties of the Association; provided, however, that the consent of two-thirds of each class of Members shall be required prior to mortgaging or pledging any portion of the Common Areas;

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure in the event of default upon any mortgage covering them;

(c) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment and voting rights of any Owner or other Person for any period during which any assessment remains unpaid, and for any period not to exceed 30 days for any infraction of the Association's rules and regulations; provided,

DECLARATION

however, that no such suspension shall prevent reasonable access to a Lot across Common Areas; and

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility company for such purposes and subject to such conditions as may be agreed to by the Owners, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Owners entitled to cast two-thirds of the votes of each class of membership has been recorded, agreeing to the dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Owner at least 90 days in advance of any action being taken.

3.4 Delegation of Rights. Any Owner may delegate his rights of enjoyment in the Common Areas to the members of his family who reside upon the Property or to any Occupant of his Lot. The Owner shall notify the Association in writing of the name of any Person to whom such rights of enjoyment are delegated if they are not immediate family living on the Owner's Lot and the relationship of the Owner to the authorized Person. The rights and privileges of any such Person are subject to suspension as provided in this Declaration or the Bylaws of the Association to the same extent as those of the delegating Owner and are subject to such further regulation as the Association may provide in its Bylaws.

4. Wetland Recharge Project.

4.1 Wetland Parcel. Each Owner acknowledges that the Wetland Parcel, including the Perimeter Areas, is owned by the City and that the City may allow all or portions of the Wetland Parcel to be used by the public, including for pedestrian traffic and for pedestrian access to and from public streets contiguous and adjacent to the Perimeter Area.

4.2 Potential Dangers. EACH OWNER ACKNOWLEDGES THE INHERENT AND UNAVOIDABLE POTENTIAL DANGER AND HAZARD OF PURCHASING A LOT ADJACENT TO THE LAKES COMPRISING THE WETLAND RECHARGE PROJECT. EACH OWNER, ITS OCCUPANTS, AND THEIR RESPECTIVE FAMILY MEMBERS AND GUESTS ARE ASSUMING THE VARIOUS RISKS INVOLVED IN LIVING AND/OR COMING UPON THE PROPERTY.

4.3 Description of Wetland Parcel. The description of the Wetland Parcel attached hereto as Exhibit "C" is a computer-generated legal description. Following completion of construction of the Wetland Recharge Project, the real property comprising the Wetland Recharge Project will be surveyed in accordance with the Development Agreement and the legal description of the Wetland Parcel will be adjusted accordingly. Following completion of the Wetland Recharge Project, the Developer may, without the consent of any other Person, de-annex from this Declaration any and all portions of the Property comprising the Wetland

ARTICLE 4

Recharge Project and convey the portions to the City. In connection with the adjustment and notwithstanding any contrary provision hereof, the Developer may, without the consent of any other Person, record an instrument amending this Declaration upon completion of the survey to correct the legal description of the Wetland Parcel attached hereto as Exhibit "C". In any event, if any portion of the Wetland Recharge Project or any improvement constructed thereon shall actually encroach upon any Lot, whether such encroachment results from the initial construction or from subsequent repair, reconstruction, settlement or shifting, there shall be deemed to be an easement in favor of and benefitting the Wetland Recharge Project and the owner of the Wetland Recharge Parcel over and across the area in which the encroachment is located and such additional adjacent area as may be reasonably necessary for ingress and egress to, and the operation, maintenance, repair and replacement of, the encroachment for so long as the encroachment exists.

4.4 Acceptance of Wetland Parcel. Under certain circumstances set forth in the Development Agreement and the Operating Covenant the Developer, or the Association, as successor to the Developer's rights thereunder, has the right to acquire the Wetland Parcel. If the Developer at any time re-acquires the Wetland Parcel, the Developer may, after completion of construction of the Wetland Parcel, convey the Wetland Parcel to the Association and, in such event the Association shall, without the consent of any Person, accept the conveyance of the Wetland Parcel as Common Area of the Association. Further, if the Association succeeds to the rights of the Developer under the Operating Covenant or the Development Agreement to acquire the Wetland Parcel, the Association may, without the consent of any Person, accept conveyance of the Wetland Parcel. If the Wetland Parcel is conveyed to the Association, the Wetland Parcel shall thereupon be deemed part of the "Common Area" hereunder. Thereafter, the Association shall operate and maintain the Wetland Parcel, and all costs of operation and maintenance shall be Common Expenses of the Association.

4.5 Maintenance of Perimeter Area. It is contemplated that the Perimeter Area will consist of an approximately 15 foot wide perimeter area around the interior lake system. It is also contemplated that a 6 foot wide decomposed granite walkway will be constructed within the Perimeter Area and that the remainder of the Perimeter Area, up to the back lot line of the Lots, will be planted with grass and other landscaping material. From and after completion of the Wetland Recharge Project and provided the Association is granted easements across the Perimeter Area for the following purposes, the Association shall be responsible for (i) watering landscaping within the Perimeter Area, (ii) maintaining the irrigation systems serving the landscaping, and (iii) repairing any damage to the granite walkway within the Perimeter Area caused by excess storm or residential runoff water discharge. Each Owner acknowledges that the Perimeter Area is owned by the City. The costs incurred by the Association in performing its obligations under this Section shall be a Common Expense of the Association.

5. Membership and Voting Rights in the Association.

5.1 Association. The Association has been, or will be, formed to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Common Areas, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

5.2 Membership. Each Owner shall be a member of the Association so long as he is an Owner. Membership shall automatically terminate when the Owner ceases to be an Owner. Upon the transfer of his ownership interest, the new Owner succeeding to the ownership interest shall likewise automatically succeed to the membership in the Association. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Lot to which it appertains (and then only to the purchaser of the Lot) or by intestate succession, testamentary disposition, foreclosure of a Mortgage or other legal process transferring fee simple title to the Lot (and then only to the Person to whom fee simple title is transferred). Notwithstanding the foregoing, if an Owner grants an irrevocable proxy or otherwise pledges or alienates his voting right regarding special matters to a Mortgagee as additional security, only the vote of the Mortgagee will be recognized in regard to the designated special matters if a copy of the proxy or other instrument pledging or alienating the Owner's vote has been filed with the Board. If more than one such instrument has been filed, the Board shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves. Any attempt to make a prohibited transfer of a membership is void and will not be recognized by or reflected upon the books and records of the Association. If the Owner of any Lot fails or refuses to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record a transfer upon the books of the Association and issue a new membership to the purchaser. Thereupon, the old membership outstanding in the name of the seller shall be terminated as though it had been surrendered.

5.3 Classes of Membership; Voting Rights of Classes. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners but, so long as any Class B memberships are outstanding, shall not include Developer. Class A members shall be entitled to one vote for each Lot owned on each matter to be decided. When more than one Person holds an interest in any Lot, all such Persons shall collectively hold the voting rights for the Lot. The voting for such a Lot shall be exercised as they determine among themselves, but in no event shall the vote be split or more than one vote be cast with respect to any Class A Lot. If such Persons are unable to agree how their single vote is to be cast, their vote shall not be counted.

Class B. The Class B member shall be Developer, who shall hold one Class B membership for each Lot owned and shall be entitled to three votes for each such Class B membership on each matter to be decided. Developer may cast its votes in such proportions on any matter as Developer may determine. Class B memberships shall cease and be converted to Class A memberships, without further act or deed, upon the happening of any of the following events, whichever occurs first:

(a) The voting rights relating to any particular Lot shall be converted upon the sale or other disposition of the Lot by Developer, other than in connection with an assignment by Developer of all or substantially all of its rights under this Declaration (including a pledge or assignment by Developer to any lender as security); or

(b) With respect to all remaining Class B memberships, upon the first to occur of the following:

(i) 120 days following the first date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or

(ii) Five years following conveyance of the first Lot with a completed residence on it by Developer or a Designated Builder.

If any lender to whom Developer has assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security succeeds to the interests of Developer by virtue of the assignment, the Class B memberships shall not be terminated, and the lender shall hold the Class B memberships on the same terms as they were held by Developer.

5.4 Association Board of Directors. The Board of the Association shall initially be comprised of the individuals specified in the Articles. The terms of office of the members of the Board shall be staggered as provided in the Articles and Bylaws. Each Board member shall serve until his successor is elected and qualified at the next annual meeting of the Association at which vacancies in his group of members is filled or upon his resignation or removal from office, as the case may be. Developer shall appoint the members of the Board until the first annual meeting of the Association after the date that Class B memberships are converted to Class A memberships. Except for the initial Board and Board members elected or appointed by Developer, each director shall be an Owner or the spouse of an Owner (or, if an Owner is a limited liability company, corporation, partnership or trust, a director may be a member, officer, partner or beneficiary of the Owner). If a director ceases to meet the foregoing qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant. Vacancies on the Board caused by any reason shall be filled by a vote of the majority of the remaining Board members though less than a quorum, or by the remaining Board member if there is only one, and each individual so elected shall be a

Board member until his successor is duly elected and qualifies. A Board member may be removed from office as provided in the Articles or Bylaws. Except for directors elected or appointed by Developer, directors shall be elected in the manner and at the times set forth in the Articles or Bylaws.

5.5 Board's Determination Binding. In the event of any dispute or disagreement between any Owners or other Persons relating to the Project, or any question of interpretation or application of the provisions of this Declaration, the Articles, Bylaws or rules and regulations of the Association, the determination by the Board shall be final and binding on each and all of such Owners or other Persons (subject to any contrary determination by a court of competent jurisdiction).

5.6 Additional Provisions in Articles and Bylaws. The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents, members and other interested Persons not inconsistent with law, this Declaration or the regulations of any interested Institutional Guarantor.

