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LENIHAN LAW FIRM
1050 E RIVER RD 300
TUCSON A 85718

**FIRST AMENDMENT
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
ARMORY PARK DEL SOL
TUCSON, ARIZONA**

THIS FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS ("First Amendment") is made as of the 21st day of February, 2001, by LAWYERSTITLE OF ARIZONA, INC., an Arizona corporation, not in its corporate capacity, but acting solely as trustee under Trust No. 7892-T ("Declarant").

WITNESSETH:

WHEREAS, Declarant adopted that certain Declaration of Protective Covenants, Conditions and Restrictions for Armory Park del Sol dated October 4, 2000, recorded in Docket 11397 at page 474 thereof, official records of Pima County, Arizona (the "Original Declaration");

WHEREAS, Declarant desires to amend the Original Declaration for the purposes set forth herein;

WHEREAS, pursuant to Section 10.14 of the Original Declaration, the owners representing not less than sixty-seven percent (67%) of the Lots may amend the Original Declaration;

WHEREAS, Declarant is the owner of not less than sixty-seven percent (67%) of the Lots;

NOW, THEREFORE, in consideration of premises and pursuant to the authority contained in the Original Declaration, the Declarant hereby amends the Original Declaration as follows:

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1. No Reclaimed Water.

a. Any and all references in the Original Declaration relating to non-potable water, reclaimed water, or the like, are hereby deleted in their entirety with such references to be replaced merely by the term "water," it being the intention of Declarant that there shall be no special non-potable or reclaimed water lines constructed in connection with the original development of the Property.

b. Section 6.5.2 of the Original Declaration is deleted in its entirety and replaced with the following new Section 6.5.2:

"6.5.2 For the construction, maintenance and operation of an irrigation system within such area."

2. Conflicts. In the event of a conflict between this First Amendment and the provisions of the Original Declaration, the provisions of this First Amendment shall control.

EXECUTED as of the day and year first written above.

DECLARANT

Lawyers Title of Arizona, Inc.,
an Arizona corporation,
not in its corporate capacity, but acting solely as
trustee under Trust No. 7892-T

By: Deborah J. Clark

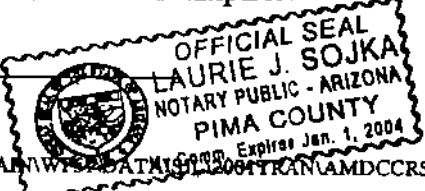
Its: ASST. TRUST OFFICER

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 21st day of February, 2001 by Deborah J. Clark, ASST. TRUST OFFICER of Lawyers Title of Arizona, Inc., an Arizona corporation, not in its corporate capacity, but acting solely as trustee under Trust No. 7892-T.

Laurie J. Sojka
Notary Public

My Commission Expires:



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THE LENIHAN LAW FIRM
1050 E RIVER RD 300
TUCSON AZ 85718

**SECOND AMENDMENT
TO
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
ARMORY PARK DEL SOL
TUCSON, ARIZONA**

THIS SECOND AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS ("Second Amendment") is made as of the 21 day of May, 2001, by **LAWYERS TITLE OF ARIZONA, INC.**, an Arizona corporation, not in its corporate capacity, but acting solely as trustee under Trust No. 7892-T ("Declarant").

WITNESSETH:

WHEREAS, Declarant adopted that certain Declaration of Protective Covenants, Conditions and Restrictions for Armory Park del Sol dated October 4, 2000, recorded in Docket 11397 at page 474 thereof, official records of Pima County, Arizona, which was amended by that certain First Amendment to Declaration of Protective Covenants, Conditions and Restrictions for Armory Park del Sol dated February 21, 2001 and recorded February 21, 2001 in Docket 11490 at page 4231, official records of Pima County, Arizona (collectively the "Original Declaration");

WHEREAS, Declarant desires to amend the Original Declaration for the purposes set forth herein;

WHEREAS, pursuant to Section 10.14 of the Original Declaration, the owners representing not less than sixty-seven percent (67%) of the Lots may amend

ARMORY PARK DEL SOL

the Original Declaration;

WHEREAS, Declarant is the owner of not less than sixty-seven percent (67%) of the Lots;

NOW, THEREFORE, in consideration of premises and pursuant to the authority contained in the Original Declaration, the Declarant hereby amends the Original Declaration as follows:

1. **Defined Terms.** Any capitalized term not defined in this Second Amendment shall have the same meaning as assigned to it in the Original Declaration.
2. **Conflicts.** In the event of a conflict between this Second Amendment and the provisions of the Original Declaration, the provisions of this Second Amendment shall control.
3. **No Rentals.** Section 7.3 of the Original Declaration is hereby amended by deleting the sentence which reads "No Unit shall be rented or leased for less than twelve (12) months" and substituting in its place the following sentences:

"No Unit shall be rented or leased, nor shall a Unit be occupied by any person(s) other than the Owner and/or Family Members. As used herein, "Family Members" shall mean the spouse or ex-spouse of the Owner, or any of the following blood, half-blood or step-relatives of the Owner: brother, sister, children, grandchildren, parents, grandparents, great-grandparents and great-great grandparents. Provided the Unit is occupied by at least one (1) Family Member on a full time basis, non-paying guests may also occupy the Unit from time to time."

In the event of a conflict between the provisions set forth above in this Section 3 and any other provisions contained in the Original Declaration or this Second Amendment, the provisions of this Section 3 shall control.

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EXECUTED as of the day and year first written above.

DECLARANT

Lawyers Title of Arizona, Inc.,
an Arizona corporation,
not in its corporate capacity, but acting solely as
trustee under Trust No. 7892-T

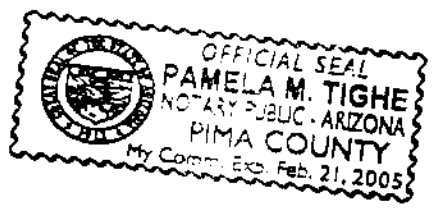
By: [Signature]
Its: Asst. Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 31 day of May, 2001 by Joyce M. Rodda, Mrs. [Signature] of Lawyers Title of Arizona, Inc., an Arizona corporation, not in its corporate capacity, but acting solely as trustee under Trust No. 7892-T.

