

AMENDMENT TO AND RESTATEMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOREST HIGHLANDS

This Amendment to and Restatement of Declaration of Covenants, Conditions and Restrictions for Forest Highlands (this "Declaration") is made as of this 26th day of April, 2000, by The Forest Highlands Association, an Arizona nonprofit corporation (the "Association").

R E C I T A L S

A. A Declaration of Covenants, Conditions and Restrictions for Forest Highlands was recorded on December 15, 1986, in Docket 1131, pages 65 through 128, inclusive, records of Coconino County, Arizona, to establish a general plan of development for the planned community known as Forest Highlands. The Declaration of Covenants, Conditions and Restrictions for Forest Highlands was subsequently amended by the instruments recorded in Docket 1261, pages 757 through 760, Docket 1660, pages 784 through 788, Docket 1695, pages 790 through 793, Docket 1870, pages 141 through 148, Docket 2053, pages 867 through 871, and Docket 2101, pages 714 through 717, records of Coconino County, Arizona. The Declaration of Covenants, Conditions and Restrictions for Forest Highlands, as previously amended, shall be referred to in this Declaration as the "Initial Declaration".

B. Section 19.1 of the Declaration provides that amendments to the Declaration may be adopted at a meeting of the Members upon the approval thereof of two-thirds (2/3) of all of the Members other than the Developer or without any meeting if all the Members have been duly notified and if two-thirds (2/3) of all the Members other than the Developer consent in writing to the amendment. Section 19.1 further provides that any proposed amendment must be approved by a majority of the Board of Directors of the Association prior to its adoption by the Members.

C. The amendments to the Initial Declaration contained within this Declaration were approved by a majority of the Board of Directors of the Association and by consent in writing of two-thirds (2/3) of all the Members after all Members were notified of the proposed amendments to the Initial Declaration.

D. This Declaration is intended to restate the Initial Declaration as amended by the amendments to the Initial Declaration which are incorporated in this Declaration and which were approved by a majority of the Board of Directors of the Association and by consent in writing of two-thirds (2/3) of all the Members.

NOW, THEREFORE, the Initial Declaration is amended and restated as follows:

1. DEFINITIONS.

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

1.1 "Annexation Property" means Lots 1 through 4, the East half (E ½) and the East half of the West half (E ½ W ½) except the South 2500 feet of the East 2500 feet of Section 18, Township 20 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

1.2 "Articles" means the Articles of Incorporation of the Association, as such may be amended from time to time, or of any successor thereto.

1.3 "Assessments" shall include the following:

1.3.1 "Regular Assessment" means the amount which is to be paid by each Member of the Association as such Member's Proportionate Share of the Common Expenses of the Association, as provided in Section 6.3.

1.3.2 "Special Assessment" means a charge against a particular Member, an Owner or a Lot, directly attributable to such Member, Owner or Lot, to reimburse the Association for costs incurred in bringing the Member, the Owner or the Lot into compliance with the provisions of this Declaration or the Articles, Bylaws, Association Rules or Development Standards, or any other charge designated as a Special Assessment in this Declaration or the Articles, Bylaws, Association Rules or Development Standards, together with attorneys' fees and other charges payable pursuant to the provisions of this Declaration, as provided in Section 6.4.

1.3.3 "Reconstruction Assessment" means the amount which is to be paid by each Member representing such Member's Proportionate Share of the cost to the Association for reconstruction of any portion of the Common Areas, as provided in Section 8, entitled "Damage and Destruction of Common Areas".

1.3.4 "Capital Improvement Assessment" means any assessment levied by the Association from time to time pursuant to the provisions of Section 6.5.

1.4 "Association" means The Forest Highlands Association, an Arizona non-profit corporation, its successors and assigns.

1.5 "Association Rules" means the rules and regulations adopted by the Association pursuant to Section 4.8.

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

1.7 "Bylaws" means the bylaws of the Association adopted in accordance with the Articles, as such Bylaws may be amended from time to time.

1.8 "Clubhouse" means the clubhouses and other related improvements situated on the Common Areas.

1.9 "Common Areas" means all real property and the improvements or amenities thereon which may from time to time be owned or leased by the Association and available for the common use and enjoyment of the Members or Owners. The Common Areas include, but are not limited to, the Golf Club Facilities and the Private Roads. Any real property, and improvements or amenities thereon, which are described as "common areas" in a Supplemental Declaration shall be deemed to be "Common Areas" as that term is defined herein for the common use and enjoyment of the Members or Owners, as may be provided in the Supplemental Declaration, and shall, for all purposes, be integrated into and deemed to be a part of the Common Areas subject to this Declaration; provided, however, that any "common elements," within the meaning set forth in Section 33-1202(7), Arizona Revised Statutes, in a Condominium Project which are appurtenant to a Condominium Unit shall not be deemed to be a part of the Common Areas.

1.10 "Common Expenses" means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Project, including, but not strictly limited to, the following:

(a) maintenance, management, operation, repair and replacement of the Common Areas, including the Private Roads, and all other areas on the Project which are maintained by the Association;

(b) unpaid Assessments;

(c) maintenance by the Association of areas within the right-of-way of public streets in the vicinity of the Project as provided in this Declaration or pursuant to agreements with the County or other governmental agencies, and maintenance by the Association of the roadway and landscaping of the right-of-way constituting the principal entrance to the Project;

(d) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(e) the costs of utilities, including but not limited to water, electricity, gas, sewer, trash pick-up and disposal, and fire protection services, which are provided to the Association or the Project and not individually metered or assessed by Lot, landscaping maintenance, and other services which generally benefit and enhance the value and desirability of the Project and which are provided by, or on behalf of, the Association;

(f) the costs of fire, casualty, liability, workmen's compensation and other insurance covering the Common Areas or the Association;

(g) the costs of any other insurance obtained by the Association;

(h) reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Association, which reserve fund shall be adequate to meet the costs and expenses of maintenance, repair and replacement of those Common Areas which must be maintained, repaired, or replaced on a periodic basis;

(i) the costs of bonding the members of the Board, the officers of the Association, any professional managing agent or any other person handling the funds of the Association;

(j) taxes paid by the Association;

(k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof;

(l) costs incurred by the Design Review Committee;

(m) costs incurred by committees established by the Board or the President;

(n) costs of security guards, if any, and operation of guard gates and/or key gates at entrances to the Project, and any other security systems or services installed, operated or contracted for by the Association;

(o) any and all other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas (excepting reconstruction costs and capital improvements as otherwise provided herein), or the costs of any other item or items designated by, or to be provided or performed by, the Association pursuant to, this Declaration, the Articles, Bylaws, Association Rules or Development Standards, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association;

(p) The purchase price and all other costs and expenses incurred by the Association in connection with the purchase, development (including, without limitation, the construction, repair or replacement of improvements), sale or lease of the Annexation Property in accordance with the provisions of this Declaration;

(q) The principal, interest and other fees payable under any loan obtained by the Association to pay all or any part of the purchase price and other costs and expenses of the Association in connection with the purchase or development (including, without limitation, the construction, repair or replacement of improvements) of the Annexation Property; and

(r) Costs, fees and other charges payable in connection with the installation and construction of pipes, lines, meters and other equipment and facilities for the delivery of natural gas to the Lots and Common Areas and interest and principal payable by the Association under any promissory note executed in connection with the installation or construction of pipes, lines, meters and other equipment and facilities for the delivery of natural gas to the Lots and Common Area.

1.11 "Community" means a semi-autonomous and distinctive residential development within the Project, including, for example, a Condominium Project, townhouses or cluster homes, as provided in Section 15, entitled "Community Associations".

1.12 "Compound" means a consolidation of Lots by re-platting, or a re-platting of two or more contiguous Lots to permit a clustering or other relocation of dwellings. A Compound may have commonly owned amenities as permitted in Section 12.14 and in accordance with the Development Standards.

1.13 "Condominium Project" means a "condominium" established within the Project pursuant to Sections 33-1201, et seq., Arizona Revised Statutes, or similar statutes of the State of Arizona.

1.14 "Condominium Unit" means any condominium "unit", as defined in Section 33-1202(22), Arizona Revised Statutes, together with its appurtenant interest in the common elements, located within a Condominium Project.

1.15 "County" means the County of Coconino, Arizona, a political subdivision of the State of Arizona.

1.16 "Declaration" means this instrument, as from time to time amended.

1.17 "Default Rate of Interest" means an annual rate of interest equal to the rate announced by Bank One, Phoenix, Arizona, as its "prime rate" from time to time while interest is accruing (with interest hereunder adjusted as and when said prime rate is adjusted), plus 4% per annum, but never less than 18% (so that if during any periods while interest is accruing said prime rate plus 4% per annum is less than 18%, interest shall accrue during said periods at 18% per annum). Notwithstanding anything herein to the contrary, if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said periods shall be the highest lawful rate. If Bank One should cease doing business or no longer announce its prime rate as described above, the Association may compute interest hereunder upon the announced prime rate of any other bank doing business in Arizona. If banks should cease announcing prime rates, the Association may elect to use 18% as the Default Rate of Interest or may, for purposes of the computation hereunder, specify the rate, in lieu of said prime rate, which the Association would reasonably have to pay to borrow money at the time.

1.18 "Design Review Committee" means the committee provided for in Section 11, entitled "Architectural and Landscape Control."

1.19 "Developer" means Forest Highlands Group, a Colorado general partnership formed for a specific purpose, its successors and assigns, or any person to whom the Developer's rights hereunder are hereinafter assigned by recorded instrument, or any Mortgagee of the Developer which acquires title to or succeeds to the interest of the Developer in substantially all of the Lots or other portions of the Property then owned by the Developer by reason of the foreclosure (or conveyance in lieu of foreclosure) or trustee's sale under the Mortgage of said Mortgagee; provided, however, that said Mortgagee shall agree by recorded instrument to assume and discharge the obligations of the Developer under this Declaration.

1.20 "Development Standards" means the rules, regulations, restrictions, architectural standards, design guidelines and development standards from time to time adopted by the Design Review Committee pursuant to Section 11.2.

1.21 "Founders Member" means an individual designated as such by the Developer in accordance with Section 3, entitled "Membership".

1.22 "Golf Club Facilities" means the Golf Course, together with the Clubhouse.

1.23 "Golf Course" means the golf courses and related facilities situated on the Common Areas.

1.24 "Lot" means a subdivided lot, a Condominium Unit or a residential dwelling unit within a Community as shown on the Plat or a separately recorded plat relating to a specific Community. A "Lot" shall not include any Common Areas. A "Lot" includes the residential dwelling unit, garages, structures and other improvements constructed thereon and, in the case of a Condominium Unit, includes the common elements of the Condominium Project appurtenant to the Condominium Unit.

1.25 "Majority of Members" means the Members holding more than 50% of the total votes entitled to be cast with respect to a given matter, whether or not present at a particular meeting; and, any specified fraction or percentage of the Members means the Members holding that fraction or percentage of the total votes entitled to be cast with respect to a given matter. A specified fraction or percentage "of all of the Members" means that fraction or percentage of the total votes of all Members. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of Members.

1.26 "Member" means every Person who holds a Regular Membership or Special Membership in the Association pursuant to Section 3, entitled "Membership", and shall, for the limited purposes set forth in Section 3.5, include every Person who holds a Founder's Membership. An Owner is not necessarily or automatically a Member, as provided in Section 3.2.

1.27 "Mortgage" means any recorded, filed or otherwise perfected instrument given as security for the performance of an obligation, including without limitation a mortgage, a deed of trust or a recorded agreement of sale or contract for the sale of real property under the terms of which the purchaser is entitled to possession of a Lot, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code. "Mortgagee" means the mortgagee under a Mortgage, including the trustee and beneficiary under any deed of trust, or the vendor under a recorded agreement of sale or contract for the sale of real property. "Mortgagor" means the mortgagor executing a mortgage, the trustor under a deed of trust, the maker of any similar instrument constituting a Mortgage, or the purchaser entitled to possession under a recorded agreement of sale or contract for the sale of real property. "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property. "First Mortgagee" means the holder of a First Mortgage.

1.28 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether as a guest, tenant or otherwise.

1.29 "Owner" means the record owner, whether one or more Persons, of fee simple title (or the leasehold interest of a Condominium Unit in the case of a leasehold Condominium Project), whether or not subject to any Mortgage, to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation. A contract purchaser under a recorded agreement of sale or contract for the sale of real property wherein legal title to the property remains in the vendor shall be deemed to be an Owner and the vendor thereunder shall be deemed to be a Mortgagee. If title (or the leasehold interest of a Condominium Unit in the case of a leasehold Condominium Project) to a Lot is vested of record in a trustee under a deed of trust pursuant to Arizona Revised Statutes, Section 33-801 et seq., then, for purposes hereof, such title shall be deemed to be in the trustor, who shall be deemed to be an Owner.

1.30 "Parcel" means that parcel of real property referred to in the recitals hereof and described in Exhibit "A" hereto.

1.31 "Person" means any individual, corporation, partnership, joint venture, organization, association, trustee, governmental or political unit or agency, or other entity.

1.32 "Plat" means the plat(s) of subdivision of the Parcel as first recorded in the official records of the County, and as thereafter from time to time amended or supplemented, together with all subsequent plats of subdivision for real property annexed to the Property.

1.33 "President" means the duly elected or appointed president of the Association.

1.34 "Private Road" means any street, roadway, drive, sidewalk, walkway, path or other right-of-way within the Project which has not expressly been dedicated to the public use, but excluding any such item which is a part of, or appurtenant to, the Golf Club Facilities, such as cart paths.

1.35 "Project" means the master planned development of the Property, as described in the recitals hereof, to be called "Forest Highlands".

1.36 "Property" means: (i) the Parcel; (ii) the Annexation Property and the other real property previously annexed and subjected to the Initial Declaration; and (iii) any additional real property made subject to this Declaration by annexation pursuant to Section 14, entitled "Annexation of Additional Property", 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.