5.7 Indemnification. The Association shall indemnify any and all of its directors and officers, and former directors and officers, against expenses incurred by them, including legal fees, or judgments or penalties rendered or levied against any such individual or entity in a legal action brought against any such individual or entity for acts or omissions alleged to have been committed by any such individual or entity while acting within the scope of his or its authority as a director or officer of the Association, or exercising the powers of the Board, provided that the Board shall determine in good faith that such individual or entity did not act, fail to act, or refuse to act with gross negligence or with wrongful, fraudulent or criminal intent in regard to the matter involved in the action. Notwithstanding anything to the contrary expressed herein, the Board shall have the right to refuse indemnification as to expenses in any instance in which the individual or entity to whom indemnification would otherwise have been applicable shall have incurred expenses without approval by the Board which are excessive and unreasonable in the circumstances and are so determined by the Board, and as to expenses, judgments, or penalties in any instance in which such individual or entity shall have refused unreasonably to permit the Association, at its own expense and through counsel of its own choosing, to defend him or it in the action or to compromise and settle the action. The Association shall also indemnify the employees and direct agents of the Association in the same manner and with the same limitations as provided above with respect to directors and officers. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such directors, officers or agents may be entitled.

5.8 Easements. In addition to the blanket easements granted in Section 6 below, the Board is authorized and empowered to grant such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains and other public or private utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Areas or for the preservation of the health, safety,

convenience and welfare of the Owners, provided that any damage to a Lot resulting from such a grant shall be repaired by the Association at its expense. The Board is also authorized and empowered to grant easements or other use rights to the City as may be necessary or appropriate in connection with the City's obligations to operate and maintain the Wetland Recharge Project.

5.9 Accounting. The Board, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, together with recent financial statements. The Board shall make such books and records available for the inspection of all Owners, First Mortgagees and Institutional Guarantors, upon request, during normal business hours or other reasonable times. Required books and records shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise. The Board may impose a reasonable charge for copies of any such books or records requested by any Owner, First Mortgagee or Institutional Guarantor. The Board shall cause audited financial statements of the Association to be prepared for each fiscal year of the Association within one hundred twenty (120) days following the end of the fiscal year. Each Owner, First Mortgagee and Institutional Guarantor shall be entitled to receive one copy of each audited financial statement of the Association, at no cost.

5.10 Constituent Documents. The Board, at all times, shall keep, or cause to be kept, current copies of the Constituent Documents, together with any amendments thereto, and shall make such documents available for the inspection of all Owners, First Mortgagees and Institutional Guarantors, upon request, during normal business hours or other reasonable times. The Board may impose reasonable charges for copies of any Constituent Documents requested by any Owner, First Mortgagee or Institutional Guarantor.

5.11 Termination of Association. If the Association is terminated or dissolved, the assets of the Association shall be transferred to a successor owners' association, a public agency or a trust for the benefit of the Owners and Mortgagees, whichever appears to the Board, in its sole and absolute discretion, to then be the most reasonable and equitable distribution thereof consistent with applicable tax and other laws.

6. Blanket Easements and Use of Common Areas.

6.1 Creation of Easement. There is hereby created a blanket easement upon, across, over and under the Common Areas for ingress and egress, installing, constructing, replacing, repairing, maintaining and operating all utilities including, but not limited to, water, sewer, gas, telephone, electricity, television cable, security systems, and communication lines and systems, and in addition thereto for the use of emergency vehicles of all types. By virtue of the easement, it shall be expressly permissible for the providing governmental agency or utility company to erect and maintain necessary facilities and equipment on the Common Areas. Notwithstanding anything to the contrary contained in this Section 6, no easements shall be created nor shall any sewers, electrical lines, water lines or other facilities for utilities be installed or relocated on the Common Areas except as initially created and approved by

Developer or thereafter created or approved by the Board. This provision shall in no way affect any other recorded easements on the Property.

6.2 General Use Rights. Except for the use limitations provided in Section 10, each Owner shall have the non-exclusive right to use the Common Areas in common with all other Owners as required for the purposes of access and use, occupancy and enjoyment of, the respective Lot owned by the Owner. The right to use the Common Areas shall extend to each Owner and Occupant and the agents, servants, tenants, family members and invitees of each Owner. The right to use and possess the Common Areas shall be subject to and governed by the provisions of this Declaration, the Articles, Bylaws, and rules and regulations of the Association and such reasonable limitations and restriction as may, from time to time, be contained therein.

6.3 Wall Easement. There is hereby created an easement upon, over and across each Lot within the Property which is adjacent to the perimeter boundaries of the Project for reasonable ingress, egress, installation, replacement, maintenance and repair of a Project perimeter wall located on the easement. The easement created by this Section 6.3 shall be in favor of Developer and Designated Builders and appurtenant to the portions of the Project owned by them at any time, as well as in favor of the Association and those Owners whose Lots are subject to the easement.

7 Managing Agent.

All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement. Any agreement for professional management, or any other contract providing for services of Developer or any other party, shall not provide for compensation to the managing agent or other contracting party in excess of those amounts standard within the community in which the Project is located, nor exceed a term of one year, but the term may be renewed by agreement of the parties for successive one-year periods. Any such agreement shall provide for termination by either party with or without cause and without payment of a termination fee upon 60 days' written notice; provided, however, that the Association may also terminate the agreement for cause upon 30 days' written notice. Any decision by the Association to terminate professional management after it has begun and assume self-management of the Project shall not be effective until approved in writing by three-fourths of the Owners and of the First Mortgage Mortgagees (based upon one vote for each Mortgage owned).

8. Common Expenses.

8.1 Assessments for Common Expenses. Except as otherwise specifically provided herein, each Owner, including Developer and each Designated Builder so long as it is an Owner, shall pay his proportionate share of the expenses of the administration, maintenance and operation of the Common Areas and of any other expenses incurred in conformance with this Declaration, the Articles, Bylaws and rules and regulations of the

Association (which expenses are herein sometimes referred to as "Common Expenses"), including specifically, but not by way of limitation, insurance, maintenance and repair of the Common Areas (and any and all replacements and additions thereto) and certain portions of the Wetland Parcel as specifically provided in Section 4.5, water, electricity and other utilities provided to the Project, and establishment and maintenance of such reasonable reserves for contingencies, replacements (including repair and replacement of the walkway within the Perimeter Area) and other proper purposes as the Board may from time to time elect to establish and maintain in its sole discretion. Common Expenses may, if so determined by the Board, include such amounts as are determined by the Board for the establishment and maintenance of such a reserve fund. Reserve funds may also be funded and derived by means of a special assessment levied in accordance with Section 8.8. The proportionate share of the Common Expenses for each Owner shall be in the same ratio as his Fractional Interest. Notwithstanding anything foregoing to the contrary, so long as any Class B memberships in the Association are outstanding, Developer may elect to pay for Lots owned by Developer an amount equal to one-quarter of the amount otherwise payable hereunder as such Lots' share of the Common Expenses in the absence of this proviso. Developer may make the election provided for in the preceding sentence for any budget year by giving the Association written notice prior to the commencement of the budget year; provided, however, that Developer may make such an election for the first budget year of the Association by giving notice prior to sale and conveyance of the first Lot by Developer or the commencement of the budget year, whichever is later. An election for reduced assessments made by Developer as provided herein shall remain in effect until it is rescinded by written notice to the Association or Class B memberships in the Association cease to be outstanding, in which event the reduced assessments shall terminate and full assessments shall be payable as of the commencement of the next following budget year. In the event that Developer makes the election for reduced assessments provided for herein, Developer shall be obligated to pay, in addition to assessments, any amount by which the Common Expenses of the Association, for a budget year in which such an election is effective, exceed the assessments payable by Owners (including Developer at the reduced rate). The obligations of Developer set forth in the preceding sentence shall be a lien against Lots owned by Developer pro rata and shall be enforceable by the Association in the same manner as assessments provided for herein.

3.2 Commencement. Assessments for Common Expenses provided herein shall commence for all Owners, including Developer and any Designated Builders, upon the sale and delivery of the first Lot with a completed residence on it by Developer or a Designated Builder. Assessments for Common Expenses provided herein with respect to Lots within any Annexation Property shall commence for all Owners of the Annexation Property or portions thereof, including Developer (at the one-quarter rate, if the reduced assessment election described in Section 8.1 has been made by Developer at the time of the annexation, and any Designated Builders, upon the effective date of the annexation. Any sale and simultaneous leaseback of a model residence for use in marketing shall not constitute a sale of the residence for purposes of this Section so long as the model continues to be used for marketing rather than residential purposes.

8.3 Payment and Liens. Except as otherwise provided herein, payment of Common Expenses shall be in such amounts and at such times as may be provided in the Articles and Bylaws or as determined by the Board in accordance with Section 8.6 hereof. Such payments and special assessments hereunder, together with interest at the annual rate of 18% (or such lesser rate as the Board may select from time to time but in no event in excess of the maximum lawful rate or the maximum rate allowed under applicable requirements of Institutional Guarantors) on sums due but unpaid, costs (including, but not limited to, collection costs), reasonable attorneys' fees, such reasonable late charges as the Board may impose by rule or regulation, and such reasonable fines, penalties and/or charges as the Board may impose by rule or regulation for infractions of this Declaration or the Association rules or regulations, shall constitute the personal obligation of the Person who was the Owner at the time the payment fell due. The personal obligation for delinquent payments shall not pass to an Owner's successor in title unless expressly assumed by him. If any Owner fails or refuses to make any payment of Common Expenses when due, the amount thereof, together with interest, costs, reasonable attorneys' fees and any late charges, shall constitute a lien from the date the amount was due on the Owner's Lot and on any rents or proceeds therefrom. The lien shall be subordinate to the lien of a First Mortgage on the Lot, except for the amount of the unpaid Common Expenses which accrues from and after the date on which the First Mortgagee comes into possession of or acquires title to the Lot, whichever occurs first (together with any interest, costs, reasonable attorneys' fees and any late charges related thereto). If any lien for unpaid assessments prior to the date the First Mortgagee comes into possession of or acquires title to the Lot has not been extinguished by the process by which the First Mortgagee came into possession of or acquired title to the Lot, the First Mortgagee shall not be liable for accrued unpaid assessments and, upon written request to the Board by the First Mortgagee, the lien shall be released in writing by the Association to the extent of any such prior assessments.

8.4 Certificate of Payment. Any Person acquiring an interest in a Lot shall be entitled to a statement from the Association setting forth the amount of unpaid assessments, if any. No Person shall be liable for, nor shall any lien attach to a Lot in excess of, the amount set forth in such a statement, except for assessments which occur or become due after the date thereof and any interest, costs, reasonable attorneys' fees and late charges related to the assessments. The Association may charge a reasonable fee for the preparation of any such statement.