[Signature]
Notary Public

My Commission Expires:
2/21/2005



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[Signature] 3

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: MSA
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TUCSON CITY CLERK
255 W ALAMEDA
TUCSON AZ 85701

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
ARMORY PARK DEL SOL
TUCSON, ARIZONA

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS is made this 22nd day of SEPTEMBER, 19 2000 by LAWYERS
TITLE OF ARIZONA, INC., an Arizona corporation, not in its corporate capacity, but acting
solely as trustee under Trust No. 7892-T ("Declarant").

WITNESSETH:

WHEREAS, Declarant owns all that certain real property described as Lots 1
through 99, and Common Area A, according to the map or plat of record in Book 53 of
Maps at page 93 thereof, records of Pima County, Arizona (the "Property");

WHEREAS, the Property is located adjacent to Armory Park Historic District;

WHEREAS, Declarant desires to retain the historic charm of the area and to
develop a unique in-fill community compatible with the existing adjacent neighborhood;

WHEREAS, Declarant desires to stress pedestrian uses within the Property;

WHEREAS, Declarant intends that homes built within the Property shall be all-
electric and the development shall employ the latest technologies utilizing solar energy to
supply electricity, hot water and space heating to each home within the Property, including
possible use of thermal mass walls, highly insulated windows and other energy saving
devices.

WHEREAS, Declarant intends, without obligation, to dedicate portions of the
Property to the Homeowners' Association for streets, drainage, sewers and other common
uses;

WHEREAS, Declarant desires to create covenants, conditions and restrictions
running with the land that will help assure the development and maintenance of the

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Property in the manner envisioned by Declarant;

NOW, THEREFORE, Declarant, subject to the specific provisions hereof, hereby declares that all of the Property shall at all times be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions contained herein, all of which are established and declared for the purpose of increasing the economic value, desirability and attractiveness of such property, for the mutual benefit of the owners thereof. Subject to the specific provisions hereof, the covenants, conditions and restrictions set forth in this Declaration shall run with the Property and shall be binding upon Declarant and all other persons acquiring any right, title or interest in and to said real property or any part thereof, and shall inure to the benefit of Declarant, the Association (as hereafter defined), each person who becomes an owner of any part of such property, and each successor in interest of any such person.

1. DEFINITIONS

The following terms shall have the following meanings when used in this declaration:

Association. "Association" shall mean the Armory Park del Sol Homeowners' Association, an Arizona non-profit corporation, and its successors and assigns.

Association Rules. See Section 7.19.

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

Common Area. "Common Area" shall mean all real property, and improvements thereon, now or hereafter owned (including without limitation the Front Yard Easement) or leased by the Association, for the common use and enjoyment of the Owners. Common Area shall include all areas set forth as Common Area in a recorded subdivision plat for the Property, to the extent dedicated to the Association.

Declarant. "Declarant" shall mean Lawyers Title of Arizona, Inc., an Arizona corporation, not in its corporate capacity, but acting solely as trustee under Trust No. 7892-T, its successors and assigns (to the extent but only to the extent provided in any written assignment of rights by Declarant and assumption of obligations by the assignee).

Declaration. "Declaration" shall mean this Declaration of Protective Covenants, Conditions and Restrictions, as the same may be amended from time to time.

Design Guidelines. See Section 4.5.

Developer. "Developer" shall mean John Wesley Miller Companies, an Arizona corporation.

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Eligible Holder. "Eligible Holder" shall mean a holder of a First Mortgage who has requested notices from the Association with respect to those matters of which it is entitled to notice pursuant to the provision of Section 8.4 of this Declaration or the Articles of Incorporation or Bylaws of the Association.

Eligible Insurer or Guarantor. "Eligible Insurer or Guarantor" shall mean an Insurer or Guarantor which has requested notice from the Association with respect to those matters to which it is entitled to notice under the provisions of Section 8.4 of this Declaration or the Articles of Incorporation or Bylaws of the Association.

First Mortgage. "First Mortgage" shall mean a Mortgage secured by a Lot which is entitled to greater priority than any other Mortgage secured by that Lot.

First Mortgagee. "First Mortgagee" shall mean the holder of a First Mortgage.

Front Yard Easement. See Section 6.5.

Insurer or Guarantor. "Insurer or Guarantor" shall mean a private or governmental mortgage insurer or guarantor which has insured or guaranteed a First Mortgage.

Lot. "Lot" shall mean each of those ninety-nine (99) individual residential lots designated as Lots 1 through 99 on the Plat, as well as each and every individual parcel of property into which a portion of any property which is hereafter annexed to this Declaration is or may hereafter be divided through the recording of a Subdivision Map, Planned Unit Development Map, Planned Unit Residential Development Map, Sub-Planned Unit Development Map, Sub-Planned Unit Residential Development Map, Condominium Map, Parcel Map, Certificate of Land Division, or other land division device, and which parcel is depicted therein as a site or proposed site for a single family or multi-family residential dwelling.

Member. "Member" shall mean any person who is a member of the Association pursuant to Section 2 of this Declaration.

Membership Fee. "Membership Fee" - See Section 9.13.

Mortgage. "Mortgage" shall mean a mortgage or deed of trust secured by a Lot or Unit Estate.

Mortgagee. "Mortgagee" shall mean the holder of a Mortgage.

Owner. "Owner" shall mean Declarant and any person or entity which holds title in fee simple to all or any interest in a Lot.

Plat. "Plat" shall mean that certain plat of the Property, recorded in Book 53 of Maps and Plats at page 98, records of Pima County, Arizona.

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Property. "Property" shall mean all of the real property described in Exhibit "A" hereto and all real property which becomes annexed thereto and to this Declaration pursuant to the provisions of Section 10.15 of this Declaration.

Resident. "Resident" shall mean any person who resides in the Unit so long as said person is so residing.

Unit. "Unit" shall mean a completed residential dwelling unit with sleeping, kitchen and bathing facilities constructed on a Lot, constituting a free-standing single-family residence. A Unit shall be deemed completed when final approval has been issued therefor by the governmental entity.

Unit Estate. "Unit Estate" shall mean all of the components of ownership held by an Owner of a Unit or Lot without a Unit, including any fee title interest, any undivided interest in common areas, any right to use common areas, and any easement rights.

2. THE ASSOCIATION

2.1 General Purposes and Powers. The Armory Park del Sol Homeowners' Association has been or will be incorporated as the Association to which reference is made in this Declaration. The Association shall be incorporated prior to the sale of the first Unit in the Property.