1.37 "Proportionate Share" means that fraction wherein the numerator is one and the denominator is the sum of the total number of Regular Memberships as established in Section 3.2.4 and Special Memberships then outstanding.

1.38 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with, the office of the County Recorder for Coconino County, Arizona.

1.39 "Regular Member" means an individual designated as such in accordance with Section 3, entitled "Membership".

1.40 "Special Member" means an individual designated as such in accordance with Section 3, entitled "Membership".

1.41 "Social Member" means an individual designated as such in accordance with Section 3.4. A Social Member is not a Member of the Association.

1.42 "Supplemental Declaration" means a declaration of covenants, conditions and restrictions, or similar instrument, annexing additional real property to the Property and subjecting such real property to this Declaration as provided in Section 14, entitled "Annexation of Additional Property".

1.43 "Transition Date" means December 31, 1995.

2. RIGHTS OF ENJOYMENT.

2.1 Members' Right of Enjoyment. Every Member shall have a non-exclusive easement for use and enjoyment of the Common Areas, including the Golf Club Facilities, which right shall be appurtenant to and shall pass with such Member's membership as herein provided, and to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

2.1.1 The right of the Association to limit the number of guests of Members and to limit the use of the Common Areas by Persons, who are not Members, including but not limited to

Owners and Occupants, but who may be in possession of a Lot or own a portion of, or less than the entire ownership interest of, a Lot.

2.1.2 The right of the Association to establish reasonable rules and regulations pertaining to or restricting the use of the Common Areas by Members or other Persons.

2.1.3 The right of the Association to borrow money for the purpose of acquiring, holding, developing (including, without limitation, the construction, repair or replacement of improvements) and disposing of the Annexation Property and of improving, replacing, restoring, or expanding the Common Areas or adding new Common Areas as permitted in this Declaration and, in the aid thereof, to mortgage the Common Areas and/or the Annexation Property, provided that the rights of the lender thereof shall be subordinate to the rights of the Members as set forth in this Declaration.

2.1.4 The right of the Association to suspend the right of a Member or any Person (including without limitation an Owner or an Occupant, or a member of the family of a Member, Owner or Occupant) to use the Common Areas or any designated portion thereof during any time in which any Assessment respecting such Member or Person remains unpaid and delinquent, or for a period not to exceed 60 days for any single infraction of the Association Rules or breach of this Declaration, and up to one year for any subsequent violation of the same or similar provision of the Association Rules or this Declaration, provided that any suspension of such right to use the Common Areas, except for failure to pay Assessments, shall be made only by the Board or a duly appointed committee thereof, after notice and hearing given and held in accordance with the Bylaws.

2.1.5 The right of the Association to permit the use of the Golf Club Facilities for tournament play or other similar special events, and to permit use of the Clubhouse for social and dining purposes by non-Members as determined by the Board.

2.2 Delegation of Use. No Member may delegate his right of use and enjoyment of the Common Areas to any Person, except to the members of his immediate family as provided in Section 3 or to his guests as permitted by the Association Rules.

2.3 Waiver of Use. No Member or Owner may exempt himself, and no Member or Owner shall be exempt, from personal liability for Assessments or release any Lot owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, by voluntary waiver of, or suspension or restriction of such Member's or Owner's right to, the use and enjoyment of the Common Areas, or the abandonment of such Member's or Owner's Lot or membership (except the relinquishment of a Special Membership as provided in this Declaration or the Bylaws).

2.4 Use of Private Roadways for Access. Notwithstanding anything in this Declaration to the contrary, the Association shall not have the right hereunder to suspend any Member's, Owner's or Occupant's right to use any portion of the Property or Private Roads necessary for such Member, Owner or Occupant to gain access to his Lot.

3. MEMBERSHIP.

3.1 Classification of Memberships. There shall be three classes of membership in the Association: Regular Memberships, Special Memberships and Founder's Memberships. The holders of Social Memberships, as hereinafter provided, shall not be Members of the Association, but may be permitted certain limited privileges of use and enjoyment of the Common Areas in accordance with this Declaration and the Bylaws.

3.2 Regular Memberships.

3.2.1 There shall be one Regular Membership in the Association appurtenant to each Lot. The Owner of the Lot shall designate in writing to the Association an individual who shall be the Regular Member with respect to that Lot and entitled to use of the Regular Membership. The Regular Member designated by the Owner of the Lot must be an individual who, except as provided in Section 12.14, is an Owner or if the Owner is or includes a Person other than an individual, the Regular Member may be an individual who is a partner if the Owner is or includes a partnership, or an officer of the corporation if the Owner is or includes a corporation, or a beneficiary of the trust if the Owner is or includes a trust, or an owner of the entity if the Owner is or includes a Person other than an individual, a partnership, a corporation or a trust. In the absence of such written designation, Assessments shall nevertheless be charged against the Lot and Owner thereof, but there shall be no right to vote the membership or to use the Golf Club Facilities or any tennis or swimming facilities which are part of the Common Areas.

3.2.2 Once a Regular Member has been designated by an Owner of a Lot, a new Regular Member may only be designated for that Lot by the Owner upon the death of the previously designated Regular Member or at any time following the first anniversary (or such longer period, not to exceed three years, as the Board may establish; or such shorter period, in a particular case, as the Board, in its sole discretion, may permit) of the date the Regular Member who is being succeeded was designated.

3.2.3 The Regular Member, as so designated, shall be the only Person entitled to vote on behalf of the Owner of the Lot at Association meetings and elections. With respect to the Owner's Lot, the only persons entitled to use the Golf Club Facilities and any tennis and swimming facilities in the Common Areas other than as guests in accordance with the Association Rules are: (i) the Regular member designated by the Owner; (ii) the Regular Member's spouse and children, natural and adopted, under the age of 25; and (iii) such other persons as may be approved by the Board from time to time pursuant to a request from the Regular Member that such person be granted the right to use the Golf Club Facilities and any tennis and swimming facilities in the Common Areas. No Person, even though an Owner of the Lot, other than the persons authorized to use the Golf Club Facilities and any tennis and swimming facilities in the Common Areas pursuant to the preceding provisions of this Section 3.2.3 shall be entitled to use the Golf Club Facilities and tennis and swimming facilities in the Common Areas other than as guests.

3.3 Special Memberships.

3.3.1 Special Memberships are memberships entitling an individual, the individual's spouse and children, natural and adopted, under 25, and such other persons as may be approved by the Board from time to time pursuant to a request from a Special Member that such person be granted the right to use the Golf Club Facilities and any tennis and swimming facilities in the Common Areas, the privilege of using the Golf Course Facilities and any tennis and swimming facilities in the Common Areas to the same extent, including without limitation, guest privileges, as Regular Members, and to vote at Association elections.

3.3.2 The Board shall have the right to designate Special Members upon such terms as it deems appropriate, but in no event may more Special Members be designated than the maximum number specified in Section 3.3.1. Special Memberships are non-transferable (except upon the death of the original Special Member, in which case the Special Membership may be transferred only to such Special Member's spouse upon written notice to the Association within 180 days after the date of death).

3.3.3 Special Members designated by an Owner authorized to do so by the Developer or the Board pursuant to Section 3.3.2 must be an individual:

(1) who is an Owner (or one of the Owners) of a Lot (or if the Owner is or includes a Person other than an individual, an individual who is a partner if the Owner is or includes a partnership, or an officer of the corporation if the Owner is or includes a corporation, or a beneficiary of the trust if the Owner is or includes a trust, or an owner of the entity if the Owner is or includes a Person other than an individual, a partnership, a corporation or a trust), or

(2) who, at the time he or she is designated as a Special Member, is the (natural or adopted) child, son-in-law, daughter-in-law, grandchild, nephew, niece, sibling, parent or grandparent of the Owner who designates him or her as a Special Member.

A Special Member must be designated by the Owner as a Special Member on, or at any time preceding, the thirtieth day after the Owner is no longer the Owner of the Lot, or the right to designate a Special Member shall automatically lapse.

3.3.4 Special Members shall be responsible for paying all Regular, Reconstruction, Capital Improvement and Special Assessments. Special Members shall also comply with this Declaration, the Association Rules and the Development Standards. A Special Membership may be suspended or terminated by the Board if a Special Member fails to pay any Assessment, fee or other charge payable to the Association by such Special Member or if a Special Member violates any provision of this Declaration, the Association Rules or the Development Standards.

3.3.5 Special Memberships terminate:

(1) upon the date of the death of the Special Member (except upon the death of the original Special Member, in which case the Special Membership may be transferred only to such Special Member's spouse upon written notice to the Association within 180 days after the date of death), or

(2) at the Developer's discretion, upon the sale of a Lot by an Owner given the right to designate a Special Member within such period of time (regardless of whether the Owner has then designated the Special Member) after the closing of the Owner's purchase of the Lot as the Developer may specify at the time of granting such right to the Owner, or

(3) upon the failure of the Owner to designate the Special Member on or before the thirtieth day after he is no longer the Owner of the Lot, even if he was the Owner of the Lot in excess of the period of time specified by the Developer as hereinabove provided in subsection (2).

(4) the termination of the Special Membership by the Board pursuant to Section 3.3.4 above.

Notwithstanding any other provision of this Declaration to the contrary, a Special Member who was a Special Member on November 15, 1996 (a "Qualified Special Member") may transfer his Special Membership at any time to a (natural or adopted) child, son-in-law, daughter-in-law, grandchild, nephew, niece, sibling, parent or grandparent of the Special Member or of his spouse (a "Qualified Descendant"). If the Special Membership of a Qualified Special Member is transferred to such Qualified Special Member's spouse pursuant to Paragraph (1) of this Subsection 3.3.5, then the Special Membership may be transferred at any time to a Qualified Descendant of such spouse or the Qualified Special Member within 180 days after such spouse's death and, in that event, the Special Membership may be transferred to such Qualified Descendant's spouse within 180 days after the death of such Qualified Descendant. Any Special Member who is not a Qualified Special Member may obtain the rights of a Qualified Special Member with respect to the transfer of the Special Membership held by such Special Member by paying the sum of \$7,900 to the Association on or before December 31, 1997. No transfer of a Special Membership shall be effective until written notice of the transfer is given to the Association and the Association receives payment of all Assessments levied against the Special Member making the transfer whether such Assessments, or installments thereof, are then due and payable or otherwise due on one or more future dates.

3.3.6 Upon the termination of any Special Membership, that membership shall revert to the Association which may thereafter sell or otherwise transfer such membership upon such terms and conditions as the Board deems appropriate; provided, however, that the issuance of any Special Membership by the Association must be approved by a Majority of Owners.

3.3.7 Special Memberships shall be subject to such other restrictions and limitations as may be provided in the Bylaws.

3.4 Social Memberships. Social Memberships may be issued by the Association in accordance with procedures set forth in the Bylaws. The holders of Social Memberships may be permitted limited privileges of use and enjoyment of the Clubhouse and such other amenities in the Common Areas as may be permitted in, and upon payment of such fees as may be provided in, the Bylaws, but in no event shall the holder of a Social Membership be entitled to use of the Golf Course, except as a guest of a Regular Member or a Special Member or as permitted by the Board in limited, special circumstances if the Board, in its sole discretion, believes such use is justified by the level of play on the Golf Course. The holder of a Social Membership shall not be a Member of the Association nor be entitled to any vote as a Member of the Association. The holder of a Social Membership shall be liable for Special Assessments as if such holder were a Member of the Association.

3.5 Founders Memberships. In addition to all other Memberships in the Association, there shall be five Founders Memberships which shall entitle the holders thereof to all rights of enjoyment of a Member as set forth in this Declaration, including without limitation Section 2, entitled "Rights of Enjoyment". Notwithstanding anything in this Declaration to the contrary, Founders Members shall not be entitled to vote and shall not be obligated to pay any Assessments, except Special Assessments. Founders Memberships are non-transferable and may be held only by such partners in the Developer as the Developer may designate in writing prior to the Transition Date. A Founders Membership shall expire and be extinguished upon the death of the Founders Member; provided, however, that the Founders Membership may be transferred to the original Founders Member's spouse upon written notice to the Association within 180 days after the date of death.

3.6 Transfer of Memberships. A membership in the Association shall not be transferred, pledged or alienated in any way, except as herein expressly provided. A Regular Membership shall automatically be transferred to the new Regular Member (designated by the new Owner of a Lot as provided in Section 3.2.1) upon the transfer of the Lot to which it appertains (and then only to such transferee), whether by sale, interstate succession, testamentary disposition, foreclosure of a Mortgage or other legal process transferring fee simple title or the leasehold interest in a Condominium Unit (in a leasehold Condominium Project) to such Lot. Upon the transfer of any membership in the Association, the transferee of such membership shall be required to pay to the Association a transfer fee in such reasonable amount as the Board may prescribe from time to time in the Bylaws or the Association Rules, such transfer fee to be not less than \$250. Failure to pay the transfer fee when due shall constitute a breach of this Declaration and all rights of enjoyment and other privileges appurtenant to the membership shall automatically be suspended, subject to reinstatement upon payment of the transfer fee together with any penalties prescribed in the Bylaws or Association Rules.

3.7 Maximum Number of Memberships. There shall at no time be more than the total number of Regular Memberships, Special Memberships and Founders Memberships permitted in

Sections 3.2.4, 3.3.1 and 3.5, respectively; provided, however, that at any time after the Transition Date, the Board may, with the written consent of two-thirds of all of the Members other than the Developer, increase the total number of Special Memberships to a number which does not make the total of all Regular Memberships and Special Memberships greater than 25% more than the maximum number of all memberships theretofore permitted under Sections 3.2.4, 3.3.1 and 3.5.