8.5 Foreclosure of Lien. The lien provided for in this Section may be foreclosed by the Association in any manner provided or permitted for the judicial foreclosure of realty mortgages or deeds of trust in the State of Arizona. All of the provisions of this Section 8 relating to the lien provided for herein (including, but not limited to, the subordination provisions) shall apply with equal force in each other instance provided for in this Declaration wherein it is stated that payment of a particular assessment, charge or other sum shall be secured by the lien provided for in this Section 8.

8.6 Budget. Not later than 60 days prior to the beginning of each fiscal year of the Association, the Board shall prepare, or cause to be prepared, a pro forma annual

budget for the Association for the upcoming fiscal year. The budget shall take into account all Common Expenses, and, to the extent that assessments from the prior year(s) have been more or less than the expenditures and provision for reserves of such prior year(s), the surplus or deficit. If, during the course of any fiscal year, or portion thereof, it appears that the assessments determined in accordance with the estimated annual budget are insufficient to cover the actual Common Expenses, or are in excess of the amount necessary to cover the actual amount necessary for payment of Common Expenses, then the Board may prepare a supplemental budget and increase or decrease the assessment as may be necessary, subject, however, to the limitations set forth in Section 8.7.

8.7 Maximum Assessments. Prior to January 1 of the year following the first conveyance of a Lot with a completed residence on it by Developer or a Designated Builder to an Owner, the maximum amount which any Owner shall be required to pay as his proportionate share of the Common Expenses may not exceed \$240.00 per year. Notwithstanding the provisions of Section 8.6, prior to January 1 of the year immediately following conveyance of the first Lot with a completed residence on it by Developer or a Designated Builder to an Owner, the Board may fix and thereafter adjust the assessment payable by all Owners for Common Expenses at such amounts as the Board reasonably elects, provided the maximum amount payable by each Owner does not exceed the maximum amount set forth in the preceding sentence. From and after this January 1, the maximum amount which each Owner may be required to pay as his proportionate share of the Common Expenses may be increased each year by the Board to an amount not in excess of the sum of: (i) the amount of the assessment due and payable by an Owner as his proportionate share of Common Expenses for the preceding year, plus the greater of (ii) an amount equal to 10% of the assessment due and payable by the Owner for the preceding year, or (iii) an amount equal to the percentage change in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (1982-84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics (or such other government index with which it may be replaced), for the preceding year times the amount of the assessment due and payable by the Owner for the preceding year. Notwithstanding the foregoing, if two-thirds of each class of members of the Association approve, the maximum allowable assessment may be increased by an amount greater than otherwise permitted pursuant to this Section 8.7.

8.8 Special Assessments. If the Board determines that the estimated total amount of funds collected from regular assessments for a given fiscal year is or will be inadequate to meet Common Expenses for any reason (including, but not limited to, costs of construction, unexpected repairs, additions or replacements of improvements in Common Areas, increases in taxes, or increases in the costs of insurance or any other obligation of the Association), the Board may, with the consent of two-thirds of each class of members of the Association, levy a special assessment against all Owners to the extent necessary to make up the deficiency. The amount of the required special assessment shall be determined by the Board, in its sole discretion. The special assessment shall be levied against the Owners in the same proportion as their Fractional Interests. The special assessment shall be payable at such time or in installments from time to time, as the Board may determine. The special assessments

provided for herein shall be secured by the lien provided in this Section 8 of this Declaration. Special assessments approved by the members as provided in this Section 8.8 shall not be subject to the limitations of Section 8.7 of this Declaration.

9. Mortgages.

Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his Lot. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Lot.

10. Exclusive Use Rights.

By action of the Board, minor portions of the Common Areas adjoining a Lot may be reserved for the exclusive control, possession and use of the Owner of the Lot. If such an area serves as access to and from two Lots, the Owners of the two Lots shall have joint control, possession and use of the area as reasonably serves both Lots. The exclusive use rights created herein are subject to the blanket utility easement, maintenance and architectural control provisions contained in this Declaration and to such reasonable rules and regulations with respect to possession, control, use and maintenance as the Board may from time to time promulgate. Easements are hereby created in favor of and running with each Lot having such an area, for the creation of such exclusive control and use of each such area. Each Owner, by accepting title to a Lot, shall be deemed to have further ratified the easements and rights to exclusive use created by this Section 10.

11. Insurance.

Insurance shall be carried by the Association on the Common Areas and the activities of the Association and shall be governed by the following provisions:

11.1 Authority to Purchase. The Association, by and through the Board, shall purchase and maintain certain insurance upon the Common Areas and the activities of the Association including, but not limited to, the insurance described in Section 11.2. A provision shall be made for the issuance of certificates of endorsement to any First Mortgagee if requested by it. Such policies and endorsements thereon, or copies thereof, shall be deposited with the Association. The Board shall deliver a copy of certificates of insurance evidencing the Association's coverage or, by and through its agent, advise the Owners of the coverage of the policies, to permit the Owners to determine which particular items are included within the coverage so that the Owners may insure themselves as they see fit if certain items are not insured by the Association. The Board may impose a reasonable charge for copies of insurance certificates or policies requested by any Owner. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide for himself insurance on the contents of any dwelling constructed on his Lot, his additions and improvements thereto, decorating therein and furnishings and personal property therein, his personal property stored

elsewhere on the Property, his personal liability to the extent not covered by the liability insurance for all of the Owners obtained as part of the Common Expenses as above provided, and such other insurance which is not carried by the Association as the Owner desires. No Owner shall maintain any insurance on his Lot which would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Association in the event of damage to the improvements or fixtures in the Property.

11.2 Coverage. The Association shall maintain and pay for policies of insurance as follows:

(1) Policies of a multi-peril type covering the Common Areas providing, as a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for projects similar in construction, location and use including, but not limited to, sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, and windstorm and water damage, in an amount not less than 100% of the insurable value (based upon replacement cost as determined at least once every two years by a qualified insurance appraiser selected by the Board), and, if available, agreed amount, inflation guard and construction code endorsements.

(2) A comprehensive policy of public liability insurance covering all of the Common Areas and public ways in the Project in a minimum amount of at least \$1,000,000.00 per occurrence for personal injury, deaths and/or property damage. This insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association and its agents or other Owners. The scope of coverage shall include all other coverage in the kinds and amounts customarily acquired or required for projects similar in construction, location and use including, but not limited to, liability of the Association related to employment contracts of the Association, water damage liability, liability for non-owned and hired automobiles, and liability for property of others.

(3) If there is ever a steam boiler in operation in connection with the Project, there must be in force boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing, as minimum coverage, \$100,000.00 per accident per location.

(4) If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Project must be maintained in an amount not less than 100% of the insurable value, based upon replacement cost, or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such a flood insurance policy shall be in the form of the standard policy issued by the National Flood Insurance Association.

(5) The Association must obtain fidelity coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written to provide protection which is in no event less than the greater of: (i) one and one-half times the Association's estimated annual operating expenses and reserves or, (ii) the sum of three months' assessments on all Lots then within the Project plus the reserve funds held by the Association. In connection with such coverage, an appropriate endorsement to the policy to cover any individual who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(6) A worker's compensation policy, if necessary to meet the requirements of law.

(7) Such other insurance as the Board shall determine from time to time to be desirable.

(8) Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for similar projects established by any interested Institutional Guarantor, except to the extent such coverage is not reasonably available or has been waived in writing by the Institutional Guarantor.

11.3 Provisions Required. The insurance policies purchased by the Association shall, to the extent reasonably possible, contain the following provisions:

(1) The coverage afforded by policies shall not be brought into contribution or proration with any insurance which may be purchased by Owners or First Mortgagees.

(2) The conduct of any one or more Owners shall not constitute grounds for avoiding liability on any policies.

(3) There shall be no subrogation with respect to the Association, its agents or employees, Owners and members of their household and their families and employees, and each Mortgagee of all or any part of the Property or of any Lot, or the policy(ies) should name such people as additional insureds; and, each policy must contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

(4) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

(5) A statement of the name of the insured shall be included in all policies, in form and substance similar to the following:

"Crystal Gardens Homeowners' Association, for the use and benefit of the individual owners"
[designated by name, if required].

(6) A standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the Association, for the use and benefit of Mortgagees as their interests may appear, or which must be otherwise endorsed to fully protect the interest of First Mortgagees, their successors and assigns.

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

(8) Any "no other insurance" clause shall exclude insurance purchased by Owners or First Mortgagees.

(9) Coverage must not be prejudiced by (a) any act or neglect of Owners when such an act or neglect is not within the control of the Association or (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

(10) Coverage may not be cancelled or substantially modified without at least 30 days' (or such lesser period as otherwise provided herein) prior written notice to any and all insureds including First Mortgagees, their successors, and assigns, and interested Institutional Guarantors and their Servicers, if any.

(11) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such an election is not exercisable without the prior written approval of the Association, or when in conflict with the insurance trust provisions contained herein, or any requirement of law.

11.4 First Mortgagee Protection.

(1) The Association shall, upon written request, provide each First Mortgagee with a letter wherein the Association agrees (a) to give timely written notice to each First Mortgagee or Servicer, or any entity or individual designated by a First Mortgagee or Servicer, whenever damage (whether arising from casualty, condemnation or otherwise) to the Common Areas and related facilities exceeds \$10,000, (b) to give timely written notice to the First Mortgagee or Servicer, or any entity or individual designated by a First Mortgagee or Servicer, whenever damage (whether arising from casualty, condemnation or otherwise) to a Lot known to the Association covered by the

First Mortgage exceeds \$1,000, and (c) any lapse, cancellation or material modification of any insurance or fidelity bond maintained by the Association.

(2) Each hazard insurance policy shall be written by a hazard insurance carrier which has a Best's Key Rating Guide rating of A or better and is assigned a financial size category of IX or larger as established by A. M. Best Company Inc., or if that rating service is discontinued, an equivalent rating by a successor thereto or a similar rating service.

(3) Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Arizona.

(4) Policies shall not be utilized where: under the terms of the carrier's charter, bylaws or policy, contributions may be required or assessments may be made against the Owner or First Mortgagee or any entity or individual purchasing or guaranteeing any First Mortgage or may become a lien superior to any First Mortgage; by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or, the policy includes any limiting clauses (other than insurance condition) which could prevent any Owner or the First Mortgagee, its successors or assigns, from collecting insurance proceeds.