2.2 Membership. Each Owner, by virtue of being an Owner and only for so long as he or she is an Owner, shall be a Member of the Association. The Association incorporators and Declarant shall also be Members, so long as Declarant or Developer owns at least one Lot.

2.3 Board of Directors. The affairs of the Association shall be managed by and (unless otherwise provided herein) undertaken through actions of the Board. The number and qualifications of Directors and their terms of office shall be as provided in the Articles of Incorporation and Bylaws of the Association.

2.4 Voting Rights. Members shall have the following voting rights in the Association.

2.4.1 Class A Voting Rights. Each Member shall have Class A voting rights and as a result shall have one vote for each Unit Estate he or she owns; provided, that in the event that title to a Unit Estate is held by multiple Owners, the multiple Owners shall, prior to each meeting of the Association, provide the Association with a written statement, signed by a majority of such multiple Owners, designating one person who shall have the right to cast the vote assigned to the Unit Estate owned by such multiple Owners. Further, neither Declarant nor Developer shall have Class A voting rights until the date specified in subsection 2.4.2 below, and at and after such time Declarant and Developer shall have Class

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A voting rights.

2.4.2 Class B Voting Rights. Declarant shall have Class B voting rights and shall have three (3) votes for each Unit Estate in which it or Developer has fee title until the date when the total Class A votes then existing equal the total Class B votes then existing. On and after such date, but in any event, by January 1, 2010, Declarant and Developer shall have Class A, and only Class A, voting rights.

2.4.3 Voting for Directors. At any election of the Board of Directors, every Owner entitled to vote may cumulate his votes and give any one or more candidates a number of votes equal to the number of votes such Owner may have multiplied by the number of Directors to be elected; provided however, that unless the entire Board is removed from office, an individual Director shall not be removed from office prior to the expiration of his term of office if the number of votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that may be cast under the foregoing cumulative voting procedures by a divisor equal to one plus the authorized number of Directors. Notwithstanding the foregoing provisions of this Section 2.4.3, the Board of Directors shall be appointed (and vacancies filled) by the Developer so long as the Declarant or the Developer own one or more Lots in the Property.

2.4.4 Transfer of Voting Rights. Except as provided in subsection 2.4.2 above, a Member's right to vote may not be severed or separated from any Lot or Unit, and any sale, transfer or conveyance of fee interest in any Lot or Unit to a new Owner or Owners shall operate to transfer the appurtenant membership and voting rights without the requirement of any express reference thereto.

2.4.5 Proxies. Every Member entitled to vote or execute statements or consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent; provided, however, that (i) no such proxy shall be valid after the expiration of eleven (11) months from the date of its execution, unless the Member executing it specifies therein the length for which such proxy is to continue in force, which may not exceed twenty-five (25) months from the date of execution and (ii) a Member's proxy shall automatically terminate upon conveyance by that Member of his fee title interest in all Lots and Units owned by the Member.

2.4.6 Actions. If a quorum is present, the affirmative vote on any matter of the majority of the votes represented at the meeting (or, in the case of elections in which there are more than two candidates, a plurality of the votes cast) shall be the act of the Members, unless the vote of a greater number is required by law, by the Articles of Incorporation, by the Bylaws of the Association, or by this Declaration.

2.5 Meetings. Meetings of the Members shall be held and notice given as set forth in the Bylaws of the Association.

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2.6 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners as Members of the Association set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association, including any reasonable provisions with respect to corporate matters, but in the event that any such provisions may be, at any time, inconsistent with any provision of this Declaration, the provisions of this Declaration shall govern.

2.7 Notification of Transfer. Each Owner shall within ten (10) days of any sale, transfer or conveyance of a fee interest in the Owner's Lot or Unit Estate, notify the Association of such sale, transfer or conveyance.

2.8 Property Taxes. The Association shall be responsible for the timely payment of local taxes on the Common Area.

3. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 Maintenance of Common Area. The Association shall have responsibility for the control, maintenance, repair, replacement, improvement and safety of the Common Area, and the landscaping maintenance of the front yards of each Unit, including but not limited to the following:

- (a) all private streets, if any, and parking areas, including curbs, gutters, and the like,
- (b) all private drainage facilities, including detention and/or retention basins, channels and storm drains,
- (c) landscaping, irrigation systems and lighting systems in the Common Area,
- (d) all improvements to the Common Area, and
- (e) all private utilities.

3.2 Labor and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as the services of such other personnel and entities, including independent contractors, as the Association shall determine to be necessary or desirable for the proper performance of its obligations and functions, whether such personnel are furnished or employed directly by the Association or by any person with whom or with which it contracts. Any professional management contract entered into while Class B voting rights are in effect shall be terminable by the Association without cause and without penalty on sixty (60) days' notice at any time after the termination of Class B voting rights. The Association shall have no authority to enter into a professional management contract which is inconsistent with the

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foregoing sentence, and Declarant covenants not to directly or indirectly bind the Association to a contract inconsistent therewith.

3.3 Association Functions. The Association may undertake or contract for any lawful activity, function or service for the benefit of the Owners. In addition to the Assessments described in Section 9, all costs and expenses of activities, functions or services undertaken by the Association for the benefit of fewer than all of the Owners may, at the discretion of the Board, be assessed to the Owners benefitted. The Association shall obtain from applicable governmental authorities any licenses necessary or appropriate to carry out its functions hereunder and the Association shall pay all ad valorem taxes on the Property. The activities, functions or services undertaken or contracted for by the Association may, but need not necessarily include, without limiting the foregoing, the providing of legal and accounting services necessary or desirable in connection with the operation of the Association or the enforcement of this Declaration; the providing of electric, water and sewer service to the Common Area; and, the enforcement of all rights granted to the Association in any lease, easement or other instrument, including this Declaration.

3.4 Limitation on Rights. The Association shall not take any of the following actions except with the affirmative vote of a majority of the total votes exercisable by all members:

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Association for a term longer than one year, except a contract with a public utility company if the rates charged for the materials or services are regulated by the Arizona Corporation Commission (provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate); and

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

3.5 Member Approval of Association Actions. Notwithstanding anything contained herein to the contrary and in addition to any requirements prescribed by law, the Association may not file any action against Declarant, Developer or any affiliate of Declarant or Developer arising out of or related to the design, construction, condition or sale of any part of the Property or any improvements thereon, or in any other manner relating to or arising from the Property, until all of the following have occurred:

(a) In advance of the meeting described in Subsection 3.5(b) below, the Board has provided full disclosure in writing to all Members of all material information relating to the action. The material information shall include, without limitation, a statement that describes the manner in which the action will be funded and a statement describing any demands, notices, offers to settle or responses to offers to settle made either

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by the Association or the Declarant, Developer or their affiliates, if any.