4. ASSOCIATION.

4.1 Purpose of Association. The Association is a non-profit corporation which was incorporated to serve as the governing body for all of the Owners and Members for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Project, the assessment of expenses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles, Bylaws, Association Rules or Development Standards. 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 and Members in accordance with the provisions of this Declaration, the Articles and the Bylaws.

4.2 Membership in Association. Each Regular Member, Special Member and Founders Member shall be a Member of the Association so long as he shall be a Member as provided in Section 3, and such membership shall automatically terminate when he ceases to be a Member. The holder of a Social Membership shall not be a Member of the Association. Any attempt to make a prohibited transfer of a membership in the Association is void and will not be recognized by or reflected upon the books and records of the Association. In the event any Member fails or refuses to transfer or surrender the membership registered in his name as herein required, the Association shall have the right to record a transfer upon the books of the Association and issue a new membership as appropriate, and thereupon the old membership outstanding in the name of said Member shall be null and void as though the same had been surrendered.

4.3 Pledge of Voting Rights. Notwithstanding the foregoing, in the event that an Owner has granted an irrevocable proxy or otherwise pledged the voting right appurtenant to the Regular Membership with respect to his Lot to a Mortgagee as additional security, only the vote of such Mortgagee will be recognized in regard to such special matters if a copy of such proxy or other instrument pledging such vote has been filed with the Association. In the event that more than one such instrument has been filed, the Association shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves.

4.4 Board of Directors. The affairs of the Association shall be conducted by the Board as herein provided and in accordance with the Articles and Bylaws. Each director shall be a Member or the spouse of a Member. If a director ceases to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant. The Members of the Association shall have the power and right to appoint and remove the members of the Board as provided in the Articles and Bylaws.

4.5 Board's Determination Binding. In the event of any dispute or disagreement between any Owners, Members, or any other Persons subject to this Declaration, relating to the Project, or any question of interpretation or application of the provisions of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, the determination thereof by the Board shall be final and binding on each and all of such Owners, Members or Persons. The Board may, at its election, delegate the resolution of such dispute or disagreement to a committee appointed by the Board or the President.

4.6 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration, the Articles or Bylaws (for example, where a Majority of Members or a specified fraction or percentage of all of the Members is required), any provision of this Declaration, the Articles or Bylaws which requires the vote or written assent of the Members of the Association or any class or classes of membership shall be deemed satisfied by the following:

(a) The vote in person or by proxy of the specified percentage of Members at a meeting duly called and noticed pursuant to the provisions of the Articles or Bylaws dealing with annual or special meetings of the Members.

(b) Written consents signed by the specified percentage of Members as provided in the Bylaws.

(c) If no percentage of Members is otherwise specified, then the vote or written assent of a Majority of Members shall be required.

4.7 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 and members not inconsistent with law or this Declaration.

4.8 Association Rules. The Board shall be empowered to adopt, amend or repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the use and/or occupancy of the Lots, the Common Areas or any other part of the Project. The Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments. The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Areas; provided, however, that the Association Rules may not discriminate among Owners and Members except as expressly provided or permitted herein, and shall not be inconsistent with this Declaration, the Articles, Bylaws or Development Standards. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be posted in the Clubhouse in a location accessible to Owners and Members at reasonable times and, upon such posting, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration and shall be binding on the Owners and Members, and all other Persons having an interest in, or making any use of, the Property, whether or not such Person receives actual notice thereof. The Association Rules, as

adopted, amended or repealed, shall be available at the principal office of the Association to each Owner, Member or other Person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Association Rules and any provisions of this Declaration, or the Articles, Bylaws or Development Standards, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, Bylaws or Development Standards to the extent of any such conflict.

4.9 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association, and the members of the Design Review Committee shall be indemnified by the Association, and every other Person serving as an employee or direct agent of the Association, or on behalf of the Association, as a committee member or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association, or any settlement thereof, whether or not he is a director, officer or member of the Design Review Committee or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that such officer, director, member of the Design Review Committee or other Person, did not act, fail to act, or refuse to act willfully or with gross negligence or fraudulent or criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Persons may be entitled at law or otherwise.

4.10 Non-Liability of Officials. To the fullest extent permitted by law, neither the Board, the Design Review Committee or any other committees of the Association nor any member thereof, nor any directors or officers of the Association, shall be liable to any Member, Owner, Occupant, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which the Board, or such committees or Persons reasonably believed to be within the scope of their respective duties.

4.11 Easements. In addition to the blanket easements granted in Section 5.1, the Association is authorized and empowered to grant upon, across or under real property owned or controlled by the Association such permits, licenses, easements and rights-of-way for (1) sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, (2) roadways, or (3) other purposes as may be reasonably 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 and Members; provided, however, that any damage to a Lot resulting from such grant shall be repaired by the Association at its expense.

4.12 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with accepted accounting principles.

4.13 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Owner and Member the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws, Association Rules and Development Standards.

4.14 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; provided, however, that no such delegation shall relieve the Association of its obligation to perform any such delegated duty. Any agreement for professional management, or any other contract providing for services of any party, shall not exceed a term of three years, which term may be renewed by agreement of the parties for successive one-year periods, and shall further provide for termination by either party with or without cause and without payment of a termination fee upon 90 days' written notice.

4.15 Acquisition, Development and Disposition of Annexation Property.

4.15.1 The Association shall have the right, power and authority to purchase all or any part of the Annexation Property provided the purchase is approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at an annual or special meeting of the Members. The Association may levy a Capital Improvement Assessment in accordance with Section 6.5 of this Declaration to obtain the required funds to pay the purchase price and all other costs and expenses associated with the purchase of the Annexation Property. The Association shall also have the right, power and authority to borrow money to pay all or a part of the purchase price and other costs and expenses associated with the purchase of the Annexation Property and, in connection therewith, to mortgage or otherwise encumber the Annexation Property and the Common Area provided such borrowing is approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at an annual or special meeting of the Members.

4.15.2 If the Association purchases all or any part of the Annexation Property, the Association shall have the right, power and authority to (i) sell, convey or lease all or any part of the Annexation Property purchased by the Association provided the sale, conveyance or lease is approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at a meeting of the Members of the Association, (ii) develop all or any part of the Annexation Property and construct, repair or replace improvements thereon; or (iii) become a partner or participant in a joint venture, limited partnership, general partnership, limited liability company or other entity with one or more third parties and, in connection therewith, to contribute or sell all or any part of the Annexation Property to such joint venture, limited partnership, general partnership, limited liability company or other entity, to provide for the development (including without limitation, the construction, repair or replacement of improvements), sale or lease of the Annexation Property provided that the Association's participation in such joint venture, limited partnership, general partnership, limited liability company, or other entity is approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at a meeting of the Members of the Association. The Association shall have the right, power and authority to borrow money to pay all

or any part of the costs and expenses associated with the development (including, without limitation, the construction, repair or replacement of improvements) of all or any part of the Annexation Property and, in connection therewith, to mortgage or otherwise encumber the Annexation property and the Common Area provided such borrowing is approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at an annual or special meeting of the Members.

4.15.3 If the Association purchases all or any part of the Annexation Property, the Association, subject to such limitations and restrictions as are set forth elsewhere in this Declaration, shall have the right, power and authority to take all actions which the Board of Directors may deem necessary or appropriate in connection with the development (including, without limitation, the construction, repair or replacement of improvements), sale or lease of the Annexation Property purchased by the Association.

4.16 Installation of Natural Gas Lines. The Association shall have the power and authority to enter into one or more agreements with Citizens Utilities Company and its successors and assigns ("Citizens") for the installation and construction by Citizens of pipes, lines, meters and other equipment and facilities in order to provide natural gas service to Lots and the Common Area. Pursuant to such agreements or in connection therewith, the Association may execute one or more promissory notes (the "Citizens Note") for all or any part of the costs and fees charged by Citizens for the installation and construction of the pipes, lines, meters and other equipment and facilities in order to provide natural gas service to the Lots and the Common Area. The agreements with Citizens (including, without limitation, the Citizens Note) shall contain such terms and conditions as the Board may deem necessary or appropriate, and the Association shall have the power and authority to take all actions which the Board of Directors may determine to be necessary or appropriate with respect to such agreements or the implementation thereof. Any Lot Owner who executes a Customer Service Line Agreement with Citizens after March 16, 1998, for Citizens to provide natural gas service to the Owner's Lot shall pay the Association a Natural Gas Fee. The Natural Gas Fee will be \$1,850.00 until July 1, 2000 at which time the Natural Gas Fee will be increased to \$2,500.00. Commencing with January 1, 2001, and on January 1 of each year thereafter, the amount of the Natural Gas Fee may be increased annually by the Board in an amount not to exceed the greater of 5% of the then current Natural Gas Fee or the amount obtained by multiplying the then current Natural Gas Fee by the percentage Increase in the Consumer Price Index for all Urban Consumers (CPIU-US City Average 1982 - 1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics (the "Consumer Price Index") from September, 1999 to September of the year immediately preceding the year for which the Natural Gas Fee is to be increased. The Natural Gas Fee may only be increased above the amount permitted by this Subsection if the increase is approved by Members representing more than fifty percent (50%) of the votes cast. The fees payable pursuant to this Section shall be payable within fifteen (15) days after the Lot Owner executes a Customer Service Line Agreement with Citizens. All fees payable pursuant to this Section shall be held in a segregated interest-bearing account and used solely for the purpose of paying the principal and interest due under the Citizens Note. After the Citizens Note has been paid in full, any remaining fees paid to the Association pursuant to this Section may be released from the segregated, interest-bearing account in which such funds were held and may be used to pay operating expenses of the Association or for any other purpose approved by the Board. If the fees

paid to the Association pursuant to this Section are insufficient to pay the principal and interest under the Citizens Note as it becomes due, then the Board shall pay the remaining principal and interest under the Citizens Note from the Capital Contribution Fees paid to the Association pursuant to Section 6.17 of this Declaration or from accumulated cash reserves or other funds of the Association.

5. EASEMENT.

5.1 Blanket Easements. There is hereby created a blanket easement upon, across, over and under the Property for ingress and egress (over existing roadways), 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 this easement, it shall be expressly permissible for the providing utility company to erect (including without limitation underground installation) and maintain the necessary facilities, wires, circuits, conduits, cables and related appurtenances, facilities and equipment on the Property. Notwithstanding anything to the contrary contained in this Section, no easements shall be created nor shall any sewers, electrical lines, water lines or other facilities for utilities be installed or relocated except as initially created and approved by the Developer or thereafter created or approved by the Association. This provision shall in no way affect any other recorded easements on the Property.

5.2 Use of Common Areas. Except for the use limitations provided in Section 5.3, which by becoming an Owner or Member, each Owner and Member accepts, and shall be deemed to have accepted, each Owner and Member shall have the non-exclusive right to use the Common Areas in common with all other Owners and Members as required for the purposes of access and ingress and egress to (and use, occupancy and enjoyment of) any Lot owned by such Owner or Member or to the Golf Club Facilities or other Common Areas available for the use of said Owner or Member or Occupant. Such right to use the Common Areas for purposes of access and ingress and egress shall, subject to the Association Rules, extend to each Owner, Member, Occupant and the agents, servants, tenants, family members and invitees of each Owner or Member. Such right to use the Common Areas shall be perpetual and appurtenant to each respective Lot, subject to and governed by the provisions of this Declaration, the Articles, Bylaws and Association Rules and such reasonable limitations and restrictions as may from time to time be contained herein or therein.

5.3 Exclusive Use Rights. Certain areas of the Common Areas may be reserved by the Board for the exclusive control, possession and use of the Owner of a 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 such portion of said area as reasonably serves both Lots. The exclusive use rights created herein are subject to the blanket utility easement, maintenance, and architectural and landscape control provisions contained in this Declaration and to such reasonable rules and regulations with respect to possession, control, use and maintenance as the Association may from time to time promulgate. Easements are hereby created in favor of and running with each Lot having such an area for the exclusive control and use of each such area. Each Owner, by accepting title to a Lot, and each

Member shall be deemed to have further ratified the easements and rights to exclusive use created by this Section 5.3.

5.4 Perimeter Fence Easement. There is hereby created an affirmative easement in favor of the Association, its employees and agents, upon, over and across each Lot, Private Road or tract shown on the Plat adjacent to the perimeter boundaries of the Project for reasonable access, installation, replacement, maintenance and repair of the perimeter fence located along such boundaries. The easement shall be of sufficient reasonable width to accommodate the initial installation of the perimeter fence.

5.5 Pedestrian Access Easement. The Association hereby reserves the right to create pedestrian access easements across Lots adjacent to the Golf Course where necessary, in the Association's judgment, to facilitate pedestrian access from the Private Roads to the Golf Course and cart paths located thereon. Pedestrian access easements shall be shown on the Plat or created by subsequent instruments duly recorded, a copy of which shall be kept with the Association records and provided to the Owner of any affected Lot. A pedestrian access easement may be improved with a gravel, asphaltic or other surfaced pathway. Maintenance of the easement and pathway shall be the responsibility of the Association.

5.6 Golf Course Easement. There are hereby created non-exclusive easements appurtenant to the property described on Exhibit "B" hereto for the owner thereof, and its employees, agents and contractors, and for individuals permitted to use the Golf Course, to go upon or over any areas designated as Golf Course Use Easements on the Plat, or in a subsequent instrument duly recorded by the Association, during and in the course of play on, or other permitted use of, the Golf Course, and for the purpose of construction, maintenance and repair of the Golf Course and related improvements; provided, however, that no permanent improvements in or alterations of the Lots within said easements shall be made or allowed other than: (a) the establishment and maintenance of "out-of-bounds" markers or signs consistent with those utilized elsewhere in connection with the Golf Course; (b) golf course improvements such as fairways, bunkers, traps and the like; and, (c) underground water, drainage or utility lines for use in connection with the Golf Course. During tournament play, special events or other times designated by the Board, temporary cables, including television and radio transmission cables and electrical service lines, and other temporary facilities or structures may be permitted by the Board in areas designated as Golf Course Use Easements to facilitate the conduct of such events or to accommodate galleries; provided, however, that any damage to a Lot resulting from such use shall be repaired by the Association at its expense. All areas of the Golf Course Use Easements within any out-of-bounds stakes or consisting of other than natural forest shall be maintained by the Association, with the balance maintained by the Owner. Nothing shall be placed, maintained or constructed in the Golf Course Use Easements established by this Section 5.6 by the Owner or which shall interfere with the permitted and intended use thereof.