(5) The mortgagee clause of each insurance policy shall be properly endorsed, and necessary notices of transfer must have been given, and any other action required to be taken must be taken in order to fully protect, under the terms of the policies and applicable law, the interest of all First Mortgagees, their successors and assigns. Where permissible, the insurance carrier shall be required to name the Servicer of a First Mortgage, or "[name of Servicer], its successors or assigns," as the First Mortgagee under the mortgagee clause. If permissible, where a deed of trust is utilized, the insurance carrier shall be required to use "[name of Servicer], its successors or assigns, beneficiary" or "[name of trustee], its successors or assigns, for the benefit of [name of Servicer]" instead of only the name of the trustee under the deed of trust.

(6) All insurance drafts, notices, policies, invoices and all other similar documents, or their equivalent, shall be delivered directly to each Servicer involved, if any, regardless of the manner in which the mortgagee clause is endorsed. The Servicer's address on any First Mortgagee endorsement on a policy shall be used in the endorsements in lieu of the address of the First Mortgagee if requested by the First Mortgagee.

(7) First Mortgagees may pay overdue premiums, or may secure new insurance coverage on the lapse of a policy, with respect to any insurance required to be maintained by the Association as provided in this Section 11, and First Mortgagees making expenditures therefor shall be owed immediate reimbursement by the Association.

11.5 Non-Liability of Association/Board. Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board member or other Person shall be liable to any Owner or Mortgagee if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate. It shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner may desire.

11.6 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot or its appurtenances, or of the Common Areas, by an Owner, or by any Occupant, guest or invitee of an Owner, shall be assessed against that particular Owner.

11.7 Insurance Claims. The Association, acting by and through its Board, is hereby irrevocably appointed agent and attorney-in-fact for each Owner and for each holder of a First Mortgage or other lien upon a Lot, and for each owner of any other interest in the Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and the Board has full and complete power to act for the Association in this regard.

11.8 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of the Association, the Owners, First Mortgagees and interested Institutional Guarantors, as their interests may appear.

12. Damage, Destruction and Condemnation.

12.1 Definitions. As used in this Section, the following terms shall have the following definitions:

(a) "Destruction" shall exist whenever the Board determines that, as a result of any casualty, damage or destruction, the Common Areas, or any part thereof, have been damaged.

(b) "Condemnation" means the taking of any property interest in the Common Areas by the exercise of a power of eminent domain, or the transfer or conveyance of such an interest to a condemning authority in anticipation of such an exercise.

(c) "Restoration" in the case of Destruction means the repair or reconstruction of the damaged or destroyed portions of the Common Areas in accordance with the provisions of this Section. "Restoration" following any Condemnation means the repair or reconstruction of the remaining portions of the Common Areas, if any, to

restore the Common Areas to an attractive, sound, functional and desirable condition, including, if the Board deems it desirable or necessary, the replacement of any improvements so taken. Insofar as reasonably possible, taking into account the portions of the Common Areas subject to Destruction or taken by Condemnation, Restoration shall be in conformance with the original plans and specifications or, if the Board determines that adherence to original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes or other governmental rules or regulations then in effect, such repairs or reconstruction shall be of a kind and quality substantially the same as the condition in which the affected portions of the Common Areas existed before the Destruction or Condemnation. Any Restoration not in accordance with original plans and specifications shall first be approved by a majority of First Mortgagees, based on one vote for each Mortgage owned.

(d) "Restoration Funds" in the case of any Destruction means any proceeds of insurance received by the Association as a result of the Destruction of any portion of the Common Areas, but excluding that portion of any proceeds of insurance legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Common Areas or Lots, and any uncommitted funds or income of the Association other than that derived through assessments or special assessments. "Restoration Funds" in the case of Condemnation means the entire amount received by the Association as compensation for any Condemnation including, but not limited to, any amount awarded as severance damages, but deducting therefrom reasonable and necessary costs and expenses including, but not limited to, attorneys' fees, appraiser's fees and court costs, together with any uncommitted funds or income of the Association other than that derived through assessments or special assessments.

12.2 Restoration of Common Areas. In the event of any Destruction or Condemnation of the Common Areas, the Association shall undertake the Restoration of the Common Areas without a vote of the Owners unless two-thirds of each class of members of the Association and three-fourths of the First Mortgagees (based upon one vote for each Mortgage owned) agree in writing at or prior to the special meeting hereinafter provided that the Association should not undertake the Restoration of the Property.

12.3 Construction Contract. In the event the Association undertakes the Restoration of the Common Areas, the Board shall contract with a reputable contractor or contractors who shall, if required by the Board, post a suitable performance or completion bond. The contract with such contractors shall provide for the payment of a specified sum for completion of the work described therein and shall provide for periodic disbursements of funds, which shall be subject to the prior presentation of an architect's certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board.

12.4 Restoration Funds. Upon receipt by the Association of any insurance proceeds, condemnation awards or other funds resulting from the Destruction or Condemnation of any portion of the Common Areas, the Association may cause the Restoration

Funds to be paid directly to a bank located in Maricopa County, Arizona, whose accounts are insured by the Federal Deposit Insurance Corporation, or its successor agency, as designated by the Board, as trustee (the "Restoration Funds Trustee") for the Association. Any such funds shall be received, held and administered by the Restoration Funds Trustee subject to a trust agreement consistent with the provisions of this Declaration and which shall be entered into between the Restoration Funds Trustee and the Association. Disbursement of such funds shall be made only upon the signatures of two members of the Board. Disbursements to contractors performing any repair or reconstruction upon the Common Areas shall be made periodically as the work progresses in a manner consistent with procedures then followed by prudent lending institutions in Maricopa County, Arizona.

12.5 Special Assessment for Restoration. If the Restoration Funds are, or appear to the Board to be, insufficient to pay all of the costs of Restoration, the Board shall, with the consent of two-thirds of each class of members of the Association, levy a special assessment to make up any deficiency. Such a special assessment shall be levied against all Owners to the extent necessary to make up any deficiency for Restoration of the Common Areas. The amount of the required special assessment shall be determined by the Board, in its sole discretion. The special assessment relating to the Restoration of the Common Areas shall be levied against the Owners in the same proportion as their Fractional Interests. The special assessment shall be payable at such time or in installments from time to time, as the Board may determine. The special assessment provided for herein shall be secured by the lien provided for in Section 8 of this Declaration.

12.6 Special Meeting. In the event of the Destruction or Condemnation of the Common Areas, the Board, at its election or upon presentation of a petition signed by not less than 10% of the Owners requesting such a meeting, shall convene a special meeting of the Association for resolving whether the Association should undertake the Restoration of the Common Areas in accordance with Section 12.2.

12.7 Decision Not to Restore. If the Common Areas are not to be restored following any Destruction or Condemnation, the Board shall use the Restoration Funds to pay all of the Mortgages or other liens or encumbrances of record with respect to the Common Areas which will not be restored. If any Restoration Funds remain after such an application of them, they shall be held by the Association for working capital or reserves, in the discretion of the Board.

12.8 Emergency Repairs. Notwithstanding any provision of this Section 12, the Board may, without any vote of the Owners or First Mortgagees, undertake any repair which the Board deems reasonably necessary to avoid further damage or destruction which is likely, in the Board's sole opinion, to cause substantial diminution in the value of the Common Areas or which presents an unreasonable risk of injury to individuals or property.

12.9 Condemnation of a Lot. In the event of the Condemnation of all or substantially all of a Lot so that it is no longer tenantable following reasonable repair or

DECLARATION

reconstruction, the Lot shall cease to be part of the Project, the Owner shall cease to be a member of the Association, and the Fractional Interest of each remaining Owner shall automatically be recomputed to reflect appropriately the number of Lots remaining in the Project.

12.10 Destruction of a Lot. In the event that any Lot is damaged or destroyed (in whole or in part), the Owner shall promptly undertake or cause to be undertaken the repair or reconstruction of the damaged or destroyed portions of the Lot. If a Lot is not restored within a reasonable time following notice by the Board to the Owner when restoration is mandatory hereunder, then the Association shall be entitled to exercise any right or remedy available under this Declaration, including affirmative injunctive relief, and shall have the further right to enter into possession of the Lot in order to undertake the restoration of the Lot in accordance with this Section.

13. Party Walls.

13.1 Rights and Duties. The rights and duties of the Owners and the Association with respect to party walls shall, to the extent not inconsistent with the provisions of this Section, be governed by the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions. The cost of reasonable repairs and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to their use

13.2 Restoration. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to their use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes the party wall to be damaged or to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to the Owner's successors in title.

13.3 Disputes. In the event of any dispute between Owners concerning a party wall, or under the provisions of this Section, upon the written request of any one of the Owners addressed to the Association, the disputed matter shall be decided by the Board, whose decision shall be final and binding upon the Owners.

14. Maintenance, Repairs and Replacements.

14.1 Maintenance of Lots. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements of his own Lot and all improvements to it including, but not limited to, maintenance of landscaping and driveways.

Each Owner shall maintain his Lot in a neat and orderly condition, in accordance with such rules and regulations as may be adopted by the Association, and consistent with the level of quality, and in accordance with the plans and specifications applicable to the initial construction within the Project and the level of maintenance of the Common Areas by Developer and Designated Builders.

14.2 Maintenance of Common Areas. Except as otherwise provided herein to the contrary, maintenance, repairs and replacements of the Common Areas shall be furnished by the Association as part of the Common Expenses, subject to the Bylaws and rules and regulations of the Association. If, due to the intentional act or negligence of an Owner or his invitee, guest or other authorized visitor (for whom the Owner may be held legally responsible), or an Occupant, damage is caused to the Common Areas or to a Lot or Lots owned by others, or maintenance, repairs or replacements are required which would otherwise be at the common expense, then the Owner or Occupant shall pay for the damage and for such maintenance, repairs and replacements as may be determined by the Board, to the extent not covered by the Association's insurance. An authorized representative of the Board, or of the manager or managing agent of the Project, and all contractors and repairmen employed or engaged by the Board or the manager or managing agent, shall be entitled to reasonable access to each of the Lots as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or any equipment, facilities or fixtures affecting or serving other Lots and the Common Areas.