(b) The Association has held a duly called meeting of its Members and the Board, at which a majority of all Class A Members (not merely a majority of those Class A Members voting in person or by proxy), voting in person or by proxy, authorize the filing of the action.

(c) The Board has authorized the filing of the action, as applicable."

3.6 Liability of Board and Association. Provided that the Board, the Association and any entity to whom authority has been delegated pursuant to the terms hereof, acts in good faith and with due diligence, neither the Board nor any member thereof shall be liable to the Association, any Owner or any other person for any damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any plans, specifications or materials, including, but not limited to, flood control plans, whether or not defective; the construction or performance of any work, whether or not pursuant to approved plans, specifications and materials; the development or manner of development of any land within the Property; the execution or recordation of a form of approval or disapproval pursuant to this Declaration, whether or not the facts stated therein are correct; the performance of any other function pursuant to the provisions of this Declaration; or any other act or omission of the Board or a Board member, or any party to whom any Board or Association authority is delegated pursuant to the terms thereof. The Association may provide for the indemnification of Association directors, officers, members, employees, agents, contractors and other persons and entities in its Articles of Incorporation and/or Bylaws, or may otherwise indemnify any or all such persons and/or entities to the extent allowed by law.

3.7 Professional Advice. The Board may employ the services of an architect or engineer to render professional advice, and may pay a reasonable compensation for such services, which compensation may be charged to any Owner who has submitted plans, specifications or other materials which are reviewed by such architect or engineer, provided that such compensation may only be charged to such Owner if he or she has been informed in advance that such compensation will be so charged.

3.8 Insurance. The Association shall purchase liability insurance for the Common Area, and such other insurance as the Board deems necessary or advisable. The Board shall annually determine whether the amounts and types of insurance of the Association provide adequate coverage and may increase coverage or obtain additional coverage as it shall deem appropriate.

3.9 Drainage Facilities. The Association shall have an Arizona Registered Professional Civil Engineer prepare a certified inspection report of the drainage and detention/retention facilities at least once each year, and also following any damaging floods. Such inspection reports shall be retained in the Association's books and records and shall be subject to review by the staff of the City of Tucson upon written request. The staff of the City of Tucson has the right to inspect the private drainage and detention/retention

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facilities to verify that any scheduled and unscheduled maintenance activities are being adequately performed by the Association. The Association shall be obligated to reimburse the City of Tucson for any costs associated with maintaining the private drainage and detention/retention facilities in the event that it determines that the Association has been deficient in its obligation to adequately maintain such facilities.

4. ARCHITECTURAL CONTROL

4.1 Association Approval. No building, addition, alteration or modification of any building, or other improvement which would change the exterior appearance of a Lot or the Property, shall be constructed on the Property by an Owner other than Declarant until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been first submitted to and approved in writing as to harmony in relation to surrounding structures and topography by the Board.

4.2 Procedure for Approval. The Board's approval shall be obtained by the Owner submitting two complete sets of building plans and specifications not less than thirty (30) days in advance of contemplated commencement of construction. The Board shall endorse its approval or disapproval upon one copy of the plans within thirty (30) days of receipt of same. Failure by the Board to disapprove plans within said thirty (30) day period shall be deemed approval of said plans. No change or deviation in or from the written consent of the Board shall be permitted, and the Board shall not be responsible for any defects in said plans or specifications or in any building, structure or improvement erected according to said plans and specifications. Further, the Board shall have the right to disapprove any plans or specifications submitted to them as aforesaid if said plans or specifications are not in accordance with all the provisions of this Declaration, or if, in the opinion of the Board the design, color scheme, height, or quality of construction of the proposed building or any other structures are not in harmony with the general surroundings of such Lot or with the adjacent building or structures, or if the plans and specifications submitted are incomplete.

4.3 Governmental Approvals. Notwithstanding the approval of the Board as provided above, each Owner shall be solely responsible for (and the Board shall have absolutely no liability or responsibility for) obtaining all necessary governmental approvals and/or permits prior to any building, addition, alteration or modification of a building or other improvement on such Owner's Lot.

4.4 Repair of Common Area and Association Walls. During the course of construction and/or landscaping installation on a Lot, the Owner thereof shall be responsible, at its expense, for the prompt repair and/or replacement of Common Area which is damaged or destroyed by the Owner, its agents, contractors or employees if such Owner would be legally responsible for such damage or destruction under the laws of the State of Arizona. Should the Owner fail to satisfactorily and promptly replace or repair any such damage upon request by the Board, the Association may effect repair or replacement

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at the expense of the Owner and any resulting cost shall be charged to the Owner and applicable Unit Estate as an Assessment, the payment of which shall be enforceable in accordance with the provisions of Section 9.

4.5 Design Guidelines. The Board shall have the right to promulgate design guidelines ("Design Guidelines") in order to detail architectural and other requirements for all construction within the Property and to otherwise protect and maintain the integrity of the development of the Property. Without limiting the generality of the preceding sentence, the Design Guidelines may include, without limitation, the size of Units, architectural design, with particular regard to the harmony of the design with the surrounding structures (and neighborhoods) and topography, placement of Units and other buildings, landscaping design, content and conformance with the character of the Property and permitted and prohibited plants, requirements concerning exterior color schemes, exterior finishes and materials, signage, perimeter and screen wall requirements, if any, building height requirements, building setbacks, roof styles, roof pitch and materials. Each Owner shall be bound by such Design Guidelines to the same extent that such Owner is bound by this Declaration. The Design Guidelines may be amended, from time to time, upon a majority vote of the Board.

4.6 Architectural Committee. The Board may appoint an architectural committee to which it may delegate the Board's authority pursuant to Section 4.1 through 4.5 of this Declaration. Any decision of the architectural committee shall be promptly forwarded to the Board and the Board shall have the right to endorse or reject the decision of the architectural committee. Notwithstanding the foregoing provisions of this Section 4.6, so long as the Developer or the Declarant owns one or more Lots in the Property, the Developer and not the Board shall be entitled to appoint the architectural committee.