5.7 Overspray Easement. It is contemplated that the Golf Course will be irrigated, in part, by treated effluent from the wastewater reclamation plant servicing the Project. There is hereby created an easement across each Lot adjacent to the Golf Course for purposes of irrigation overspray

or runoff, in acknowledgment of the fact that, owing to weather conditions, some overspray or runoff of irrigation water is unavoidable. The treated effluent used for irrigation purposes shall comply with all applicable regulations of the Arizona Department of Health Services, the Coconino County Health Department and any other governmental agency having jurisdiction thereof.

5.8 Special Utility Easement. The Association is hereby authorized, if deemed to be in the best interests of the Association or the Project, to grant to Kachina Village Improvement District an easement upon, across, over and under the Common Areas for the purpose of installing, constructing, replacing, repairing, maintaining and operating a sewer line from the existing Kachina Village Improvement District sewer plant. Such easement shall be in a location, and upon such terms and conditions, as may be specified by the Association in a subsequent instrument duly recorded.

6. ASSESSMENTS.

6.1 Creation of Lien and Personal Obligation. Each Owner and Member hereby covenants and agrees to pay to the Association Regular Assessments, Special Assessments, Capital Improvement Assessments, and Reconstruction Assessments, if applicable, such Assessments to be established and collected from time to time as provided in this Declaration. The Assessments, Capital Contribution Fees payable to the Association pursuant to Section 6.17, the fees payable to the Association pursuant to Section 4.16 and all other fees and charges which may become payable to the Association pursuant to this Declaration together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon such Owner or Member's Lot (or combined Lots as provided in Section 12.14) against which the Assessments, Capital Contribution Fees or other fees or charges are made. Each Assessment, together with such interest and other costs, shall also be the personal obligation of the Member and/or Owner to whom such Assessment relates. The personal obligation of an Owner or Member for delinquent Assessments shall become the obligation of the Owner's or Member's successor, even if not expressly assumed by him, unless such successor has obtained from the Association a certificate of payment pursuant to Section 6.14 stating that there are no unpaid Assessments due. The lien against a Lot as provided in this Section 6 shall be continuing and shall not be extinguished by the sale, conveyance or other transfer of the Lot. The obligation of a Regular Member and the Owner of the Lot to which such membership appertains for the payment of Assessments, and related charges as herein provided, shall be joint and several. An Owner shall be jointly and severally liable with any Occupant of his Lot for any unpaid Assessments, and other charges, occasioned by the actions of, or failure of action by, the Occupant.

6.2 Purpose of Assessments. The Assessments levied by the Association shall be used to: (i) promote the recreation, health, safety and welfare of the Owners and Members; (ii) enhance the quality of life within the Project; (iii) preserve the value of the Property; (iv) pay the costs of administration of the Association and all other Common Expenses; (v) acquire, hold, develop (including, without limitation, the construction, repair or replacement of improvements) and dispose of the Annexation Property; and (vi) otherwise further the interests of the Association. Where a Lot has a separate gas, electrical, sewer or other similar utility service separately metered or billed by the

providing utility, the cost of the same shall be the personal obligation of each Owner. Maintenance of sewer lines serving a single Lot shall be the responsibility of its Owner.

6.3 Regular Assessments.

6.3.1 Except as otherwise specifically provided in this Declaration (including without limitation in Sections 3.5 and 6.3.4), each Member shall pay as his Regular Assessment such Member's Proportionate Share of the Common Expenses. Except as otherwise specifically provided herein, payment of Regular Assessments shall be in such amounts and at such times as may be provided in the Articles and Bylaws or as determined by the Association.

6.3.2 Not later than 30 days prior to the beginning of each fiscal year of the Association, the Association shall make available for review by each Owner and Member at the Association's office during reasonable times a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Association shall at that time determine the amount of the Regular Assessment to be paid by each Member and notify the Member thereof. Each Member shall thereafter pay to the Association his Regular Assessment in monthly installments. Each such installment shall be due and payable on the date set forth in the written notice sent to the Members.

6.3.3 If the Association determines that the total Regular Assessments for the current year are, or will become, inadequate to meet all Common Expenses for whatever reason, including Common Expenses in excess of the estimated Common Expenses used in preparation of the Association's budget for that year, the Board shall then promptly determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessments to be paid by each Member for the balance of the year, and the date or dates when due. If the estimated total Regular Assessments for the current year proves to be excessive in light of the actual Common Expenses, the Association may, at the discretion of the Board, retain such excess as additional working capital or reserves, reduce the amount of the Regular Assessments for the succeeding year, or abate collection of Regular Assessments for such period as it deems appropriate. No reduction or abatement of Regular Assessments because of any such anticipated surplus shall be grounds for the Association to diminish the quantity or quality of services upon which the Common Expenses for the year in question are based.

6.4 Special Assessments. Special Assessments shall be levied by the Association against a Member and/or an Owner and his Lot to reimburse the Association for:

6.4.1 Costs incurred in bringing a Member or an Owner and his Lot, or an Occupant of the Lot, into compliance with the provisions of this Declaration, or the Articles, Bylaws, Association Rules or Development Standards;

6.4.2 Any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules;

6.4.3 Fines levied or fixed by the Board under Section 11.8 or as otherwise provided herein; and

6.4.4 Attorneys' fees, interest and other costs or charges provided to be paid as, or which are incurred in connection with, a Special Assessment in accordance with this Declaration, the Articles, Bylaws, Association Rules or Development Standards.

In the event the Association undertakes to provide materials or services which benefit individual Members, Owners, Occupants or Lots and which can be accepted or not by individual Members, Owners or Occupants, such Members, Owners or Occupants, in accepting such materials or services agree that the costs thereof shall be a Special Assessment.

6.5 Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy a Capital Improvement Assessment for the purpose of paying, in whole or in part, (i) the purchase price and other costs and expenses of the Association in connection with the purchase or development (including, without limitation, the construction, repair or replacement of improvements) of the Annexation Property; (ii) the principal, interest and other fees payable under any loan obtained by the Association to pay all or a part of the purchase price and other costs and expenses of the Association in connection with the purchase or development (including, without limitation, the construction, repair or replacement of improvements) of the Annexation Property; or (iii) costs and expenses of any action or undertaking on behalf of the Association in connection with any construction, repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, to the extent the same is not covered by the provisions affecting reconstruction assessments in Section 8 entitled "Damage and Destruction of Common Areas". The Association may not impose a Capital Improvement Assessment for the purpose of paying in whole or in part the purchase price and other costs of the Association in connection with the purchase or development (including, without limitation, the construction, repair or replacement of improvements) of the Annexation Property or for the purpose of paying the principal, interest and other charges payable under any loan obtained by the Association to pay all or a part of the purchase price and other costs and expenses of the Association in connection with the purchase or development (including, without limitation, the construction, repair or replacement of improvements) of the Annexation Property unless such Capital Improvement Assessment is first approved by the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at a duly called meeting of the Members of the Association. Without a vote of a Majority of Members, the Association shall not impose a Capital Improvement Assessment to pay the cost of any construction, repair or replacement of a described capital improvement upon the Common Areas, including necessary fixtures and personal property related thereto, which in any one year exceeds five percent (5%) of the estimated annual Common Expenses as set forth in the proforma operating statement or budget prepared by the Association pursuant to Section 6.3.2; provided, however, that any reserves collected by the Association for the future maintenance or repair of Common Areas, or any portion thereof, shall not be included in determining the foregoing limitation on any Capital Improvement Assessment. All amounts collected as Capital Improvement Assessments levied for the purpose of paying the cost, in whole or

in part, of any construction, repair or replacement of a capital improvement upon the Common Areas shall be used only for the described capital improvements, shall be deposited by the Association in a separate bank account to be held in trust for such purposes and shall not be commingled with any other funds of the Association, and shall be deemed a non-refundable contribution to the capital of the Association by the Members.

6.6 Uniform Assessment. The Regular Assessment and Capital Improvement Assessment for each Regular Member and Special Member shall be uniform.

6.7 Exempt Property. All properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority, other than Lots, shall be exempt from the Assessments created herein.

6.8 Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to each particular Regular Member and Special Member, as appropriate, on the first day of the month following the later of (a) July 1, 1988; or, (b) as to each Owner or Regular Member, the date of conveyance to the Owner of the Lot to which the Regular Membership appertains; or, (c) as to each Special Member, the date on which such Member's membership rights commence.

6.9 Time and Manner of Payments; Late Charges and Interest. Assessments shall be due and payable by the Members in such manner and at such times as the Association shall designate. If not paid within ten days after its due date, each such Assessment shall have added to it a late charge equal to 10% of the amount of the Assessment and shall thereafter bear interest at the Default Rate of Interest until paid. The Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Member shall also be liable for attorneys' fees and other related costs incurred by the Association as a result of such delinquency, and if any suit, action or arbitration proceeding is brought to collect any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon. The delinquency of a Regular Member shall be deemed to also constitute the delinquency of the Owner of the Lot to which such Membership appertains.

6.10 No Offsets. All Assessments shall be payable in the amount specified and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that (a) the Association, the Board, the Design Review Committee, or the Developer is not properly exercising its duties and powers as provided in this Declaration, the Articles, Bylaws, Association Rules or Development Standards; (b) Assessments for any period exceed Common Expenses; or (c) a Member has made, and elects to make, no use of the Common Areas.

6.11 Homestead Waiver. Each Owner and Member, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

6.12 Reserves. The Board shall maintain reserves for the periodic maintenance, repair or replacement of the major components of the buildings, structures and other capital assets situated on the Common Areas. The Board shall include in the budget of the Association for each fiscal year an allocation to reserves in an amount which the Board determines to be sufficient to pay for the periodic maintenance, repair and replacement of the buildings, structures and other capital assets situated on the Common Areas. At least every three years, the Board shall obtain a reserve study or an update of a previous study prepared by an independent reserve analyst to assist the Board in determining the amount of funds to be allocated to reserves. The reserves may be funded from Assessments or any other revenues of the Association. All reserve funds shall be segregated from and not commingled with other funds of the Association. So long as the Board acts in good faith in determining the funds to be allocated to reserves, neither the Association nor any member of the Board shall have any liability to any Owner, Member or other Person if such reserves prove to be inadequate.

6.13 Subordination of Lien. Any lien which arises against a Lot by reason of the failure or refusal of an Owner or Regular Member to make timely payment of any Assessment shall be subordinate to the lien of a prior recorded First Mortgage on the Lot, acquired in good faith and for value, except for the amount of the unpaid Assessment which accrues from and after the date on which a 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 charge related thereto), and 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 such First Mortgagee came into possession of or acquired title to the Lot, such First Mortgagee shall not be liable for unpaid Assessments arising prior to the aforesaid date and, upon written request to the Association by such First Mortgagee, such lien shall be released in writing by the Association. Any unpaid Assessments which are extinguished pursuant to the foregoing sentence shall continue to be the personal obligation of the delinquent Owner and Regular Member and may also be re-allocated by the Association among all Members as part of the Common Expenses.

6.14 Certificate of Payment. Any person acquiring an interest in any Lot shall be entitled to a certificate from the Association setting forth the amount of due but unpaid Assessments relating to such Lot, if any, and such person shall not be liable for, nor shall any lien attach to the Lot in excess of, the amount set forth in the certificate, except for Assessments which occur or become due after the date thereof and any interest, costs, attorneys' fees and any late charges related to such unpaid Assessments.

6.15 Enforcement of Lien. The lien provided for in this Section 6 may be foreclosed by the Association in any manner provided or permitted for the foreclosure of realty mortgages or deeds of trust in the State of Arizona. All of the provisions of this Section 6 relating to the enforcement of the lien provided for herein (including without limitation the subordination provisions in Section 6.13 or the provisions of this Section 6.15) shall apply with equal force in each other instance provided for in this Declaration, the Association Rules or Development Standards 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 6. Nothing herein shall be construed as requiring that the Association take any action required hereunder in any particular instance, and the failure of the Association to take such action at any time shall not constitute a waiver of the right to take such action at a later time or in a different instance.

6.16 Pledge of Assessment Rights as Security. The Association shall have the power to pledge the right to exercise its assessment powers and rights provided for in this Declaration as security for any obligation of the Association, including expressly, but not limited to, the obligations of the Association; provided, however, that any such pledge shall require the prior affirmative vote or written assent of a majority of all of the Members. The Association's power to pledge its assessment powers shall include, but not be limited to, the ability to make an assignment of Assessments which are then payable to, or which will become payable to, the Association; which assignment may then be presently effective but shall allow said Assessments to continue to be paid to the Association and used by the Association as set forth in this Declaration, unless and until the Association shall default on its obligations secured by said assignment.

6.17 Capital Contribution Fee.

6.17.1 Except as provided in Subsection 6.19.2 or 6.19.3, each person who purchases or otherwise becomes an Owner of a lot shall pay to the Association immediately upon becoming the Owner of the Lot, a Capital Contribution Fee. The amount of the Capital Contribution Fee will be \$7,900 until July 1, 2000, at which time the Capital Contribution Fee will be increased to \$9,500. Commencing with January 1, 2001, and on January 1 of each year thereafter, the amount of the Capital Contribution Fee may be increased annually by the Board in an amount not to exceed the greater of 5% of the then current Capital Contribution Fee or the amount obtained by multiplying the then current Capital Contribution Fee by the percentage increase in the Consumer Price Index for all Urban Consumers (CPIU-US City Average 1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics (the "Consumer Price Index") from September, 1999 to September of the year immediately preceding the year for which the Capital Contribution Fee is to be increased. The Capital Contribution Fee may only be increased above the amount permitted by this Subsection if the increase is approved by Members representing more than fifty percent (50%) of the votes cast.