14.3 Enforcement of Obligations. In the event that any Owner fails to maintain and repair his Lot and improvements on it as required hereunder, the Association, following reasonable notice to the Owner (except in emergency situations where such notice is not practical), in addition to all other remedies available to it hereunder or by law, and without waiving any alternative remedies, shall have the right, through its agents and employees, to enter upon the Lot at any reasonable time and in any reasonable manner, and to repair, maintain, and restore the Lot, including the exterior of the improvements erected thereon. Each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost of any such repairs immediately upon demand, and the failure of any Owner to make a required payment shall carry with it the same consequences as the failure to pay any assessment hereunder when due, including the imposition of interest and late charges in accordance with the rules and regulations of the Association, all of which shall be the personal obligation of the Owner and secured by the lien provided for in Section 8.

14.4 Disputes. If any maintenance, repair, replacement or reconstruction involves more than one Lot, and if the Owners of the affected Lots do not agree as to who should perform the work, or as to the allocation of the cost thereof, the decision shall be made by the Board and the decision shall be final and binding upon the Owners.

15. Architectural Control.

15.1 Architectural Committee. The Board may establish and appoint the members of an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. Prior to the appointment of the initial members of the Architectural Committee, and at any time when there is no one serving on the Architectural Committee (whether due to death, resignation or removal), the Board shall exercise any and all rights, powers, duties and obligations of the Architectural Committee. The Architectural Committee shall adopt, and may from time to time amend, supplement and repeal, architectural and landscaping standards and application procedures and shall make the same available to Owner. Such standards and procedures shall interpret, implement and supplement this Declaration, and shall set forth procedures for Architectural Committee review. The standards adopted by the Architectural Committee shall include a description of permitted and prohibited plant materials. The standards and procedures may also include, without limitation, provisions regarding:

15.1.1 architectural design, with particular regard to the harmony of the design with surrounding structures and topography;

15.1.2 landscaping design, content and conformance with the character of the Property;

15.1.3 requirements concerning exterior color schemes, exterior finishes and materials; and

15.1.4 signage.

Such standards and procedures shall have the same force and effect as the rules and regulations promulgated hereunder by the Board. Such standards and procedures and all amendments, supplements, repeals or replacements to or of such standards and procedures shall be subject to the approval of the Board.

15.2 Submission and Review of Plans. Except for improvements installed or constructed by Developer or any Designated Builder, no construction, building, additions, modifications, improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Lot or the improvements located thereon from their natural or improved state existing on the date that such Lot and the completed residence thereon were first conveyed by Developer or a Designated Builder shall be made or done without the prior approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without the prior written approval of the Architectural Committee. Nothing contained herein shall be construed to limit the right of an Owner to make interior alterations within his Lot which are not Visible from Neighboring Property.

15.3 Other Approvals; Liability. No approval by the Architectural Committee of any proposed construction, installation, modification, addition or alteration shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such construction, modification, addition or alteration. Neither Developer, the Association, the Board nor the Architectural Committee (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

15.3.1 the approval or disapproval of any plans, drawings or specifications, whether or not defective;

15.3.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or

15.3.3 the development of any Lot.

15.4 Fee. The Board may establish a reasonable processing fee to defer the costs of the Architectural Committee in considering any request for approvals submitted to the Architectural Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

15.5 Inspection. Any member or authorized consultant of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot, after reasonable notice to the Owner or Occupant of such Lot, in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with this Declaration, the standards and procedures adopted by the Architectural Committee and any approved plans, drawings or specifications.

15.6 Waiver. Approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring approval of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

15.7 Appeal to Board. Any Owner or Occupant aggrieved by a decision of the Architectural Committee may appeal the decision to the Board in accordance with procedures to be established in the Architectural Committee's standards and procedures. In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board.

16. Encroachments.

Each Lot and the Common Areas shall be subject to an easement for encroachments, including, but not limited to encroachments of walls, ceilings, ledges, floors, and roofs created by construction, settling and overhangs as originally designed or constructed, or as created by discrepancies between the Plat and the actual construction. If any portion of the Common Areas actually encroaches upon any Lot, or if any Lot actually encroaches upon any portion of the Common Areas, or if any Lot actually encroaches upon another Lot, as the Common Areas and the Lots are shown by the Plat, an easement for the encroachment and for the maintenance thereof, so long as they stand, shall exist. In the event that any Lot or structure is repaired, altered or reconstructed, similar encroachments shall be permitted and an easement for the encroachments and for the maintenance thereof shall exist. Each Owner and any other Person acquiring any interest in the Property shall be deemed to acquiesce in and agree to the existence of such easements by accepting a deed from any seller or by acquiring any interest whatsoever in the Property.

17. Rental Lots.

Notwithstanding anything herein to the contrary, any Owner may rent or otherwise grant occupancy rights to any Lot (but not less than an entire Lot) owned by him, with the lessee, renter or other Occupant being entitled to the same privileges of use of the Lot and Common Areas and subject to the same restrictions as the Owner of the Lot. With the exception of a First Mortgagee in possession of a Lot following a default in a First Mortgage, or a foreclosure proceeding or deed or other arrangement in lieu of foreclosure, no Owner may allow the use of his Lot for transient or hotel purposes or for a period of less than 30 days. All lease or other occupancy agreements, including those for a month-to-month tenancy, shall be in writing and provide that the terms of the agreement shall be subject in all respects to this Declaration and the Articles, Bylaws and rules and regulations of the Association, and that failure to comply with the provisions of such documents shall constitute a default under the agreement. A copy of the agreement shall be delivered by the Owner to the Board on or before the commencement of occupancy under the agreement. Each Owner granting occupancy rights to his Lot shall remain jointly and severally liable with the Occupant for the payment of any assessment required hereunder and compliance with this Declaration, the Articles, Bylaws and rules and regulations of the Association, including any fines or penalties levied as a result of a violation thereof.

18. Use and Occupancy Restrictions.

18.1 Residential Use. No part of the Property shall be used for other than residential and related purposes except (a) that Developer reserves for itself and for Designated Builders the right to maintain sales offices, model units, and signs on the Property, together with rights of ingress thereto and egress therefrom, until all Lots have had residences constructed on them and the Lots and residences have been sold and conveyed, and (b) this Section 18.1 shall not apply to any fire station, police station or school site within the Property.

Each Lot shall be used as permitted by this Declaration and for no other purpose. No religious, professional, commercial or industrial operations of any kind shall be conducted in or upon any Lot or the Common Areas, except such temporary uses as shall be permitted to Developer and Designated Builders while Lots are being constructed and sold by Developer and/or Designated Builders. The restriction on use of any Lot for business or commercial enterprise shall not prohibit an activity if it meets all of the following requirements: (a) is not apparent or detectable by sight, sound or smell from outside the Lot on which it occurs, (b) does not involve individuals coming onto the Lot who do not reside on the Lot or solicitation of residents of the Property by anyone, whether or not a resident, and (c) is consistent with the residential character of the Lot and the Property and not a nuisance, or a hazardous or offensive use, as may be determined in the sole discretion of the Board. By way of illustration, but not limitation, activities conducted from within a residence solely by telephone, facsimile, or computer, without the use of employees other than those who reside on the Lot, to outside parties off of the Property (or wholly without communication to outside parties) are not considered prohibited but the activity shall be prohibited if it involves or requires visits to the Lot by actual or prospective customers, clients, or patients, or by others (excluding once a day document delivery services such as Federal Express), as a result of business activities by the Owner or Occupant of the Lot. Similarly, the fact that family members or other occupants of a residence are employed in business affairs within the Lot will not make such employment a prohibited business use of the Lot, but visits to the Lot by employees who do not reside there shall be prohibited if the individuals are employed for the business purposes of the Owner or Occupant of the Lot.

18.2 Restriction on Further Subdivision. No Lot shall be further subdivided or a separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing the restrictions and without the Board's approval the restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.

18.3 Landscaping. The landscaping on the portion of each Lot which is Visible from Neighboring Property (including, but not limited to, the front yard of the Lot) shall be completed within six months after the residence on the Lot is first occupied. No landscaping (other than landscaping installed by Developer or any Designated Builder) shall be erected, placed or maintained anywhere in or upon a Lot unless the plans for such landscaping have been approved by the Architectural Committee as provided in Section 15. Lots shall be maintained by their Owners free of weeds and debris; lawns shall be neatly mowed and trimmed; bushes shall be trimmed; and dead plants, trees, or grass shall be promptly removed and replaced.

18.4 Repair of Buildings. No improvement upon any portion of the Property shall be permitted to fall into disrepair, and each improvement shall at all times be maintained in good condition and repair and adequately painted or otherwise finished.

18.5 No Carports. No carport shall be built or otherwise kept on any Lot.

18.6 Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, shed or other, shall be used as a residence, or otherwise kept on a Lot so as to be Visible from Neighboring Property, at any time except such structures as Developer or a Designated Builder may find necessary or convenient to the development and sale of Lots.

18.7 Cancellation of Insurance. No Owner shall permit anything to be done or kept in his Lot or in or upon any Common Areas which will result in the cancellation of insurance thereon or which would be in violation of any law.

18.8 Signs. No sign of any kind shall be displayed to the public view on any Lot or any Common Areas without the approval of the Board except (a) such signs as may be used by Developer or Designated Builders in connection with the development and sale of Lots, and (b) one "For Sale" or "For Rent" sign on each Lot, which sign shall have a total face area of five feet or less and the location of which sign may be regulated by rule or regulation of the Board or Architectural Committee.

18.9 Pets. Subject to the provisions of Sections 18.10 and 18.22, a reasonable number of small, commonly accepted household pets may be kept in each Lot without the prior approval of the Board. All additional pets are prohibited unless approved in advance by the Board. No animal shall be kept, bred or maintained for any commercial purpose, and, except as otherwise provided above, no animals of any kind shall be raised, bred or kept in any Lot or in or upon any Common Areas. No animal shall be allowed to become a nuisance, whether by making an unreasonable amount of noise or otherwise. All pets shall be leashed or otherwise appropriately restrained when in any part of the Property other than in an Private Yard or a residence. Upon the request of any Owner, the Board shall determine, in its sole and absolute discretion, whether, for the purposes of this Section 18.8, a particular animal is a commonly accepted household pet or whether a particular animal is a nuisance. The keeping of pets shall also be subject to such additional rules and regulations with respect thereto as the Association may adopt.