5. WALLS

5.1 Party Walls. Each wall built as a part of the original construction of a building, patio wall, or other structure upon the Properties and placed on the dividing line between Lots shall constitute a "Party Wall". The general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply hereto, to the extent not inconsistent with the provisions of this Section 5:

5.1.1 Sharing of Repair and Maintenance. The cost of ordinary repair and maintenance of a party wall shall be shared equally by the Owners of the Lots which are divided by the wall.

5.1.2 Destruction by Fire and Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and is hereby granted a permanent access easement for such restoration. The Owners of the Lots which are divided by the wall shall share equally in the cost of such restoration.

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5.1.3 Weatherproofing. Notwithstanding any other provisions of this Section, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of repairing all damage resulting from such exposure.

5.1.4 Alterations. Any Owner desiring to make any repair or modification requiring the extension or alteration of a party wall shall first obtain the written consent of the adjoining Owner.

5.1.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Land and shall pass to such Owner's successors in title.

5.1.6 Arbitration. In the event of any dispute arising with respect to a party wall, or under the provisions of this Section, the dispute shall be resolved pursuant to the provisions of Section 10.16 hereof.

5.1.7 Private Agreement. Private agreements between Owners may not modify the provisions of this Section.

5.1.8 Eaves, Steps, Open Porches. For purposes of this Section, eaves, steps and open porches shall not be considered to be a part of a building.

5.2 Association Walls. The term "Association Wall" shall mean any fences and walls on the Property adjacent to and/or contiguous to any Common Area or street except for that part of any wall or fence located on a Lot which faces a Unit. The Association shall be responsible for maintenance, repair and replacement of Association Walls, provided, however, that in the event an Association Wall is located on a Lot, then the provisions of this Section 5 governing Party Walls shall govern the responsibilities of the Owner and the Association, as though the Association is an adjoining Owner.

6. EASEMENTS

6.1 Easements for Repair, Maintenance and Emergencies. The Association shall have an easement across each Lot for maintenance of the Common Area and Association Walls. Any damage on any Lot caused by the gross negligence or wilful misconduct of the Association or any of its agents during any entry onto any Lot shall be repaired by and at the expense of the Association. Each Owner shall have an easement across each Lot adjacent to the Owner's Lot for the reasonable maintenance and repair of such Owner's Unit, Unit walls and patio walls.

6.2 Reservation of Construction Easements. Declarant reserves for a period of one hundred twenty (120) months after the date of recording of this Declaration for itself, for Developer and its and their contractors, an easement over the Property for the completion of construction and repair of improvements thereon, and to use any portions of

the Property for sales offices and model homes relating to any project of Declarant or Developer.

6.3 Encroachments. Each owner and the Association shall have an easement for encroachments on neighboring Lots and other portions of the Property with respect to areas upon which his house, patio wall or other structure encroaches to the extent such encroachments are caused by the original construction by Declarant or Developer of a house, patio wall or other permitted structure.

6.4 Rights Within Common Area. The Association shall have the right to grant permits, licenses and easements as respects its own easement in Common Area for purposes relating to the preservation and maintenance thereof and for purposes benefiting the Property.

6.5 Front Yard Easement. In all cases where the front yard property line of an Unit Estate is common to two or more Unit Estates, then the Association shall have an easement ("Front Yard Easement") across the front ten (10) feet of each such Unit Estate for the purposes set forth below and such Front Yard Easement shall constitute Common Area:

6.5.1 For the planting and maintenance of grass and other landscaping within such area.

6.5.2 For the construction, maintenance and operation of a reclaimed water irrigation system within such area.

Except for the Front Yard Easement of the Association, the Owner of each Unit Estate shall reserve the right to the exclusive use of the area encumbered by the Front Yard Easement.

Unless otherwise approved by the Declarant, there shall be a minimum forty (40) foot distance between houses (including porches) with common front property lines.

The boundaries of the Front Yard Easement on each Unit Estate shall be defined by a picket fence, hedge or other improvement defining the Front Yard Easement. Such picket fence, hedge or other improvement shall be constructed by the Declarant in connection with the original construction of each Unit.

7. RESTRICTION ON USE OF LOTS

7.1 Residential Uses. Subject to the provisions of Sections 6.2 and 7.15, no building shall be constructed on a Lot unless said building is a Unit or unless a Unit has been or is being contemporaneously constructed on the Lot.

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No building, wall or other improvement shall be erected or maintained nor shall any construction thereof be commenced upon the Property, nor shall any exterior addition to or change or alteration therein be made (including any change in exterior paint color) until plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board.

Subject to the provisions of Section 7.15, no used buildings constructed or erected upon other real property shall be moved from other locations onto any Lot. Except as approved by the Board or otherwise provided herein, neither trailers nor mobile homes shall be permitted on any Lot unless housed in an enclosed structure so as to conceal them from view of adjacent lots or streets. No structures of a temporary character, trailers, tents, shacks, garages or barns shall be used on any Lot at any time as a residence either temporarily or permanently. All temporary structures on any Lot during construction of a Unit must be approved by the Board and must be removed when construction is completed.

7.2 Animals. No animals, livestock or poultry of any kind shall be raised or kept on any Lot, except for dogs, cats or other household pets. At any one time the total number of household pets raised or kept in a Unit, other than fish, shall not exceed four (4), nor shall any animals be kept, bred, manicured or maintained on a Lot for any commercial purposes. No animals may be kept which, in the sole discretion of the Association, constitute a nuisance or annoyance to other Owners or Residents. Any such nuisance shall be corrected at the Owner's expense. Should the Owner not comply with the requirements imposed by the Association, such correction shall be made under the Association's direction with any costs to be billed to the Owner and to be an Assessment as to said Owner and the applicable Unit Estate pursuant to Section 9. In no event shall an Owner permit any animal to roam from an Owner's Lot.

7.3 Signs, Business Activities and Rentals. Except as may be specifically permitted in this Declaration or in any Association Rules, no advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb any Owner or Resident. Nothing herein contained shall restrict the right of an Owner to display or have displayed on such Owner's Lot or in such Owner's Unit, one sign of customary and reasonable dimensions (not exceeding four square feet) advertising the Lot or Unit for sale; the right of the Association to place directional signs of customary and reasonable dimensions with respect to streets and to easements; or the right of Declarant or Developer to place signs of reasonable dimensions on Lots and in areas designated as "Common Area" on subdivision maps of record for any portion of the Property for sales or office purposes of Declarant or Developer in connection with their office and sales facilities on the Property. No business activities of any kind whatsoever shall be conducted on any portion of a Lot, except for the construction, sales office and model facilities of Declarant and Developer. No Unit shall be rented or leased for less than twelve (12) months. Any lease or rental agreement must be in writing and be subject to this Declaration and the Association's Articles of Incorporation, Bylaws, and rules and

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regulations.