6.17.2 No Capital Contribution Fee shall be payable with respect to: (i) the transfer or conveyance of a Lot by devise or intestate succession; (ii) a transfer or conveyance of a Lot for estate planning purposes; (iii) a transfer or conveyance to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Capital Contribution Fee in which event a Capital Contribution Fee shall be payable with respect to such transfer or conveyance; (iv) the conveyance of a Lot in Forest Highlands Unit Five, a subdivision according to the plat recorded in Case 7, Map 32 through 32F, records of Coconino County, Arizona, ("Unit Five") by Forest Highlands North, L.L.C., an Arizona limited liability company ("Forest Highlands North"); or (v) the transfer of conveyance of a Lot to the beneficiary under a deed of trust, a mortgagee under a realty mortgage or the seller under a recorded contract for the conveyance of real

property subject to A.R.S. Section 33-741, et seq., as a result of a trustee's sale under a deed of trust, the foreclosure of a deed of trust or realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property. If a Person who acquires a Lot by a transfer or conveyance that is exempt from the payment of a Capital Contribution Fee under (v) above designates a Regular Member for the Lot, such Person shall pay to the Association at the time of such designation the Capital Contribution Fee which would have been payable by such Person at the time such Person acquired the Lot if the transfer or conveyance had not been exempt under (v) above.

6.17.3 The following Persons shall not be required to pay a Capital Contribution Fee if such Person purchases or otherwise becomes the Owner of a Lot:

- (i) A Person who was a Regular Member on January 1, 1998;
- (ii) The first Regular Member designated by the Person who purchases a Lot in Unit Five from Forest Highlands North;
- (iii) A Special Member who was a Special Member on November 15, 1996;
- (iv) A Special member who was not a Special Member on November 15, 1996, but pays the Association the sum of \$7,900 on or before December 31, 1997;
- (v) A Person who has previously paid a Capital Contribution Fee to the Association.

6.17.4 All Capital Contribution Fees shall be deposited in a separate account, not commingled with any other funds of the Association, and shall be deemed a contribution to the capital of the Association. Capital Contribution Fees shall be non-refundable and shall not be considered as an advance payment of Assessments.

6.17.5 Unless the use of the Capital Contribution Fees for other purposes is approved by a Majority of Members, the Capital Contribution Fees may only be used for (i) expenditures which could probably be classified as capital expenditures under generally accepted audit accounting standards, including, but not limited to, expenditures for the construction or installation of buildings or other improvements on the Common Area or additions to existing buildings or other improvements on the Common Area or for the purchase of furniture, fixtures or equipment for the Common Area, or (ii) the payment of principal and interest which becomes due and payable under the Citizens Note (as defined in Section 4.16 of this Declaration).

7. INSURANCE.

7.1 Authority to Purchase. The Association shall purchase and maintain certain insurance upon the Common Areas including but not limited to the insurance described in Section 7.3. Such policies, and endorsements thereon, or copies thereof shall be deposited with the Association. The Association shall generally advise the Owners and Members of the coverage of said policies in order to permit the Owners and Members to determine which particular items are included within the coverage so that the Owners and Members may insure themselves as they see fit if certain items are not insured by the Association.

7.2 Member's Responsibility. It shall be each Owner's or Member's responsibility to provide for himself insurance on his own Lot, if any, his additions and improvements thereto, furnishings and personal property therein, his personal property stored elsewhere within the Project, his personal liability to the extent not covered by the public liability insurance obtained by the Association and such other insurance which is not carried by the Association as the Owner or Member desires. No Owner or Member shall maintain any insurance, whether on his Lot or otherwise, 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 on the Common Areas.

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

7.3.1 A multi-peril type policy covering all of 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, without limitation, perils normally covered by an "all-risk" policy, in an amount determined by the Association.

7.3.2 A policy of comprehensive public liability insurance covering all of the Common Areas in an amount determined by the Association but not less than \$1,000,000.00 per occurrence, for personal injury or death and/or property damage. The scope of such coverage shall include all other coverage in the kinds and amounts customarily acquired or required for projects similar in construction, location and use, including, without limitation, liability for nonowned and hired automobiles, liability for property of others, liability arising in connection with the operation, maintenance or use of the Common Areas, liability assumed by contract or contractual liability, and liability arising out of any employment contracts of the Association.

7.3.3 The Association may, at its election, obtain fidelity bond 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. If funds of the Association are handled by a management agent, then fidelity bond coverage may also be obtained for the officers, employees or agents thereof handling or responsible for Association funds. The fidelity bond or insurance must name the Association as the named insured and shall be written to provide protection in an amount not less than the lesser of (a) one-half times the Association's

estimated annual operating expenses and reserves, (b) a sum equal to three months' aggregate Regular Assessments plus reserves, or (c) the estimated maximum amount of funds, including reserves, in the custody of the Association (and its management agent) at any one time. In connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

7.3.4 A workmen's compensation policy, if necessary to meet the requirements of law.

7.3.5 A policy of "directors and officers" liability insurance to the extent reasonable and available, in the Board's discretion.

7.3.6 Such other insurance, and in such amounts, as the Association shall determine from time to time to be desirable.

Notwithstanding the foregoing, the Association shall endeavor to obtain, to the extent reasonable and available, or shall discontinue such insurance coverage as two-thirds of the Members shall direct; provided, however, the Association shall not discontinue casualty and public liability coverage as required by Sections 7.3.1 and 7.3.2.

7.4 Required Provisions. The insurance policies purchased by the Association shall, to the extent reasonable and available, contain the following provisions:

7.4.1 The coverage afforded by such policies shall not be brought into contribution or proration with any insurance which may be purchased by any Owner, Member or Mortgagee.

7.4.2 The conduct of any one or more Owners or Members shall not constitute grounds for avoiding liability on any such policies.

7.4.3 There shall be no subrogation with respect to the Association, its agents or employees, Owners, Members, or members of their households or families and employees, and each Mortgagee of all or any part of the Property or of any Lot, or the policy(ies) should name said persons 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.

7.4.4 A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner or Member because of the conduct or negligent acts of the Association and its agents or other Owners or Members.

7.4.5 Any "no other insurance" clause shall exclude insurance purchased by Owners, Members or Mortgagees.

7.4.6 Coverage must not be prejudiced by (a) any act or neglect of Owners or Members when such 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 Project over which the Association has no control.

7.4.7 Coverage may not be canceled or substantially modified without at least 30 days' (or such lesser period as the Association may reasonably deem appropriate) prior written notice to the Association.

7.4.8 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 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.

7.4.9 A recognition of any insurance trust agreement entered into by the Association.

7.4.10 Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating as designated in Best's Key Rating Guide of Class VI or better, or if such rating service be discontinued, an equivalent rating by a successor thereto or a similar such rating service. Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Arizona.

7.4.11 Policies shall not be utilized where, under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Owners, Members or the Association or loss payments are contingent upon action by the carrier's board of directors, policyholders, or members.

7.5 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 shall be liable to any Owner, Member, Mortgagee or other Person if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner and Member 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 or Member may desire.

7.6 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 Member, may, at the Board's election, be assessed against that particular Owner or Member.

7.7 Insurance Claims. The Association is hereby irrevocably appointed and authorized, 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 to

do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard and may, at its discretion, appoint an authorized representative, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

7.8 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association or any insurance trustee shall be held or disposed of in trust for, the Association, the Owners or the Members, as their interests may appear.

8. DAMAGE AND DESTRUCTION OF COMMON AREAS.

8.1 Duty of Association. In the event of partial or total destruction of the Common Areas, or any improvements thereon, it shall be the duty of the Association to restore and repair the same as promptly as practical pursuant to this Section 8. The proceeds of any casualty insurance maintained pursuant to this Declaration shall be used for such purpose, subject to the prior rights of Mortgagees whose interest may be protected by said policies.

8.2 Automatic Reconstruction. In the event that the amount available from the proceeds of any insurance policies for such restoration and repair, together with any uncommitted or unreserved capital of the Association, shall be at least 75% of the estimated cost of restoration and repair, a Reconstruction Assessment against each Member in his Proportionate Share may be levied by the Association to provide the necessary funds for such reconstruction in excess of the amount of the funds available for such purpose. The Association shall thereupon cause the damaged or destroyed Common Areas to be restored to substantially the condition the Common Areas were in prior to the destruction or damage.

8.3 Vote of Members. In the event that the amount available from the proceeds of any insurance policies for such restoration and repair, together with any uncommitted or unreserved capital of the Association, shall be less than 75% of the estimated cost of restoration and repair, the Common Areas shall be replaced or restored unless two-thirds of the Members, at a special meeting held for such purpose, disapprove of such replacement or restoration. If the Members do not disapprove of the proposed replacement or restoration, the Association shall levy a Reconstruction Assessment against each Member in its Proportionate Share and cause the damaged or destroyed Common Areas to be restored as closely as practical to the condition the Common Areas were in prior to the destruction or damage. If the Members disapprove of the repair or restoration of the damaged or destroyed improvements on the Common Areas as provided above, the Common Areas so damaged or destroyed shall be cleared and landscaped for community park use or other community use determined by the Association and the costs thereof shall be paid with the insurance proceeds.

8.4 Excess Insurance Proceeds. In the event any excess insurance proceeds remain after any reconstruction by the Association pursuant to this Section, the Association, in its sole discretion,

may retain such sums in the general funds of the Association or may distribute all or a portion of such excess to the Members in their Proportionate Shares, subject to the prior rights of Mortgagees whose interest may be protected by the insurance policies carried by the Association. The rights of an Owner or the Mortgagee of a Lot as to any such distribution shall be governed by the provisions of the Mortgage encumbering the Lot.

8.5 Use of Reconstruction Assessments. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Section 8, shall be deposited by the Association in a separate bank account to be held in trust for such purposes and not be commingled with any other funds of the Association, and shall be deemed a non-refundable contribution to the capital of the Association by the Members. Any Reconstruction Assessment shall be secured by the lien provided for in Section 6.

8.6 Contract for Reconstruction. In the event the Association undertakes the repair and restoration of the Common Areas, the Association shall contract with a licensed contractor or contractors who may be required to post a suitable performance or completion bond. The contract with such contractor or 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, or similar, certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Association.

8.7 Insurance Proceeds Trust. Upon receipt by the Association of any insurance proceeds, the Association may cause the insurance proceeds to be paid directly to a bank, savings and loan association, or trust company located in Coconino County or Maricopa County, Arizona, as designated by the Association as trustee (the "Insurance Trustee"). Such funds shall be received, held and administered by the Insurance Trustee subject to a trust agreement consistent with the provisions of this Declaration and which shall be entered into between the Insurance Trustee and the Association. Disbursements to contractors performing any repair or reconstruction upon the Property shall be made periodically as the work progresses in a manner consistent with procedures then followed by prudent lending institutions in the County.

9. EMINENT DOMAIN.

9.1 Definition of Taking. The term "taking" as used in this Section 9 shall mean condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Common Areas.

9.2 Representation in Condemnation Proceedings. In the event of a threatened taking of all or any portion of the Common Areas, the Owners and Members hereby appoint the Association through such Persons as the Board may delegate to represent the Association and all of the Owners and Members in connection therewith. The Association shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action.

9.3 Award for Common Areas. Any awards received by the Association on account of the taking of Common Areas shall be paid to the Association. The Association may, in its sole discretion, retain any award in the general funds of the Association or distribute all or any portion thereof to the Owners or Members as their interests may appear. The rights of an Owner and the Mortgagee of a Lot as to any such distribution shall be governed by the provisions of the Mortgage encumbering the Lot.

10. MAINTENANCE, REPAIRS AND REPLACEMENTS.

10.1 Owner's Responsibility. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Lot.

10.2 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 Association Rules. If, due to the act or neglect of an Owner, Member or Occupant, or the invitee, guest or other authorized visitor thereof, damage shall be caused to the Common Areas or to a Lot or Lots owned by others, or maintenance, repairs or replacement shall be required which would otherwise be a Common Expense, then such Owner, Member or Occupant shall pay for the damage and for such maintenance, repairs and replacements as may be determined necessary or appropriate by the Association, to the extent not covered by the Association's insurance. Such obligation shall be a Special Assessment secured by the lien provided for in Section 6.

10.3 Right of Access. An authorized representative of the Association, and all contractors, repairmen or other agents employed or engaged by the Association, 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, or to perform any of the Association's duties or responsibilities hereunder.

11. ARCHITECTURAL AND LANDSCAPE CONTROL.

11.1 Appointment of Design Review Committee. The Association shall have a Design Review Committee consisting of not less than three nor more than five persons, as specified from time to time in the Development Standards by resolution of the Board. Members of the Design Review Committee shall be appointed by the Board. Persons appointed to the Design Review Committee must be Owners or Members or satisfy such other requirements as may be set forth in the Development Standards.

11.2 Development Standards. The Design Review Committee shall establish reasonable procedural rules, regulations, restrictions, architectural standards, design guidelines and

development standards (collectively the "Development Standards"), which the Design Review Committee may, from time to time amend, repeal or augment; provided, however, that no establishment, amendment, repeal of augmentation of the Development Standards by the Design Review Committee shall become effective until approved by the Board. The Development Standards are hereby incorporated herein and shall be deemed to be a part of this Declaration and shall be binding on all Owners, Members or other Persons as if expressly set forth herein. A copy of the current Development Standards shall at all times be a part of the Association's records. The Development Standards may include, among other things, those restrictions and limitations set forth below:

11.2.1 Time limitations for the completion, within specified periods after approval, of the improvements for which approval is required pursuant to the Development Standards.