18.10 Nuisances. No Owner shall permit or suffer anything to be done or kept about or within his Lot which will obstruct or interfere with the rights of other Owners or Occupants, or annoy them by unreasonable noises or otherwise, nor commit or permit any nuisance about or within his Lot or commit or suffer any illegal act to be committed therein. Each Owner shall comply with all of the requirements of the health authorities and of all other governmental authorities with respect to his Lot and the Common Areas. Normal construction

activities shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods. Supplies or building materials and construction equipment shall be stored only in such areas and in such manner as may be approved by the Architectural Committee or the Declarant.

18.11 Vehicles. No boats, trailers, motor homes, campers or other recreational vehicles shall be parked or stored in or upon any Lot where Visible From Neighboring Property, the Common Areas or the public streets of the Project, other than temporary parking on a Lot or the adjacent street for purposes of loading or unloading. Except as specifically permitted by the Board, (a) no trucks classed by manufacturer capacity rating as exceeding 3/4 ton, or unlicensed or inoperative vehicles shall be parked or stored in or upon any Lot, the Common Areas or the public streets of the Project, other than temporary parking on a Lot or the adjacent street for purposes of loading or unloading; and (b) no vehicle shall be repaired or rebuilt in any Lot or upon the Common Areas or the public streets of the Project. Upon the request of any Owner, the Board shall determine, in its sole and absolute discretion, whether for purposes of this Section 18.11 a vehicle is a recreational vehicle.

18.12 Lighting. Except as initially installed by Developer or a Designated Builder, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which will allow light to be directed or reflected in any manner on the Common Areas, or any part thereof, or any other Lot or public streets in the Project.

18.13 Air Conditioners and Roofs. No window air conditioners or portable units of any kind Visible from Neighboring Property shall be installed in any Lot. No heating, cooling, ventilating or air conditioning units, solar panels (except as specifically permitted by the last sentence of this Section) or equipment, antenna or other apparatus or object shall be placed on the roof of a dwelling unit constructed on any Lot so as to be Visible from Neighboring Property. Any solar panels constructed on any Lot shall require the prior approval of the Architectural Committee and shall be roof mounted so that the top surface is flush with the roof surface and all appurtenances are recessed into the structure.

18.14 Reflective Materials. No reflective materials including, but not limited to, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows which are Visible from Neighboring Property without the prior written approval of the Board.

18.15 Cable. All cable television lines serving a Lot shall be placed so as to not be Visible from Neighboring Property. Each Owner shall pay for any damage to the Common Areas (including, but not limited to, landscaping therein) caused by any installation of cable television lines serving the Owner's Lot.

18.16 Trash Collection. The Association may maintain trash and garbage collection bins or similar facilities in such areas of the Common Areas as the Board determines. No garbage or trash shall be kept, maintained or contained in any Lot so as to be Visible from

Neighboring Property except in sanitary containers with lids or covers. Sanitary containers placed in public view for collection shall be promptly stored out of public view after collection.

18.17 Clotheslines. Outside clotheslines or other facilities for drying or airing clothes shall not be erected, placed or maintained on the Property unless they are within the Private Yard on a Lot and are not Visible from Neighboring Property.

18.18 Vegetation. No shrub, tree or other vegetation belonging to any Owner shall be allowed to overhang another Lot without the consent of the Owner. Consent may be revoked at any time after having been given.

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

18.20 Safe Condition. Without limiting the foregoing, each Owner shall maintain and keep his Lot and any Common Areas subject to his exclusive control at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots or the Common Areas.

18.21 Enforcement. The Board or its authorized agents may enter any Lot in which a violation of these restrictions or the rules and regulations of the Association exists and may correct such violation at the expense of the Owner of the Lot. The Board may enact and impose a reasonable system of fines, penalties and/or fees for violation of these restrictions or the rules and regulations of the Association.

18.22 Rules and Regulations. The Association may otherwise restrict and regulate the use and occupancy of the Property, the Common Areas and the Lots by reasonable rules and regulations of general application adopted by the Board from time to time. All remedies described in Section 21 hereof and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, or his guests, invitees, licensees, family members, or tenants, or any Occupant or other Person of any provision of this Section 18 or the rules and regulations of the Association.

19. Rights and Duties of First Mortgagee.

Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws, rules and regulations of the Association, and management agreements, the following provisions shall apply to and benefit each holder of a First Mortgage:

19.1 No Right of First Refusal. None of the Constituent Documents shall provide that the right of an Owner to sell, transfer or otherwise convey his Lot will be subject to any right of first refusal, or similar restriction, in favor of the Association. Any "right of

first refusal" that may ever be contained in the Constituent Documents shall not impair or affect the rights of a First Mortgagee to foreclose or take title to a Lot pursuant to the remedies provided in the First Mortgage, to accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor, or interfere with a subsequent sale or lease of a Lot so acquired by the First Mortgagee.

19.2 Mortgagee in Possession. A First Mortgagee who comes into possession of a mortgaged Lot by virtue of foreclosure of the Mortgage, or through any equivalent proceedings, such as, but not limited to, the taking of a deed or assignment in lieu of foreclosure or acquiring title at a trustee's sale under a first deed of trust, or any third party purchaser at a foreclosure sale or trustee's sale, will not be liable for the Lot's unpaid dues, charges or assessments which may accrue prior to the time the First Mortgagee or third party purchaser comes into possession of the Lot. Any such Person shall acquire title free and clear of any lien authorized by or arising out of the provisions of this Declaration which secures the payment of any dues, charges or assessments accrued prior to the time the Person came into possession of the Lot. Any such unpaid dues, charges or assessments against the Lot foreclosed shall be deemed to be a Common Expense charged proratably against all of the Lots. Nevertheless, in the event the Owner against whom the original assessment or charge was made is the purchaser or redemptioner, the lien shall continue in effect and may be enforced by the Association for the amount of the unpaid dues, charges or assessments that were due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid assessment or charge shall continue to exist as the personal obligation of the defaulting Owner to the Association, and the Board may use reasonable efforts to collect from the Owner even after he is no longer a member of the Association.

19.3 Consent of Mortgagees Required. Unless at least three-fourths of the Eligible Holders (based upon one vote for each First Mortgage owned), including, in the case of the partition or subdivision of any Lot, the holder of the First Mortgage for the Lot, and two-thirds of the Class A members, or such higher percentage as required in this Declaration or by applicable law, have given their prior written approval, neither the Owners nor the Association shall be entitled to:

- (1) By act or omission, seek to abandon or terminate this Declaration, except where provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.
- (2) Change the pro rata Fractional Interest or obligation of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards (except as provided in Section 12.9, relating to Condemnation of a Lot).
- (3) Partition or subdivide any Lot.

(4) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas, except as specifically provided in Section 4.3. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Project shall not be deemed a transfer within the meaning of this clause).

(5) Use hazard insurance proceeds payable or paid to the Association due to losses to the Common Areas or the Lots or portions thereof for other than the repair, replacement or reconstruction of such areas, except as provided herein or by statute in case of substantial loss to the Common Areas. First Mortgagees shall have the right to participate in the adjustment and settlement of any claim under any insurance maintained by the Association.

19.4 Tax Liens. All taxes, assessments and charges which may become liens prior to a First Mortgage under local law shall relate only to the individual Lot and not to the Project as a whole. First Mortgagees may pay taxes or other charges which are delinquent or otherwise in default and which may or have become a charge against Common Areas, and First Mortgagees making expenditures therefor shall be owed immediate reimbursement by the Association.

19.5 Priority of Mortgage. No provision of the Constituent Documents shall give an Owner, or any other party, priority over any rights of the First Mortgagee of a Lot pursuant to its First Mortgage in the case of a distribution to the Owner of insurance proceeds or condemnation awards for losses to or a taking of Lots and/or Common Areas.

19.6 Amenities. Amenities (if any) pertaining to the Project (such as parking, recreation and service areas) are a part of the Project.

19.7 Notice of Default. Upon request, each First Mortgagee and Institutional Guarantor shall be entitled to written notification from the Association of any default in the performance by its Mortgagor under the Constituent Documents, if the default is not cured within 30 days. All First Mortgagees and Institutional Guarantors shall be entitled to written notification by the Association upon the commencement of any condemnation proceedings against all or any part of the Property or the Lot securing its Mortgage.

19.8 Review of Records. First Mortgagees and Institutional Guarantors shall have the right upon reasonable written request to: (a) examine the books and records of the Association at reasonable times; (b) receive an annual financial statement of the Association within 90 days following the end of any fiscal year of the Association, which shall be audited by an independent accountant if required by the regulations of any Institutional Guarantor; and (c) receive written notice of all meetings of the Association and designate a representative to attend all such meetings.

19.9 No Personal Liability. A First Mortgagee shall not in any case or manner be personally liable for the payment of any assessment or charge, nor the observance or performance of any covenant, restriction, or rule and regulation of the Association, or any provision of the Articles or Bylaws, or any management agreement, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Section 19.

19.10 Enforcement Against Successors. An action to abate the breach of any of these covenants, restrictions, reservations and conditions may be brought against a purchaser who has acquired title through foreclosure of a First Mortgage and the subsequent foreclosure or trustee's sale (or through any equivalent proceedings), and the successors in interest to any such purchaser, even though the breach existed prior to the time the purchaser acquired an interest in the Lot.

19.11 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to a power of sale conferred under a deed of trust and pursuant to law, the First Mortgagee, or a receiver appointed in any such action, may (but need not exercise) any or all of the rights and privileges of the defaulting Owner of the Lot including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

19.12 Mortgagee Subject to Declaration. At such time as a First Mortgagee comes into possession of or becomes record Owner of a Lot, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all assessments and charges accruing thereafter, in the same manner as any other Owner.

19.13 Lien Subordinate to First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any First Mortgage now or hereafter placed upon any Lot; provided that the First Mortgage is in favor of a bank, savings and loan association, insurance company, mortgage banker, other institutional lender, or Institutional Guarantor and their successors or assigns; and provided further that subordination shall apply only to the assessments which have accrued prior to a sale or transfer of the Lot to which the First Mortgage relates pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure.