7.4 Service Areas. All clotheslines, equipment, service yards, woodpiles and storage piles shall be kept screened by adequate fencing so as to conceal them from view of adjacent Lots and streets. All rubbish and trash shall be regularly removed from all Lots and shall not be allowed to accumulate thereon. No noxious or offensive activity shall be carried on or upon any Lot.

7.5 Outdoor Fires. No outdoor fires shall be permitted on any portion of the Property except as specifically authorized in writing by the Board.

7.6 Motor Vehicles. Any motor vehicle operated on the Property, including any automobile, truck, dune buggy, motorcycle or trail bike, shall have mufflers on its exhaust system and shall be ridden only on paved roads within the Property or other areas specifically designated for such use by the Board. No motor vehicle which is not in an operating condition shall be parked or left on any part of the Property other than within an enclosed garage. No motor vehicle shall be ridden on any Lot except for the purpose of parking, loading or garaging the same or for necessary maintenance of the Lot and the structures, persons, improvements, animals or plants thereon. In no event shall motor vehicles be operated for recreational purposes on any portion of the Property.

7.7 Boats, Trucks, and Trailers. No boat, truck, trailer, van, motor home, camper or similar vehicle or item shall be stored or parked on a public or private street, in front of any Unit located on a Lot, or elsewhere on any Lot unless the same is actually stored in an enclosed garage or is a personal passenger vehicle of a size capable of being stored in a standard size garage.

7.8 Privies. No privies shall be erected, maintained or used upon any Lot, except for temporary privies which are used during the course of construction on a Lot and approved in advance by the Developer, subject to such conditions as the Developer may impose.

7.9 Miscellaneous Structures. No derrick, pump or other structure designed for use in boring, mining or quarrying for water, oil or natural gas or precious minerals shall be erected, maintained or permitted upon any Lot.

7.10 Excavation. No excavation shall be made on any Lot except in connection with construction of an improvement on such Lot, and upon completion thereof any exposed opening shall be backfilled and disturbed ground shall be compacted, graded and leveled in such a manner that the drainage over the disturbed ground shall be the same as it was prior to such excavation.

7.11 Fences. No fence, hedge, wall or other dividing structure higher than six (6) feet above the surface of the ground shall be permitted on any Lot, except for the walls or roof of a carport or garage.

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7.12 Subdivision. No Lot may be subdivided without the prior approval of the Board.

7.13 Antennas/Equipment. No pole, mast or outdoor antenna (including any "dish" antenna) shall be allowed on any Lot without the prior written consent of the Board. No equipment of any kind shall be allowed on the roof of any Unit if such equipment would be visible from any street or Lot within the Property, without the prior written consent of the Board. While it is the desire of the Declarant that the architectural integrity of the Property be maintained as addressed in the Recitals to this Declaration, the Board shall nonetheless have broad authority, which it may exercise in its sole discretion, to allow solar equipment, devices or materials on the roofs of Units or elsewhere in the Property.

7.14 Garages. No garage door shall be allowed to remain open on a Lot unless vehicles and/or other items are being transported into, out of or through the garage area. No garage may be enclosed or otherwise converted to become a portion of the living area of a Unit, but must remain substantially as originally constructed so as to allow for the parking and storage of two vehicles. Subject to the approval of the Board carports, rather than enclosed garages, may be allowed. The Board shall have the discretion, which it may exercise in its sole discretion, to require garages on certain Lots and carports on other Lots so as to properly effectuate Declarant's architectural intent with respect to the Property as a whole.

7.15 Business of Declarant/Builder. Notwithstanding any other provision herein to the contrary, Declarant, Developer and their agents (including sales agent) and representatives may use any areas of the Property for model home sites and for construction, sales and display offices for any development project on the Property, and said offices may be trailers or mobile office facilities (including construction and/or sales trailers). No provision of this Declaration shall be applicable to prohibit any act or activity of Declarant, Developer or its or their agents or representatives in connection with or incidental to improvements, development and/or sale of the Property by Declarant and Developer. Subject to the approval of Declarant, a builder building one or more Units within the Property may be granted by Declarant all or part of the rights of Declarant with respect to each Lot upon which such builder constructs a Unit.

7.16 Landscape Installation and Maintenance. Subject to the provisions of Section 6.5, (i) within four (4) months of the conveyance of a Unit Estate by Declarant or Developer to an Owner other than Declarant, Developer, the then-Owner of the Unit Estate shall complete the installation of landscaping on all areas of the Unit Estate's Lot which are visible from adjoining streets or Lots, (ii) after installation the Owner shall, at his expense, maintain said landscaping in a healthy, attractive condition, and (iii) if any Owner fails to landscape or maintain landscaping in accordance with the foregoing, the Association may landscape said area and/or maintain landscaping in said area, and the cost thereof shall be assessed to the Owner as an Assessment in accordance with Section 9.

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7.17 Nuisances. No Owner or Resident shall create or suffer to exist any use or operation on a Lot which is a public or private nuisance, nor shall any music, noise or sound that is objectionable due to intermittent beat, frequency, shrillness or loudness be allowed to emanate from or to exist within or around a Lot. No Owner or Resident shall allow the use upon a Lot of an exterior loud speaker or any other sound projection device emitting noises for a siren, bull horn or similar noise device unless used solely for security and alarm purposes.

7.18 Parking. Except as provided in the Association Rules, (i) there shall be no parking on any streets except where designated by the Developer, (ii) each Unit Estate shall contain one parking space in addition to a two-car garage or carport, or in the alternative the Unit Estate shall contain a three-car garage or carport, and (iii) there shall be no parking by Owners, but only by guests, on 3rd Avenue and on 16th Street, and in designated guest parking spaces.

7.19 Association Rules. So long as the Declarant or Developer owns at least one (1) Lot, the Developer (and thereafter, the Association) shall have the right to promulgate rules and regulations ("Association Rules") with respect to use, maintenance, care and other matters relating to Common Areas or any other subject which is within the authority of the Board pursuant to this Declaration or the Articles or Bylaws of the Association.