11.2.2 Designation of a "building envelope" within a Lot, thereby establishing the maximum developable area of the Lot.

11.2.3 Conformity of completed improvements to plans and specifications approved by the Design Review Committee; provided, however, as to purchasers and encumbrancers of a Lot in good faith and for value, unless notice of noncompletion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the Design Review Committee, shall be recorded with the County Recorder of the County, and given to the Owner of such Lot within one year of the expiration of the time limitation described in Section 11.2.1 above, or, if later, within one year following completion of the improvement, or unless legal proceedings shall have been instituted to enforce compliance or completion within said one-year period, the completed improvements shall be deemed to be in compliance with plans and specifications approved by the Design Review Committee and in compliance with the architectural standards of the Association and this Declaration.

11.2.4 Such other limitations and restrictions as the Board or Design Review Committee in its reasonable discretion shall adopt, including, without limitation, the regulation of all landscaping (including without limitation absolute prohibition of certain types of landscaping, trees and plants), construction, reconstruction, exterior additions, change or alteration to or maintenance of any building, structure, wall or fence, including, without limitation, the nature, kind, shape, height, materials, exterior color, surface texture, and location of any such improvement.

11.3 General Provisions.

11.3.1 The Design Review Committee may assess reasonable fees in connection with its review of plans and specifications.

11.3.2 The Design Review Committee may delegate its plan review responsibilities, except final review and approval as may be required by the Development Standards, to one or more of its members or architectural consultants retained by the Design Review Committee. Upon such

delegation, the approval or disapproval of plans and specifications by such member or consultants shall be equivalent to approval or disapproval by the entire Design Review Committee.

11.3.3 The address of the Design Review Committee shall be the address established for giving notice to the Association, unless otherwise specified in the Development Standards. Such address shall be the place for the submittal of plans and specifications and the place where the current Development Standards shall be kept.

11.3.4 The establishment of the Design Review Committee and the procedures herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain or repair their Lots as may otherwise be specified in this Declaration, the Bylaws or Association Rules.

11.3.5 The Design Review Committee shall approve or disapprove any plans and specifications submitted to it in accordance with the Development Standards within such period as may be specified in the Development Standards.

11.4 Approval and Conformity of Plans. No building, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained upon the Property, nor shall there be any addition to or change to the exterior of any residence or other structure or improvement upon a Lot or the landscaping, grading or drainage thereof, including, without limitation, the painting (other than painting with the same color of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with plans and specifications therefor which have been submitted to and approved by the Design Review Committee in accordance with the Development Standards as to harmony of external design and location in relation to surrounding structures and topography.

11.5 Non-Liability for Approval of Plans. Plans and specifications shall be approved by the Design Review Committee as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances, and by approving such plans and specifications neither the Design Review Committee, the members thereof, the Association, any Member, nor the Board assumes any liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications. Neither the Design Review Committee, any member thereof, the Association, nor the Board shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development, or manner of development of any property within the Project, or (d) the execution and filing of an estoppel certificate pursuant to the Development Standards, whether or not the facts therein are correct; provided, however, that such action, with the actual knowledge possessed by him, was taken in good faith. Approval of plans and specifications by the Design Review Committee is not, and shall not be deemed to be, a representation or warranty that said plans or specifications comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

11.6 Inspection and Recording of Approval. Any member or authorized consultant of the Design Review Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot after reasonable notice as provided herein to the Owner in order to inspect improvements constructed or being constructed on such Lot to ascertain that such improvements have been or are being built in compliance with the Development Standards and this Declaration. The Design Review Committee shall cause such an inspection to be undertaken within 30 days of a request therefor from any Owner as to his Lot, and if such inspection reveals that the improvements located on such Lot have been completed in compliance with this Section 11 and the Development Standards, the Design Review Committee shall provide to such Owner a notice of such approval in recordable form which, when recorded, shall be conclusive evidence of compliance with the provisions of this Section 11 and the Development Standards as to the improvements described in such recorded notice, but as to such improvements only.

11.7 Reconstruction of Common Areas. The reconstruction by the Association after destruction by casualty or otherwise of any Common Areas which is accomplished in substantial compliance with "as built" plans for such Common Areas shall not require compliance with the provisions of this Section 11 or the Development Standards.

11.8 Additional Powers of the Board. The Board may promulgate as a part of the Development Standards such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE BOARD MAY FIX A FINE OF UP TO \$10,000 FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE DESIGN REVIEW COMMITTEE.

11.9 Varying Standards. The provisions of the Development Standards for Condominium Projects, townhouses and cluster homes may differ from those applicable to single-family residences.

12. USE AND OCCUPANCY RESTRICTIONS.

12.1 Residential Use. Each Lot may be used only for residential purposes and none other. No business or commercial building may be erected on any Lot and no business or commercial enterprise or other non-residential use may be conducted on any part thereof. No temporary buildings, structures or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in compliance with, the Development Standards.

12.2 Violation of Law or Insurance. No Owner or Member 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.

12.3 Signs. No sign of any kind shall be displayed to the public view or from any Lot or any Common Areas without the approval of the Association or the Design Review Committee, except: (a) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; or, (b) such signs as may be required for traffic control and regulation of Common Areas. No "For Sale" or "For Rent" sign may be posted on any Lot; provided, however, an Owner may, in accordance with applicable provisions of the Association Rules, be permitted to post one "For Sale" or "For Rent" notice in a form approved by the Board in a location specified for that purpose by the Board, which may be in a specified portion of the Common Areas rather than on the Lot.

12.4 Animals. No animals, including horses or other domestic farm animals, fowl or poisonous reptiles of any kind may be kept, bred or maintained in any Lot or in or upon any of the Common Areas, except a reasonable number of commonly accepted household pets in accordance with the Association Rules. No animals shall be kept, bred or raised within the Project for commercial purposes. In no event shall any domestic pet be allowed to run free away from its owner's Lot without a leash, or so as to create a nuisance. The Board may adopt rules and regulations further restricting and governing animals within the Property, which rules may include, without limitation: (a) requiring registration and proof of immunization of all domestic pets; (b) providing for the removal from the Property of domestic pets which have bitten or attacked a person or other animal, has a propensity to attack persons or other animals or otherwise constitutes a threat to the safety of persons or other animals in the Property; and (c) providing for the removal from the Property of domestic pets which because of incessant barking or other behavior constitutes an unreasonable annoyance or nuisance to Owners and Occupants. Dogs, whether or not restrained by a leash, shall not be allowed on the Golf Course.

12.5 Nuisances. No Owner or Member shall permit or suffer anything to be done or kept about or within his Lot, or on or about the Project, which will obstruct or interfere with the rights of other Owners, Members, Occupants or other authorized Persons to the use and enjoyment of the Common Areas, or annoy them by unreasonable noises or otherwise, nor commit or permit any nuisance or commit or suffer any illegal act to be committed therein. Each Owner or Member shall comply with the Association Rules and the requirements of all health authorities and other governmental authorities having jurisdiction over the Property.

12.6 Boats and Motor Vehicles. Except as specifically permitted by the Association Rules, (a) no boats, trailers, buses, motor homes, campers or other vehicles of whatever type (herein collectively called a "vehicle") shall be parked or stored in or upon the Common Areas, including the Private Roads, or upon a Lot except within an enclosed garage as permitted by the Development Standards; (b) no vehicle shall be repaired or rebuilt in any Lot or upon the Common Areas; and, (c) no vehicle shall be parked on the Private Roads except in such parking areas as may be designated by the Association. The Association may remove, or cause to be removed, any unauthorized vehicle at the expense of the owner thereof in any manner consistent with law. Snowmobiles, motorcycles, trail bikes, minibikes, all-terrain-vehicles, mopeds or similar vehicles are prohibited and may not be used or operated within Forest Highlands, except that any such vehicle lawfully licensed for use on public roadways may be used for the strictly limited purpose of ingress and egress to a Lot;

provided, however, that any such vehicle may be trailered to or from a Lot, or parked or stored in or upon a Lot within an enclosed area, in accordance with the Association Rules or the Development Standards.

12.7 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which, in any manner, will allow light to be directed or reflected on the Common Areas, or any part thereof, or any other Lot, except as may be expressly permitted by the Association Rules or the Development Standards.

12.8 Antennas. No radio, television or other antennas of any kind or nature, or device for the reception or transmission of radio, microwave or other similar signals, including without limitation satellite dishes, shall be placed or maintained upon any Lot except as may be permitted by the Association Rules or in accordance with the Development Standards.

12.9 Garbage. No garbage or trash shall be kept, maintained or contained in any Lot so as to be visible from another Lot or the Common Areas. No incinerators shall be kept or maintained in any Lot. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot.

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

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

12.12 Fires. Other than barbecues in properly constructed barbecue pits or grills in strict compliance with the Association Rules and the Development Standards, or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Lots or the Common Areas, nor shall any other similar activity or condition be permitted which would tend to increase the insurance rates for the Common Areas or for other Owners.

12.13 Clothes Drying Area. No unenclosed portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the buildings to be constructed on each Lot.

12.14 No Further Subdivision; Compounds; Replatting of Community.

12.14.1 No Lot shall be divided or subdivided, except in connection with the replatting of a Community as expressly permitted in Section 12.14.3.

12.14.2 An Owner may own more than one Lot which, if contiguous, may be combined into a single homesite with the consent of the County and the Design Review Committee; provided, however, that any such combination of Lots shall not reduce or alter the voting rights obtained by ownership of each Lot nor shall it reduce or otherwise alter the amount which would have been assessed against the Owner of such Lots pursuant to the terms hereof in the absence of combination. The Owner of such Lots will be entitled to the rights of membership of one Regular Membership for each such Lot, one of which memberships may only be held by an individual as specified in Section 3.2.1 who could hold the membership for one of the Lots. The other Regular Membership(s) to which the Owner is entitled because of the combined Lots may only be held by a Person permitted in Section 3.2.1 or, if the Owner is an individual, the (natural or adopted) child, son-in-law, daughter-in-law, grandchild, nephew, niece, sibling, parent or grandparent of the Owner, or any such specified relative of any other person designated as a Regular Member by the Owner in accordance with Section 3.2.1. As provided in Section 3.5, said Regular Memberships shall automatically be transferred to the new owner of the Lot(s) to which the Regular Membership(s) appertain upon transfer of the Lot(s). The Assessments attributable to each Regular Membership shall be a lien, as provided in Section 6, upon the entire combination of Lots held by the Owner. Notwithstanding anything herein to the contrary, the Owners of two or more contiguous Lots may, with the consent of the County and the Design Review Committee, replat such Lots as a Compound which may include and provide for the construction of common recreation facilities on such Lots, including, for example, a tennis court or swimming pool, in accordance with the Development Standards. The lien provided in Section 6 as to each replatted Lot shall also extend to the interest of the Owner in any such common facilities. If one Owner wishes to combine Lots, or if two or more Owners wish to replat Lots as a Compound in such manner that it eliminates the need for a portion of the Common Areas owned by the Association (for example, where a cul-de-sac is no longer necessary), and if the combination or Compound and abandonment of Common Areas is approved by the Design Review Committee and the County, then such portion of the Common Areas may be deeded by the Association to said Owner or Owners as the Association (and the County, if its consent is required) may specify.

12.14.3 A Community may, with the prior consent of the County and the Design Review Committee, be replatted by the developer thereof, or with the written consent of all of the Owners of Lots therein, in order to reconfigure lot lines, roadways, open space, utilities, easements and the like. Any such replatting may include a reduction (but not an increase) in the number of Lots contained in the Community, subject to the provisions of this Section. Except as provided below in the case of a reduction in the number of Lots contained in a replatted Community, replatting of the Community shall have no effect upon the Memberships appurtenant to Lots in the replatted Community, the voting rights obtained by ownership of any Lot in the replatted Community or the obligation for payment of assessments with respect to any Lot in the replatted Community.

(a) In the event of a replatting of a Community by the developer thereof prior to the sale of any Lots therein, the Regular Membership appurtenant to a Lot in the Community which is eliminated as a result of the replatting (herein called a "Suspended Membership") may, but need not, be designated by the developer thereof as being appurtenant to another specified Lot

within the replatted Community. Such designation shall occur by written notice to the Association at or prior to the closing of the first sale by the developer of the Lot to which the Suspended Membership is to become appurtenant as a Regular Membership. In the event of such designation, there shall be two Regular Memberships appurtenant to the specified Lot, with all of the rights, privileges, duties and obligations inherent in a Regular Membership under this Declaration. In no case may there be more than two Regular Memberships appurtenant to any Lot in a replatted Community. Upon receipt of notice of designation of a Suspended Membership as appurtenant to a specified Lot, the Association shall cause a notice confirming such designation to be recorded in the official records of the County. Upon recording of the notice of designation by the Association, the Suspended Membership shall be deemed to have been converted into a Regular Membership and shall irrevocably cease to exist as a Suspended Membership.

(b) Until such time as a Suspended Membership is activated by designation as appurtenant to a specific Lot as provided above, no Assessments will be payable with respect to the Suspended Membership and no membership or similar rights, benefits or privileges shall be enjoyed with respect to the Suspended Membership.

(c) In the case of any Lot in the replatted Community to which two Regular Memberships are appurtenant, the Owner of the Lot will be entitled to the rights of membership of one Regular Membership and the second Regular Membership appurtenant to the Lot must be held by a Person permitted in Section 3.2.1 or, if the Owner is an individual, the (natural or adopted) child, son-in-law, daughter-in-law, grandchild, nephew, niece, sibling, parent or grandparent of the Owner, or any such specified relative of any other person designated as a Regular Member by the Owner in accordance with Section 3.2.1. Under no circumstance shall the second Regular Membership appurtenant to a Lot in a replatted Community be deemed to be a Special Membership. As provided in Section 3.5, the Regular Membership(s) appurtenant to a Lot in the replatted Community, including a second Regular Membership, if any, shall automatically be transferred to the new Owner of the Lot to which the Regular Membership(s) appertain upon transfer of the Lot.