19.14 No Impairment of Mortgage. Notwithstanding any provision in the Constituent Documents to the contrary, no provision of this Declaration or the other Constituent Documents related to costs, use, set-back, minimum size, building materials, architectural, aesthetic or similar matters shall ever provide for reversion or foreclosure of title to a Lot in the event of violation thereof. No breach or violation of any provision of the Constituent Documents shall affect, impair, defeat or render invalid the interest or lien of any First Mortgagee.

19.15 Amendment. Notwithstanding and prevailing over all other provisions hereof, no amendment to this Declaration shall be made or become effective which in any way adversely affects, materially diminishes or materially impairs any of the rights, privileges or powers granted to any First Mortgagee or which is in any way materially inconsistent with the customary rules, regulations or requirements of institutional First Mortgagees affected or their successors or assigns without the prior written consent of all affected institutional First Mortgagees. Upon written request, each First Mortgagee and Institutional Guarantor shall be entitled to timely written notice of any proposed action which requires the consent of a specified percentage of Mortgagees.

19.16 Enforcement. First Mortgagees shall have the right to enforce against Owners, the Association and all others, any and all provisions of this Declaration including, but not limited to, this Section 19. Enforcement by First Mortgagees may be by injunction, mandatory or prohibitory, or any other lawful procedure. This Declaration shall be interpreted to the extent reasonably possible in conformity with all rules, regulations and requirements of any Institutional Guarantor of a Mortgage on any Lot in effect as of this date, or as they may be hereafter amended, and any provision hereof which is materially inconsistent therewith shall be deemed modified to conform thereto to the extent reasonably possible.

19.17 Articles and Bylaws. The Articles, Bylaws and all rules and regulations of the Association shall be governed by this Declaration and all provisions thereof which are inconsistent herewith shall be void.

19.18 Eligible Holders. Notwithstanding anything in this Declaration to the contrary, any Mortgagee or Institutional Guarantor may submit a written request to the Association, which identifies the name and address of the Mortgagee or Institutional Guarantor and the particular Lot or Lots subject to its rights as Mortgagee or Institutional Guarantor, to receive timely written notice of all or any of the matters specified below. Any Mortgagee or Institutional Guarantor which submits a request in the manner provided herein shall be considered an "Eligible Holder" for purposes of this Declaration. Those matters for which any Mortgagee or Institutional Guarantor may request notice are:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or a material portion of the Lot subject to its rights as Mortgagee or Institutional Guarantor;

(b) Any 30-day delinquency in the payment of assessments or charges owed by the Owner of the Lot subject to its rights as Mortgagee or Institutional Guarantor;

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

(d) Any proposed action that requires the consent of a specified percentage of Eligible Holders.

20. Exemption of Developer from Restrictions.

Notwithstanding anything contained in this Declaration to the contrary (except that, in the event of a conflict with the provisions of Section 19 hereof, those provisions shall be controlling), none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Developer or a Designated Builder, or any of their employees, agents and subcontractors, or parties designated by it in connection with the construction, completion, marketing, sale or leasing of the Lots, or repair of Lots as required in this Declaration or any contracts of sale with Owners.

21. Remedies.

21.1 Power to Enforce. In the event of any default by any Person under the provisions of this Declaration, or the Articles, Bylaws or rules and regulations of the Association, the Association, or its successors or assigns, and the Board, or its agents, and an Owner of a Lot shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, Bylaws or rules and regulations of the Association, and which may be available at law or equity, and may prosecute any action or other proceedings against the defaulting Person for enforcement or foreclosure of its lien and the appointment of a receiver for a Lot, or for damages or injunction, whether mandatory or prohibitory, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of a Lot and to rent the Lot and apply the rents received to payment of unpaid assessments and interest accrued thereon, and to sell it as hereinafter in this Section 21 provided, or for any combination of remedies or for any other relief, all without notice and without regard to the value of the Lot or the solvency of the defaulting Person.

21.2 Expenses. The proceeds of any such rental or sale shall first be paid to discharge court costs, other litigation costs including, but not limited to, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds after satisfaction of such charges and any unpaid assessments hereunder or any liens shall be paid to the Owner or the Mortgagees of the Lot, as their interests may appear. Upon the confirmation of the sale, the purchasers shall be entitled to a deed to the Lot and to immediate possession of the Lot and may apply to the court for a writ of restitution for the purpose of acquiring possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

21.3 Lien Rights. All expenses of the Association in connection with any action or proceeding described or permitted by this Section 21, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the annual rate of 18%, (or such lower rate as the Board may

set from time to time) but in no event in excess of the maximum lawful rate, until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the Common Expenses, and the Association shall have a lien as provided in Section 8 hereof for all such sums, as well as for nonpayment of his respective share of the Common Expenses, upon the Lot of the defaulting Owner and upon all of his additions and improvements thereto.

21.4 Self Help. In the event of a default by any Person, the Association and the Board, and the manager or managing agent, if authorized by the Board, shall have the authority to correct the default and to do whatever may be necessary, and all expenses in connection therewith shall be charged to and assessed against the defaulting Person. Such an assessment shall constitute a lien against a defaulting Owner's Lot as provided for in Section 8 of this Declaration. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board.

21.5 Warning Notice. If any Person (either by his conduct or by the conduct of any Occupant of his Lot, or the Owner's family, guests, invitees or tenants to the extent the Owner may be held legally responsible therefor) violates any of the provisions of this Declaration, or the Articles, Bylaws or rules and regulations of the Association, as then in effect, and the violation continues for 10 days after notice in writing to the defaulting Person or occurs repeatedly during any 10 day period after written notice, then the Board or any affected or aggrieved Owner shall have the power to file an action against the defaulting Person for a judgment or injunction, whether mandatory or prohibitory, requiring the defaulting Person to comply with the provisions of this Declaration, or the Articles, Bylaws or rules and regulations of the Association, and granting other appropriate relief, including money damages.

21.6 Mortgage Priority. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot but, except as herein specifically provided, each and all of the covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise. To the extent that summary abatement or enforcement rights are herein reserved to Developer or a Designated Builder, the Association or any other Person, judicial proceedings for enforcement must be instituted before any items of construction can be altered or demolished.

22. Annexation of Additional Property.

Some or all of the real property described on Exhibit "D" attached hereto (the "Annexation Property") may be annexed to and become subject to this Declaration as hereinafter set forth in this Section 22. Developer intends, but is not obligated, to annex some or all of the Annexation Property; provided, however, that no property included in the Annexation Property can be annexed unless it is owned by Developer at the time of annexation

or express written consent to the annexation by the record owner of the property being annexed is reflected in the public record at the time of annexation. Developer may at any time record an instrument applicable to all or any portion of the Annexation Property to delete it from the provisions of this Section 22.

22.1 Annexations. Developer may elect to annex all or any portion(s) of the Annexation Property to this Declaration in increments of any size whatsoever, or to annex more than one such increment at any given time and in any given order by recording a Supplemental Declaration describing the property being annexed. If any of the conditions set forth in Section 22.3 for annexation without approval of the Association or its members is not met, Developer may accomplish an annexation of all or any portion(s) of the Annexation Property only if the annexation is approved by the affirmative vote or written consent of two-thirds of the Class A members, as evidenced by the certificate of the President or secretary of the Association on the Supplemental Declaration. The recordation of a Supplemental Declaration shall constitute and effectuate the annexation of the property described therein, unless a later effective date is specified in the Supplemental Declaration. Annexation shall make the annexed property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said real property shall be part of the Property for all intents and purposes of this Declaration and all of the Owners of Lots in the annexed property shall automatically be Owners hereunder. Although Developer shall have the ability to annex additional property as provided in this Section 21.1, Developer shall not be obligated to annex any property, and any such property shall not become subject to this Declaration unless and until a Supplemental Declaration shall have been recorded as herein provided, or at such later time as may be provided in the Supplemental Declaration.

22.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form which annexes additional real property to the plan of this Declaration and which incorporates by reference all of the provisions of this Declaration. It shall contain such other provisions as may be set forth in this Declaration relating to Supplemental Declarations. Supplemental Declarations may contain such complementary additions and modifications of the provisions of this Declaration as may be necessary to reflect the different character, if any, of the property being annexed and as are not inconsistent with the plan of this Declaration. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

22.3 Annexation Without Approval of Association. All or any portion(s) of the Annexation Property may be annexed by Developer to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its members.

23. Amendment.

Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. So long as there is outstanding any Class B membership in the Association, any amendment other than one authorized by Section 23.4 must be approved by all Institutional Guarantors.

23.1 Adoption. Amendments during the first twenty years following the date this Declaration is recorded may be adopted with or without a duly held meeting of the Owners upon the approval of ninety percent of the Owners then entitled to vote for directors. Thereafter, Amendments may be adopted with or without a duly held meeting of the Owners upon the approval of Owners representing three-fourths of the votes then entitled to vote for directors. In the event that no meeting of Owners is held, the requisite number of Owners must consent in writing to the amendment. Amendments properly adopted shall bear the signature of the president of the Association and shall be attested by the secretary, and shall be acknowledged by them as officers of the Association. Properly adopted amendments shall be effective upon recording in the appropriate governmental offices or at such later date as may be specified in the amendment. Notwithstanding the foregoing, any amendment of this Declaration which is deemed to be "material" under the requirements of Institutional Guarantors, including, but not limited to, any amendment which would change the Fractional Interest of any Owner, may be adopted only with the affirmative vote or consent of three-fourths of the Owners and three-fourths of all First Mortgagees (based on one vote for each Mortgage owned).

23.2 Effect. It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the section being amended or the amendment itself.

23.3 Required Percentages. If this Declaration, the Articles or Bylaws requires the consent or agreement of all Owners and/or all lienholders and all trustees and/or beneficiaries under trust deeds, or any specified percentage of them, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such an action shall be signed by no lesser percentage of the Owners and/or lienholders and trustees and/or beneficiaries under trust deeds.