7.20 Solar Energy Requirement. Each Unit Estate shall include as a required part of the Unit Estate operating facilities which produce not less than one kilowatt of photovoltaic power generation and have one standard solar domestic hot water system.

7.21 Handicap Accessibility. Except as allowed by the Declarant, each Unit constructed within the Property shall have at least one (1) entrance to such Unit which will, in effect, provide handicap access to the entire ground floor of the Unit.

8. LIENHOLDER PROVISIONS

8.1 Subordination of Assessments to First Mortgages. The lien of the Assessments provided for under the terms of this Declaration shall be prior to all other liens and encumbrances recorded subsequent to this Declaration; provided, however, that the lien of the Assessments provided for herein shall be subject to and subordinate to the lien of any First Mortgage given for value on a Unit Estate and which is recorded prior to the recording of any unreleased Notice of Assessment. The sale or transfer of a Unit Estate shall extinguish the lien of any Assessment with respect to but only with respect to payments which become due prior to the foreclosure sale or transfer.

8.2 Protection of First Mortgages. No violation or breach of, or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any First Mortgage on any Unit Estate taken in good faith and for value and recorded prior to the time of recording of an instru-

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ment describing the Unit Estate and listing the name or names of the Owner or Owners thereof and giving notice of such violation, breach or failure to comply; nor shall such violation, breach or failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of any First Mortgagee or fee title or interest acquired by any purchaser upon foreclosure of any such First Mortgage or result in any liability, personal or otherwise, of any such First Mortgagee or purchaser. Upon foreclosure of any such First Mortgage, no such First Mortgagee or purchaser who thereby assumes title to a Unit Estate shall be required to correct "past violations" hereof with respect to said Unit Estate. Any violation existing prior to such sale and continuing thereafter, which the Board, in its sole discretion, determines to be impossible, unfeasible or impractical to cure, shall be deemed to be a "past violation" for purposes of the foregoing sentence. Any continuing violation which is not determined by the Board to be impractical, impossible or unfeasible to cure shall be deemed to be a violation occurring after such sale.

8.3 Taxes and Insurance. Should the Association obtain casualty insurance policies with respect to any property or improvements owned by or to be repaired and maintained by the Association, and should any First Mortgagee request the execution of an agreement allowing said First Mortgagee to make premium payments on such policy in the event of the cancellation or other termination thereof, the Association shall execute such reasonable agreement in that regard as may be requested by the applicable First Mortgagee and shall immediately reimburse any such First Mortgagee making premium payments which are overdue on such policies, or which are used to secure new policies upon the cancellation or other termination of the existing policy or policies. First Mortgagees may jointly or severally pay taxes or other charges which are in default and which may have been or which may become a charge against property or interests of the Association and seek reimbursement from the Association for the same; provided, however, if such taxes or charges are separately assessed against Owners, the rights of the First Mortgagees shall be governed by their Mortgages.

8.4 Notice to Eligible Holders and Eligible Insurers and Guarantors of Action. Upon written request to the Association, identifying the name and address of the requesting First Mortgagee or requesting Insurer or Guarantor and the Unit Estate description or address, any such requesting First Mortgagee or requesting Insurer or Guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or any Unit Estate on which there is a First Mortgage held, insured or guaranteed by such requesting First Mortgagee, or requesting Insurer or Guarantor, as applicable.

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(b) Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit Estate subject to a First Mortgage held, insured or guaranteed by such requesting First Mortgagee or requesting Insurer or Guarantor, which remains uncured for a period of sixty (60) days.

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(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

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

8.5 Insurance and Fidelity Bonds. So long as the Federal National Mortgage Association is the holder of any mortgage secured by a Unit Estate and/or the Owner of any Unit Estate, the Association shall maintain such insurance coverage and such fidelity bonds as may be required by the Federal National Mortgage Association.

8.6 Resolution of Conflicts. In the event of any conflict or inconsistency between any provision of this Section 8 and the provisions of any other Article of this Declaration, the provisions of this Section 8 shall prevail.

9. ASSESSMENTS

9.1 Assessments. Each Owner of a Lot or Unit Estate (or, in the event of multiple Owners of the same Lot or Unit Estate, such multiple Owners jointly and severally) shall be obligated to pay, and each Owner, by acceptance of a deed for any Lot or Unit Estate, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association amounts as herein provided, which amounts are herein called "Assessments". Assessments shall be used exclusively to promote the health, safety, recreation and welfare of the Owners and Residents of the Property, and/or to fulfill the covenants set forth in Section 3.1, and/or for such other purposes as may be expressly provided for in this Declaration.

Subject to the provisions hereof, the Board shall have the power and authority to determine all matters in connection with Assessments, including, without limitation, power and authority to determine where, when and how Assessments shall be paid to the Association, and each Owner shall comply with all such determinations.

9.2 Determination of Budgets. No later than sixty (60) days prior to the commencement of each fiscal year or partial fiscal year, the Board shall determine the budget for the Association for such fiscal year or partial fiscal year, in the following manner:

9.2.1 Operating Budget. The Board shall prepare or cause to be prepared and approved an Operating Budget for the fiscal year or partial fiscal year showing, in reasonable detail, the estimated operating costs and expenses that will be payable in that fiscal year or partial fiscal year to fulfill the regular operating functions and obligations of the Association in that fiscal year or partial fiscal year, including amounts necessary to cover obligations made in connection with, or contemplated under, any previously approved budgets, plus any amount sufficient to provide a reasonable carry-over reserve for the next fiscal year.

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9.2.2 Capital Replacement Reserve. The Board shall also determine the amount to be set aside in a special fund allocated for any maintenance and replacement of improvements not required to be performed annually.

Upon determination of the budget for a fiscal period, year or partial fiscal year, the Board shall furnish a copy of the budget to each Owner (which budget shall separately identify amounts attributable to the Operating Budget and to the Capital Replacement Reserve Fund) together with a written statement of the amount of the Regular Assessment to be assessed against the Owner's Lot or Unit Estate for the applicable fiscal period. See Section 9.6 for the allocation of assessments to each Lot.

9.3 Regular Assessments. The amount to be raised by Regular Assessments during the fiscal year or partial fiscal year shall be equal to (i) the Operating Budget for such period, plus (ii) the Capital Replacement Reserve to be set aside for said period, less the amount attributable to the Operating Budget collected but not disbursed in the immediately preceding fiscal year or partial fiscal year; provided, however, that in lieu of such subtraction the Association may elect to refund to the Owners said surplus.