(d) The Owner of the Lot to which two Regular Memberships are appurtenant may, upon 30 days written notice to the Association, terminate the second Regular Membership which is appurtenant to the Lot. Such termination is irrevocable and permanent, and the Suspended Membership which gave rise to the second Regular Membership shall not be re-established.

(e) The Assessments attributable to each Regular Membership shall be a lien, as provided in section 6, upon the Lot.

(f) In the event a Community is replatted in accordance with this Section such that it eliminates the needs for a portion of the Common Areas owned by the Association (for example, where a cul-de-sac is no longer necessary), and if the replatting of the Community and abandonment of Common Areas is approved by the Design Review Committee and the County, then such portion of the Common Areas may be deeded by the Association to the developer of the

Community for inclusion in replatted lots or open space. Except with the express consent of the Design Review Committee and the County, no Community shall be replatted in a manner which reduces the amount of open space (as defined by County zoning ordinances) included within the Community.

12.15 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction which would interrupt the normal drainage of the land or within any area designated on a Plat, or other duly recorded instrument, as a "drainage easement", except that, with the prior written consent of the County and the Design Review Committee, certain structures may, in accordance with the Development Standards, be erected or constructed within the drainage easements so long as such structures do not interfere with the intended purpose or function of such areas.

12.16 Entrance Gates and Community Services. Entrance gates have been constructed at one or more entrances to the Property in order to monitor access to the Property and limit access to the Owners, Occupants, Members and other Persons who are entitled to access to the Property pursuant to this Declaration, the Association Rules or the policies and procedures adopted by the Board of Directors. Entrance gates may be manned or unmanned, in the discretion of the Board, and with respect to any manned entrance gate the manned operation may be terminated or the hours of manned operation may be reduced or increased from time to time, in the discretion of the Board. In addition, the Association conducts periodic patrols of the Project and provides certain services to the Owners, Members and Occupants, which services include inspection of residences which are unoccupied and monitoring alarm systems. Each Owner, Member and Occupant acknowledges and agrees for themselves and their families and guests that: (i) neither the entrance gates, community patrols or other services provided by the Association guarantee the safety or security of the Owners, Members or Occupants or their families and guests; (ii) the entrance gates do not guarantee that any unauthorized person will not gain access to the Property; (iii) the Association and its respective directors, officers, agents and employees do not represent or warrant that the entrance gates may not be compromised or circumvented or that the entrance gates, community patrol or other services provided by the Association will prevent death or injury by criminal act or prevent the loss of or damage to property by burglary, theft or other criminal act; and (iv) the services provided by the Association may be changed or terminated by the Board. Each Owner, Member and Occupant further acknowledges and agrees for themselves and their families and guests that neither the Association nor its directors, officers, agents and employees shall be liable for any loss or damage resulting from unauthorized persons gaining entry into the Property or for any death or injury resulting from a criminal act or any damage to or loss of property resulting from burglary, theft or other criminal act.

12.17 Rental of Lots. An Owner who leases his Lot to any Person shall be responsible for assuring compliance by his lessee with all of the provisions of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by his lessee thereof.

12.18 Golf Carts. The Association Rules may prohibit the use of golf carts and similar vehicles on the Private Roads; provided, however, that each owner of a Golf Cottage shall be

granted a limited privilege and right to utilize one golf cart per Golf Cottage to provide limited access between the Golf Cottage, the designated parking area for such Golf Cottage and the Clubhouse, subject to the following terms and conditions and such other terms, conditions and rules as the Board may adopt as Association Rules (and thereafter modify, amend or limit) by appropriate resolution from time to time. Without limiting the generality of the foregoing, golf carts may only be utilized if supplied by the Forest Highlands Golf Club and if the pertinent Golf Cottage includes a "cart garage" constructed in accordance with the Association Rules, the requirements of the Development Standards, the terms of the Declaration and any other requirements imposed by the Design Review Committee. The privilege of Golf Cottage owners to utilize a golf cart for limited access purposes shall be subject to and conditioned upon strict compliance with all terms and conditions of use set forth in this Declaration and in any Association Rules in effect from time to time. Golf carts may only be used during the golf season. No golf cart may be used to provide access to or from a Golf Cottage unless the owner thereof has first registered with the Association's golf cart program and paid to the Association a fair and reasonable annual golf cart use fee in amounts established from time to time by the Association; provided, however, that the payment of the Association's annual golf cart use fee shall not relieve owners of Golf Cottages from the obligation to pay the normal cart fees imposed upon all golfers while playing golf on the Golf Course.

12.19 Enforcement. The Association or its authorized agents may enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed pursuant to the Bylaws, Association Rules or Development Standards, shall be a Special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of Section 6 hereof. All remedies described in Section 18 hereof and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, Member, Occupant or other Person of any provision of this Section 12.

12.20 Modification. In those instances expressly provided herein, the Board may modify or waive the foregoing restrictions, or otherwise restrict and regulate the use and occupancy of the Property and the Lots, by reasonable rules and regulations of general application adopted by the Board from time to time which shall be incorporated into the Association Rules.

13. RIGHTS OF FIRST MORTGAGEES.

13.1 General Provisions. Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, the following provisions shall apply to and benefit each holder of a First Mortgage upon a Lot.

13.2 Liability for Assessments. A First Mortgagee who comes into possession or becomes record Owner 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 such Lot's unpaid dues, charges or Assessments which may accrue prior to the time such First Mortgagee or third-party purchaser comes into possession of such Lot or becomes record Owner of the Lot, whichever occurs first, and 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 such First Mortgagee or third-party purchaser either comes into possession of such Lot or becomes record Owner 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 Members. Nevertheless, in the event the Owner or Member against whom the original Assessment was made is the purchaser or redemptioner, the lien shall continue in effect and may be enforced by the Association for the respective Lot's Assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid Assessment shall continue to exist as the personal obligation of the defaulting Member and the defaulting Owner of the respective Lot to the Association, and the Association may use reasonable efforts to collect the same from said Member and/or Owner even after he is no longer a Member of the Association or the Owner of the Lot.

13.3 No Personal Liability. A 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 13, including without limitation Section 13.6.

13.4 Enforcement After Foreclosure Sale. An action to abate the breach of any provision of this Declaration, or the Articles, Bylaws, Association Rules or Development Standards may be brought against the purchasers who have acquired title through foreclosure or trustee's sale of a Mortgage (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Lot.

13.5 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 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 Owner in default including, but not limited to, the right to vote as a Member in the place and stead of the defaulting Owner; provided, however, that the First Mortgagee shall first have given written notice to the Association of its intention and authority to do so.

13.6 Subject to Declaration. At such time as a Mortgagee, or any third-party purchaser at a foreclosure sale or trustee's sale, shall come into possession of or become record Owner of a Lot, such Person 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.

14. ANNEXATION OF ADDITIONAL PROPERTY.

Additional real property may be annexed to and become subject to this Declaration as hereinafter set forth in this Section 14.

14.1 Annexation of Additional Property. The Association may annex and subject to this Declaration any real property which is contiguous to the Project if the annexation of such property is approved by the Board and a Majority of Members. Such real property may be annexed at one time or in one or more portions at different times as approved by the Board and a Majority of the Members. If the annexation of real property is approved by the Board and a Majority of the Members, the Association shall annex such property by recording a Supplemental Declaration in accordance with the provisions of Section 14.2 of this Declaration. Although the Association shall have the right to annex and subject to this Declaration any real property which is contiguous to the Project, the Association shall not be obligated to annex any other real property, and no real property subject to annexation by the Association pursuant to this Section shall become subject to this Declaration unless and until a Supplemental Declaration for such property has been executed by the Association and recorded as provided in Section 14.2 of this Declaration.

14.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form which annexes additional real property (the "Annexation Property") to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, liens, assessments, easements, privileges, rights and other provisions of this Declaration and shall contain such other provisions as are set forth in this Declaration relating to Supplemental Declarations. Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexation Property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights established by this Declaration with respect to the Property already subject to this Declaration.

15. COMMUNITY ASSOCIATIONS.

Certain portions of the Property may be developed as semi-autonomous and distinctive residential developments integrated within the Project (herein called a "Community"). Each residential dwelling unit within the Community shall be a Lot. The developer of a Community, may record a declaration of covenants, conditions and restrictions (a "Community Declaration") governing the use and occupancy of Lots and the common areas within the Community. In the event of any conflict between this Declaration and any provision of a Community Declaration, this Declaration shall in all cases control. Every Community Declaration shall expressly state that it is subordinate and subject to this Declaration. The Community Association may, pursuant to the

Community Declaration, adopt such rules and regulations as it deems appropriate; provided, however, that any such rule or regulation inconsistent, or in conflict, with this Declaration, the Articles, Bylaws, Association Rules or Development Standards shall be deemed void to the extent of such inconsistency or conflict. The determination of the Board as to the existence of any conflict or inconsistency between this Declaration and a Community Declaration, or any rules or regulations adopted pursuant thereto, shall be final and binding on all Persons. The common areas or amenities within a Community may, if so provided in the Community Declaration, be restricted to the use of the Owners of Lots within such Community, and the guests thereof. A Community Declaration may provide for the establishment of a homeowners association (the "Community Association") to maintain and administer the Community subject in all instances to the rights of the Association under this Declaration, the Articles, Bylaws, Association Rules or Development Standards. Pursuant to the Community Declaration, the Community Association may impose assessments upon the Lots subject thereto. Such assessments shall be in addition to the Assessments provided herein. Any lien rights of the Community Association for the collection of such assessments as provided in a Community Declaration shall automatically be subordinate to the lien rights provided in Section 6 of this Declaration, regardless of the recording priority of the Community Association's lien. Notwithstanding any of the foregoing to the contrary, no Community Declaration, or the articles of incorporation or bylaws or other governing documents for a Community Association, shall be effective until approved by the Board.

16. REMEDIES.

16.1 General Remedies. In the event of any default by any Owner, Member, Occupant or other Person under the provisions of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, the Association, or its successors or assigns, or its agents, or the Developer, shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, Bylaws, Association Rules or Development Standards, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Owner, Member, Occupant or other Persons for an injunction, whether affirmative or negative, or for enforcement or foreclosure of the lien herein provided and the appointment of a receiver for the Lot, or for damages, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and to rent the Lot and apply the rents received to payment of unpaid Assessments and interest accrued thereon, and to sell the same as hereinafter in this Section 16.1 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 such Owner, Member, Occupant or other Person. The proceeds of any such rental or sale of a Lot shall first be paid to discharge court costs, other litigation costs, including without limitation 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. Upon the confirmation of the sale, the purchasers thereupon 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 such 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.

16.2 Expenses of Enforcement. All expenses of the Association or other Person granted rights of enforcement hereunder, in connection with any action or proceeding described or permitted by this Section 16, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the Default Rate of Interest, shall be charged to and assessed against such defaulting Owner, Member, Occupant or other Person and shall be a Special Assessment against such Owner, Member, Occupant or other Person and the Association shall have a lien as provided in Section 6 therefor. In the event of any such default by any Owner, Member, Occupant or other Person, the Association and the manager or managing agent of the Association, if so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, Member, Occupant or other Person as a Special Assessment, which shall constitute a lien against the defaulting Owner's Lot as provided in Section 6. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively, in the alternative or otherwise, by the Association.

16.3 Legal Action. In addition to any other remedies available under this Section 16, if any Owner, Member or Occupant (either by his conduct or by the conduct of any Occupant of his Lot or family member, guest, invitee or agent) shall violate any of the provisions of this Declaration, or the Articles, Bylaws, Association Rules or Development Standards, as then in effect, then the Association or any affected or aggrieved Owner or Member, shall have the power to file an action against the defaulting Owner, Member or Occupant for a judgment or injunction against the Owner, Member, Occupant or such other Person requiring the defaulting Owner, Member, Occupant or other Person to comply with the provisions of this Declaration, or the Articles, Bylaws, Association Rules or Development Standards, and granting other appropriate relief, including money damages.

16.4 Effect on Mortgage. Anything to the contrary herein notwithstanding, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration, or any right of re-entry 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 said covenants, conditions, restrictions, reservations 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.

16.5 Limitation on the Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed that neither the Developer (including without limitation any assignee of the interest of the Developer hereunder) nor any partner in the Developer partnership (or in any such assignee) shall have any personal liability to the Association, or any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration, the Articles, Bylaws, Association Rules or Development Standards, or the Use and Management Agreement except, in the case of the Developer (or its assignee) to the extent of its interest in the Property, and, in the case of a partner in

the Developer (or in any such assignee), his interest in the Developer (or such assignee), and, in the event of a judgment against the Developer (or any partner or assignee thereof), no execution or other action shall be sought or brought against any other assets, nor be a lien upon such other assets, of the judgment debtor.

17. AMENDMENT.

17.1 Amendment to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Members. Amendments may be adopted at a meeting of the Members upon the approval thereof of two-thirds of all of the Members or without any meeting if all Members have been duly notified and if two-thirds of all of the Members consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the President, and shall be attested by the secretary of the Association, who shall state that the amendment was properly adopted, shall be acknowledged by them before a notary public as officers of the Association, and shall be promptly recorded with the County Recorder for the County. Amendments once properly adopted shall be effective upon recording of the Amendment to Declaration.

17.2 Effect of Amendment. 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, liens, assessments, easements, privileges and rights contained herein which may be affected and any or all clauses of this Declaration or the Plat, unless otherwise specifically provided in the Section being amended or the amendment itself.