23.4 Developer Powers. Notwithstanding any provision of this Section 23, for so long as any Class B membership in the Association is outstanding, Developer reserves the right, and shall be authorized and empowered, acting alone, to amend this Declaration (a) as necessary to comply with, or conform this Declaration to, the requirements or guidelines of an Institutional Guarantor and governmental authorities (including, but not limited to, requirements to qualify the Property and offer it for sale), provided, however, that Developer shall obtain the approval of any interested Institutional Guarantor or governmental authority to such an amendment (b) to adjust the legal description of the Wetland Parcel as provided in

Section 4.3, or (c) to de-annex portions of the Property as provided in Section 4.3. Upon the adoption and recording of any such amendment by Developer, a copy of the amendment shall be made available for the inspection of every Owner and Eligible Holder.

23.5 Institutional Guarantors. Anything to the contrary herein notwithstanding, no amendment shall be effective to materially modify, change, limit or alter the rights expressly conferred upon Mortgagees in this Declaration, or which is in any way materially inconsistent with the rules, regulations or requirements of any interested Institutional Guarantor, unless the amendment is approved in writing by the Institutional Guarantor.

24. Notices.

Notices provided for in this Declaration, or the Bylaws or rules and regulations of the Association, shall be in writing and shall be addressed to the Association or the Board, as the case may be, at an address to be established by the Board. The Association or the Board may at any time designate a different address or addresses for notices to them respectively by giving written notice of the change of address to all Owners. All notices to Owners shall be to their respective Lots. Any Owner may designate a different address or addresses for notices to him by giving written notice of his change of address to the Board. Notices addressed as above shall be deemed delivered when mailed by United States mail, first class with postage prepaid, or when delivered in person. Upon written request to the Board, a Mortgagee of a Lot shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner of the Lot subject to the Mortgage.

25. Captions and Exhibits; Construction.

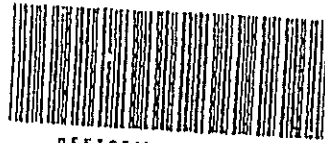
Captions given to various sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any exhibits referred to herein are incorporated as though fully set forth where the reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the ownership and operation of the Property under the provisions of Arizona law.

26. Severability.

If any provision of this Declaration, the Articles, Bylaws or rules and regulations of the Association, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the Articles, Bylaws or the rules and regulations, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected, and the remainder shall be construed as if the invalid part were never included therein.

When recorded, return to:
Robert P. Robinson, Esq.
Fennemore Craig
3003 N. Central, Suite 2600
Phoenix, Arizona 85012

37 520
10/1/97



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
97-0320354 05/13/97 04:51

FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
CRYSTAL GARDENS

This First Amendment (the "Amendment") to Declaration of Covenants, Conditions and Restrictions for Crystal Gardens (the "Declaration") is made and entered into as of the 12th day of May, 1997 by Crystal Gardens Properties L.L.C., an Arizona limited liability company ("Developer").

RECITALS

A. Developer has previously recorded the Declaration on May 15, 1995 as Instrument No. 95-0273193 of the records of the County Recorder of Maricopa County, Arizona.

B. Developer is the sole owner of the Lots under the Declaration and as such under Section 23 of the Declaration is entitled to amend the Declaration and by these presents does amend the Declaration as set forth herein.

NOW THEREFORE, Developer amends the Declaration as follows:

1. Sections 8.1 of the Declaration is revised to read as follows:

8.1 Assessments for Common Expenses. Except as otherwise specifically provided herein, each Owner, including Developer and each Designated Builder so long as it is an Owner, shall pay his proportionate share of the expenses of the administration, maintenance and operation of the Common Areas and of any other expenses incurred in conformance with this Declaration, the Articles, Bylaws and rules and regulations of the Association (which expenses are herein sometimes referred to as "Common Expenses"), including specifically, but not by way of limitation, insurance, maintenance and repair of the Common Areas (and any and all replacements and additions thereto) and certain portions of the Wetland Parcel as specifically provided in Section 4.5, water, electricity and other utilities provided to the Project, and establishment and maintenance of such reasonable reserves for contingencies, replacements (including repair and replacement of the walkway within the

Perimeter Area) and other proper purposes as the Board may from time to time elect to establish and maintain in its sole discretion. Common Expenses may, if so determined by the Board, include such amounts as are determined by the Board for the establishment and maintenance of such a reserve fund. Reserve funds may also be funded and derived by means of a special assessment levied in accordance with Section 8.8. The proportionate share of the Common Expenses for each Owner shall be in the same ratio as his Fractional Interest. Notwithstanding anything foregoing to the contrary, so long as any Class B memberships in the Association are outstanding, Developer may elect to pay for Lots owned by Developer, and each Designated Builder may elect to pay for Lots owned by the Designated Builder, an amount equal to one-quarter of the amount otherwise payable hereunder as such Lots' share of the Common Expenses in the absence of this provision. Developer and any Designated Builder may make the election provided for in the preceding sentence for any budget year by giving the Association written notice prior to the commencement of the budget year; provided, however, that Developer and each Designated Builder may make such an election for the first budget year of the Association by giving notice prior to sale and conveyance of the first Lot by Developer or such Designated Builder or the commencement of the budget year, whichever is later. An election for reduced assessments made by Developer, or a Designated Builder, as provided herein shall remain in effect until it is rescinded by written notice to the Association or Class B memberships in the Association cease to be outstanding, in which event the reduced assessments shall terminate and full assessments shall be payable as of the commencement of the next following budget year. In the event that Developer and Designated Builders make the election for reduced assessments provided for herein, Developer and such Designated Builders shall be obligated to pay, in addition to assessments, any amount by which the Common Expenses of the Association, for a budget year in which such an election is effective, exceed the assessments payable by Owners (including Developer and such Designated Builders at the reduced rate), which excess shall be paid by the Developer and such Designated Builders in the ratio that the Lots owned by the Developer or each Designated Builder bear to the total of all Lots owned by the Developer and all such Designated Builders. The obligations of Developer and each Designated Builder set forth in the preceding sentence shall be a lien against Lots owned by Developer and each Designated Builder pro rata and shall be enforceable by the Association in the same manner as assessments provided for herein.

2. The first sentence of Section 8.7 is amended to read as follows:


Prior to January 1 of the year following the first conveyance of a Lot with a completed residence on it by Developer or a Designated Builder to an Owner, the maximum amount which any Owner shall be required to pay as his proportionate share of the Common Expenses may not exceed \$300.00 per year.

3. Except as amended by this instrument, the Declaration shall remain in full force and effect.

Date this 12th day of May, 2001

CRYSTAL GARDENS PROPERTIES, L.L.C.
an Arizona limited liability company

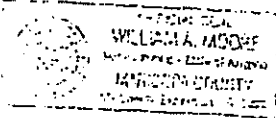
By Warne C. Spiekerman,
Santee Development Corp., its Manager




its President

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 12th day of May, 2001, by Warne C. Spiekerman, President of Santee Development Corp., an Arizona corporation, the Manager of Crystal Gardens Properties, L.L.C., an Arizona limited liability company, on behalf of such limited liability company.





Notary Public

My Commission Expires:

CONSENT AND SUBORDINATION

The Arizona Public Safety Personnel Retirement System, an agency of the State of Arizona, as beneficiary of that certain Deed of Trust, Assignment of Rents and Security Agreement ("Deed of Trust"), wherein Crystal Gardens Properties, L.L.C., an Arizona limited liability company, is trustee, which Deed of Trust was recorded as Instrument No. 95-0273195, and thereafter a Notice of Correction was recorded as Instrument No. 96-088556, each in the records of the County Recorder of Maricopa County, Arizona, does hereby consent to, and subordinate its lien under the Deed of Trust to, the First Amendment to Declaration by Crystal Gardens Properties, L.L.C. to which this Consent and Subordination is attached.

DATED this 1st day of May, 1997.

THE ARIZONA PUBLIC SAFETY
PERSONNEL RETIREMENT SYSTEM,
an agency of the State of Arizona

By: [Signature]
Jack M. Cross
Its Administrator

STATE OF ARIZONA)

County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of May, 1997, by Jack M. Cross, the Administrator of The Arizona Public Safety Personnel Retirement System, an agency of the State of Arizona, for and on behalf thereof.

[Signature]
Notary Public

My Commission Expires:

1/6/97
[Notary Seal]

CONSENT AND SUBORDINATION

Northwest Farm Limited Partnership, an Arizona limited partnership, and Northwest Farm Corporation, an Arizona corporation, as the original holders of an undivided 90% interest and a 10% interest, respectively, of the Beneficiary's interest in that certain Deed of Trust ("Deed of Trust") in which Crystal Gardens Properties, L.L.C. is the Trustor, which Deed of Trust was recorded as Instrument No. 95-0273201 in the records of the County Recorder of Maricopa County, Arizona, for themselves and as attorney-in-fact for any assignees of record, do hereby consent to, and subordinate the lien of the Deed of Trust to the First Amendment to Declaration by Crystal Gardens Properties, L.L.C. to which this Consent and Subordination is attached.

EXECUTED this 9 day of May, 1997.

NORTHWEST FARM LIMITED PARTNERSHIP,
an Arizona limited partnership, on behalf of itself and as attorney-in-fact for all its assignees of record

By: Northwest Farm Corporation,
an Arizona corporation,
its General Partner

By: Robert D. Meier
its Treasurer

NORTHWEST FARM CORPORATION,
an Arizona corporation, on behalf of itself and as attorney-in-fact for all its assignees of record

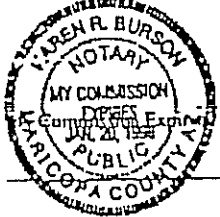
By: Robert D. Meier
its Treasurer

STATE OF ARIZONA)

) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me this 5th day of MAY, 1997, by ROBERT J. MEIER, the TREASURER of Northwest Farm Corporation, an Arizona corporation, General Partner of Northwest Farm Limited Partnership, an Arizona limited partnership, on behalf of itself and as attorney-in-fact for all its assignees of record.



Karen R. Burson
Notary Public

STATE OF ARIZONA)

) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me this 5th day of MAY, 1997, by ROBERT J. MEIER, the TREASURER of Northwest Farm Corporation, an Arizona corporation, on behalf of itself and as attorney-in-fact for all its assignees of record.



Karen R. Burson
Notary Public