17.3 Amendment of Plat. Except as otherwise provided herein, the Plat may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Plat shall be made available for the examination of every Member at the offices of the Association during reasonable times. Such amendment to the Plat shall be effective, once properly adopted, upon recording with the County Recorder for the County in conjunction with the Declaration amendment.

17.4 Required Approvals. Notwithstanding the provisions of the foregoing sections of this Section 17 if this Declaration or any applicable provision of law requires the consent or agreement of all Members and/or all Owners and/or all lienholders and all trustees and/or beneficiaries under trust deeds, or a specified percentage thereof, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all of the Members and/or all lienholders and trustees and/or beneficiaries under trust deeds, or the specified percentage thereof, as required by this Declaration or by said law.

18. GENERAL PROVISIONS.

18.1 Notices. Notices provided for in this Declaration, or the Articles, Bylaws or Association Rules shall be in writing and shall be addressed to the Association at the address specified in the Bylaws. The Association may designate a different address or addresses for notice by giving written notice of such change of address to all Owners and Members at such time. All notices to Owners and Members shall be to their respective Lots or to the last address shown on the records of the Association. Any Owner or Member may designate a different address or addresses for notices to him by giving written notice of his change of address to the Association. Notices addressed as above shall be deemed delivered when mailed by United States mail, either by regular, registered or certified mail, or when delivered in person.

18.2 Captions and Exhibits; Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. The various exhibits referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as hereinabove set forth.

18.3 Severability. If any provision of this Declaration, the Articles, Bylaws, Association Rules or Development Standards, 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, Association Rules or Development Standards, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, the Articles, Bylaws, Association Rules or Development Standards shall be construed as if such invalid part were never included therein.

18.4 Rule Against Perpetuities. If any of the privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until 21 years after the death of the survivor of the now living descendants of United States Senator Barry Goldwater, United States Senator Dennis DiConcini, James P. Mehen, Richard H. Bailey and James R. Bartlett.

18.5 Mortgage of Lots. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his respective Lot. No Member 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.

18.6 Fire Protection. It is contemplated that the Association will contract with an existing fire department or district providing fire protection services in the area of the Project, or annex the Project into an existing fire district or form a new fire district servicing the Project, in order to secure appropriate fire protection services for the Project. In connection therewith, it is anticipated the Association will be required to indemnify the service provider against all claims or losses incurred in

connection with providing such fire protection services. In furtherance of the foregoing, the Association is hereby expressly authorized to take all such actions and enter into all such agreements as either shall deem reasonable, necessary and appropriate to obtain fire protection services for the Project. All expenses incurred by the Association in connection therewith, whether as periodic service charges or otherwise, shall be Common Expenses. To the extent, however, that charges are incurred for fire protection with respect to specific Lots, such as a separately stated charge for responding to an emergency call or fighting a fire with respect to such Lots, such charges shall be payable by the Owner(s) thereof and shall constitute a Special Assessment. Notwithstanding the duty of the Association to obtain fire protection services for the Project, neither the Association nor any Board member shall be liable to any Owner, Member, Mortgagee or other Person if appropriate fire protection services are not obtained or if the fire protection services actually provided are inadequate or any loss or damage results therefrom.

18.7 Water Company and Wastewater Reclamation Company. The Association owns the private profit or nonprofit corporations which own and operate the domestic water delivery facilities and the wastewater reclamation (sewer) facilities serving the Project (respectively, the "Water Company" and the "Wastewater Reclamation Company"). At the time of construction of any improvements upon a Lot, the Owner of the Lot will be required to pay to the Water Company and the Wastewater Reclamation Company such tap fees or hook-up charges as may then be applicable. Each Owner will also be required to pay monthly, or other periodic, service fees to the extent such fees are not included in the Regular Assessments.

18.8 Power of Attorney. Whenever the Association is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Association is empowered to take any action or do any act, including but not limited to action or acts in connection with the Common Areas or sale thereof, which may at any time be deemed to require the act of an Owner or Member, the Owners and Members and each of them hereby constitute and appoint the Association as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts including but not limited to executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by becoming a Member of the Association or by the acceptance of a deed for a Lot or by signing a contract for the purchase of a Lot or by succeeding in any other manner to the ownership of a Lot, or any interest therein, or a membership in the Association, each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

19. RIGHTS AND OBLIGATIONS.

Each Owner, by the acceptance of a deed of conveyance and each purchaser under any contract for such deed of conveyance, and each purchaser under any agreement of sale, and each Person acquiring a membership in the Association, and each Person acquiring any other interest in the Property, and the heirs, successors and assigns of the foregoing Persons, accepts the same subject to all covenants, conditions, restrictions, liens, assessments, easements, privileges and rights herein contained, and the jurisdiction, rights and powers created or reserved by this Declaration, and 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, and shall bind any Person having at any time any interest or estate in said land, and shall inure to the benefit of any such Person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or instrument evidencing or creating such interest.

20. INITIAL DECLARATION SUPERSEDED.

This Declaration shall supersede and replace the Initial Declaration in its entirety.

21. CERTIFICATION OF ADOPTION

By executing this Declaration, the undersigned President and Secretary of the Association certify and state that the amendments to the Initial Declaration contained in this Declaration were approved and adopted by two-thirds (2/3) or more of all the Members other than the Developer in accordance with the requirements of Article 17 of the Initial Declaration.

THE FOREST HIGHLANDS ASSOCIATION, an
Arizona nonprofit corporation

By: _____

Its: _____

ATTEST:

Secretary, The Forest Highlands Association

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2000, by _____, the President of The Forest Highlands Association, an Arizona nonprofit corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2000, by _____, the Secretary of The Forest Highlands Association, an Arizona nonprofit corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE PARCEL

All real property within the boundaries of Forest Highlands Unit One, according to the plat recorded in Case 4, Map100-100F, records of Coconino County, Arizona.

All real property within the boundaries of Forest Highlands Unit Two, according to the plat recorded in Case 4, Map 101-101D, records of Coconino County, Arizona.

All real property within the boundaries of Forest Highlands Unit Three, according to the plat recorded in Case 4, Map 120-120C, records of Coconino County, Arizona.

All real property within Forest Highlands Unit Four, according to the plat recorded in Case 4, Map 134-134C, records of Coconino County, Arizona.

All real property within the boundaries of Amended Plat of Forest Highlands Unit Five, according to the plat recorded in Case 7, Map 55-55F, records of Coconino County, Arizona.

When Recorded Mail To:

JACK GREHAN
The Forest Highlands Association
657 Forest Highlands
Flagstaff, AZ 86001

AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR FOREST HIGHLANDS

Table of Contents

	<u>Page</u>
1. DEFINITIONS.....	2
1.1 Annexation Property	2
1.2 Articles.....	2
1.3 Assessments	2
1.4 Association.....	2
1.5 Association Rules	2
1.6 Board.....	3
1.7 Bylaws.....	3
1.8 Clubhouse	3
1.9 Common Areas	3
1.10 Common Expenses.....	3
1.11 Community	5
1.12 Compound.....	5
1.13 Condominium Project	5
1.14 Condominium Unit	5
1.15 County.....	5
1.16 Declaration.....	5
1.17 Default Rate of Interest.....	5
1.18 Design Review Committee	6
1.19 Developer.....	6
1.20 Development Standards	6
1.21 Founders Member	6
1.22 Golf Club Facilities.....	6
1.23 Golf Course.....	6
1.24 Lot.....	6
1.25 Majority of Members	6
1.26 Member	7
1.27 Mortgage.....	7
1.28 Occupant	7
1.29 Owner.....	7
1.30 Parcel	7
1.31 Person.....	7
1.32 Plat	8
1.33 President.....	8
1.34 Private Road.....	8
1.35 Project	8
1.36 Property.....	8
1.37 Proportionate Share.....	8
1.38 Record or Recording.....	8

1.39	Regular Member	8
1.40	Special Member	8
1.41	Social Member	8
1.42	Supplemental Declaration	8
1.43	Transition Date	9
2.	RIGHTS OF ENJOYMENT	9
2.1	Member's Right of Enjoyment	9
2.2	Delegation of Use	10
2.3	Waiver of Use	10
2.4	Use of Private Roadways for Access	10
3.	MEMBERSHIP	10
3.1	Classification of Memberships	10
3.2	Regular Memberships	10
3.3	Special Memberships	11
3.4	Social Memberships	13
3.5	Founders Memberships	13
3.6	Transfer of Memberships	14
3.7	Maximum Number of Memberships	14
4.	ASSOCIATION	14
4.1	Purpose of Association	14
4.2	Membership in Association	15
4.3	Pledge of Voting Rights	15
4.4	Board of Directors	15
4.5	Board's Determination Binding	15
4.6	Approval of Members	15
4.7	Additional Provisions in Articles and Bylaws	16
4.8	Association Rules	16
4.9	Indemnification	16
4.10	Non-Liability of Officials	17
4.11	Easements	17
4.12	Accounting	17
4.13	Records	17
4.14	Managing Agent	17
4.15	Acquisition, Development and Disposition of Annexation Property	18
4.16	Installation of Natural Gas Lines	19
5.	EASEMENT	20

5.1	Blanket Easements	20
5.2	Use of Common Areas	20
5.3	Exclusive Use Rights	20
5.4	Perimeter Fence Easement	20
5.5	Pedestrian Access Easement	21
5.6	Golf Course Easement	21
5.7	Overspray Easement	21
5.8	Special Utility Easement	22
6.	ASSESSMENTS	22
6.1	Creation of Lien and Personal Obligation	22
6.2	Purpose of Assessments	22
6.3	Regular Assessments	23
6.4	Special Assessments	23
6.5	Capital Improvement Assessments	24
6.6	Uniform Assessment	25
6.7	Exempt Property	25
6.8	Date of Commencement of Regular Assessments	25
6.9	Time and Manner of Payments; Late Charges and Interest	25
6.10	No Offsets	25
6.11	Homestead Waiver	25
6.12	Reserves	26
6.13	Subordination of Lien	26
6.14	Certificate of Payment	26
6.15	Enforcement of Lien	26
6.16	Pledge of Assessment Rights as Security	27
6.17	Capital Contribution Fee	27
7.	INSURANCE	29
7.1	Authority to Purchase	29
7.2	Member's Responsibility	29
7.3	Coverage	29
7.4	Required Provisions	30
7.5	Non-Liability of Association/Board	31
7.6	Premiums	32
7.7	Insurance Claims	32
7.8	Benefit	32
8.	DAMAGE AND DESTRUCTION OF COMMON AREAS	32
8.1	Duty of Association	32
8.2	Automatic Reconstruction	32

8.3	Vote of Members	32
8.4	Excess Insurance Proceeds	33
8.5	Use of Reconstruction Assessments	33
8.6	Contract for Reconstruction.....	33
8.7	Insurance Proceeds Trust.....	33
9.	EMINENT DOMAIN	34
9.1	Definition of Taking	34
9.2	Representation in Condemnation Proceedings	34
9.3	Award for Common Areas.....	34
10.	MAINTENANCE, REPAIRS AND REPLACEMENTS	34
10.1	Owner's Responsibility	34
10.2	Maintenance of Common Areas	34
10.3	Right of Access.....	35
11.	ARCHITECTURAL AND LANDSCAPE CONTROL	35
11.1	Appointment of Design Review Committee.....	35
11.2	Development Standards	35
11.3	General Provisions.....	36
11.4	Approval and Conformity of Plans.....	36
11.5	Non-Liability for Approval of Plans.....	37
11.6	Inspection and Recording of Approval.....	37
11.7	Reconstruction of Common Areas.....	37
11.8	Additional Powers of the Board.....	38
11.9	Varying Standards.....	38
12.	USE AND OCCUPANCY RESTRICTIONS.....	38
12.1	Residential Use	38
12.2	Violation of Law or Insurance	38
12.3	Signs.....	38
12.4	Animals	38
12.5	Nuisances	39
12.6	Boats and Motor Vehicles.....	39
12.7	Lights	39
12.8	Antennas	39
12.9	Garbage.....	39
12.10	Mining.....	40
12.11	Safe Condition	40
12.12	Fires	40

12.13	Clothes Drying Area	40
12.14	No Further Subdivision; Compounds; Replatting of Community	40
12.15	No Obstructions to Drainage	42
12.16	Entrance Gates and Community Services.....	43
12.17	Rental of Lots.....	43
12.18	Golf Carts.....	43
12.19	Enforcement.....	44
12.20	Modification.....	44
13.	RIGHTS OF FIRST MORTGAGEES.....	44
13.1	General Provisions.....	44
13.2	Liability for Assessments.....	44
13.3	No Personal Liability	45
13.4	Enforcement After Foreclosure Sale.....	45
13.5	Exercise of Owner's Rights.....	45
13.6	Subject to Declaration.....	45
14.	ANNEXATION OF ADDITIONAL PROPERTY.....	45
14.1	Annexation of Additional Property.....	45
14.2	Supplemental Declarations	46
15.	COMMUNITY ASSOCIATIONS.....	46
16.	REMEDIES	47
16.1	General Remedies	47
16.2	Expenses of Enforcement	47
16.3	Legal Action	48
16.4	Effect on Mortgage	48
16.5	Limitation on the Developer's Liability	48

17.	AMENDMENT.....	49
17.1	Amendment to Declaration.....	49
17.2	Effect of Amendment.....	49
17.3	Amendment of Plat	49
17.4	Required Approvals	49
18.	GENERAL PROVISIONS	50
18.1	Notices	50
18.2	Captions and Exhibits; Construction	50
18.3	Severability	50
18.4	Rule Against Perpetuities.....	50
18.5	Mortgage of Lots	50
18.6	Fire Protection.....	50
18.7	Water Company and Wastewater Reclamation Company	51
18.8	Power of Attorney.....	51
19.	RIGHTS AND OBLIGATIONS.....	52
20.	INITIAL DECLARATION SUPERSEDED	52
21.	CERTIFICATION OF ADOPTION	52