If the Board fails to determine or cause to be determined the total amount to be raised by Regular Assessments in any fiscal year or partial fiscal year, and/or fails to timely notify the Owners, then the amount of Regular Assessments shall be deemed to be the amount assessed in the previous fiscal year.

Except as emergencies may require, the Association shall make no commitments or expenditures in excess of the funds reasonably expected to be available to the Association.

9.4 First Assessments and Maximum Annual Increases. Prior to the expiration of sixty (60) days after the conveyance of the first Lot or Unit Estate to an Owner other than Declarant or Developer, the Board shall estimate the costs and expenses to be incurred by the Association from the expiration of said sixty (60) days until the commencement of the first subsequent fiscal year of the Association. The estimate shall be assessed to each Owner as provided in Section 9.3 hereof as a Regular Assessment as of the first day of the month following the month in which the sixty-first (61st) day after the conveyance of the first Lot or Unit Estate to an Owner other than Declarant or Developer. All costs and expenses incurred prior to such time shall be the responsibility of Declarant and Developer.

The annual Regular Assessment for the first full fiscal year of the Association following the fiscal year during which Assessments are first imposed shall not, for any Lot, exceed three hundred sixty dollars (\$360.00). The annual Regular Assessment for fiscal years of the Association following the aforereferenced fiscal year may be increased; however, the annual Regular Assessment for a particular fiscal year shall not, without approval of the Members, be increased by an amount which is more than ten percent (10%) of the maximum annual Regular Assessment which would have been permitted in the prior fiscal year without membership approval. An annual Regular Assessment may be increased above such maximum if, but only if, such increase is approved at a meeting of Members by

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the vote of two-thirds (2/3) of the votes of each class of voting rights cast at said meeting.

At the close of escrow of each purchase of a Lot, the Owners will pay to the Association the Regular Assessment (prorated for the balance of the year at such closing and in full for the next year in advance) together with the Membership Fee.

9.5 Supplementary Assessments. In addition to Regular Assessments, the Association may levy Supplementary Assessments, payable over the period of an Association fiscal year (i) for the purpose of defraying, in whole or in part, to the extent the amounts in the Capital Replacement Reserve Fund are insufficient therefor, the cost of any acquisition, construction, reconstruction, maintenance, repair or replacement of landscaping, improvements or any part thereof; (ii) for the purpose of defraying any other expense incurred or to be incurred as provided in this Declaration; or (iii) to cover any deficiency, in the event that, for whatever reasons, the amount received by the Association from Regular Assessments is less than the amount determined to be necessary and assessed by the Board. However, Supplementary Assessments may not be levied unless approved at a meeting of Members by the vote of two-thirds (2/3) of the votes of each class of voting rights cast at said meeting, and the affirmative vote of the Class B Member.

9.6 Apportionment of Assessment.

9.6.1 So Long as Class B Membership Exists. Until the month following the termination of Class B Membership, the assessment payable by each Owner (other than Declarant or Developer) shall be equal to the maximum annual assessment, as provided in Section 9.4, or such lesser amount as the Board shall approve. The Declarant shall contribute to the Association any deficit resulting from an excess of Association expenditures over Association revenues collected, but neither the Declarant nor Developer shall pay any assessments until the month following the termination of Class B Membership.

9.6.2 After Termination of Class B Membership. Effective for the first month following termination of Class B Membership, and subject to the provisions of Section 9.4, the amount of the Regular or Supplementary Assessment for any fiscal period payable with respect to a Unit Estate shall be a percentage of such Assessment equal to that percentage of Unit Estates within the Property represented by that Unit Estate at the beginning of the fiscal year. By way of example, if, at the beginning of a fiscal year, there are ten (10) Unit Estates within the Property, an Owner would be responsible for paying ten percent (10%) of the total Assessment for each Unit Estate owned by the Owner. For purposes of this Section 9.6, each Unit Estate owned by Declarant or Developer shall be considered as a 1/4 Unit Estate.

9.7 Time for Payments. The amount of any Assessment, charge, fine, penalty or other amount payable with respect to any Owner or such Owner's Unit Estate, shall become due and payable as specified by the Board and, in any event, no later than thirty (30) days after any notice of the amount due shall have been given by the Association to such Owner. Unless paid within thirty (30) days of the date notice is given, any such amount shall bear

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interest at a rate of eighteen percent per annum from its original due date until date of payment. Regular and Supplementary Assessments shall be collected on a monthly basis.

9.8 Lien for Assessments and Other Amounts. The Regular and Supplementary Assessments and all charges, fines, penalties and other amounts (including interest, attorney's fees and other expenses incurred by the Association in collecting unpaid amounts) payable by an Owner or payable with respect to an Owner's Unit Estate shall be a charge on that Owner's Unit Estate; shall be a continuing lien upon that Owner's Unit Estate; and shall also be the personal joint and several obligation of all Owners of the Unit Estate at the time that the Assessment, charge or other amount becomes due. If an Owner does not pay in full, within thirty (30) days after notice from the Board of the amount due, any Assessment, charge, fine, penalty or other amount or any installment thereof, and any interest accrued thereon, the Association may record, in the Office of the County Recorder of Pima County, Arizona, a notice describing the Unit Estate owned by the defaulting Owner. Such Notice of Assessment shall state the amount of the Assessment, interest, costs, penalties, attorney's fees and other costs of collection, the Owner's name and a description of the applicable Unit Estate against which the Assessment has been made, and shall be signed by an authorized representative of the Association. Upon payment or other satisfaction of the Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the lien noticed by the recording of said Notice of Assessment. If, after recording of the Notice of Assessment, the Owner fails to pay or otherwise satisfy the Assessment, the Association may, at any time within one (1) year after such recordation or such longer period as allowed by applicable law, enforce the lien of the Assessment by sale of the applicable Unit Estate. In exercising its power of sale, the Association shall have such rights, shall comply with such requirements and conditions and shall follow such procedures as provided by Arizona law relative to the enforcement of such liens. In the absence of any such laws, said lien may be enforced by sale conducted in accordance with laws of the State of Arizona for foreclosure of deeds of trust. The foregoing remedies shall be in addition to any other remedies provided by law or in equity for the enforcement of such obligations, including the institution of legal proceedings against the applicable Owner or Owners personally.

9.9 Estoppel Certificate. Upon payment of a reasonable fee and upon written request of any Owners, the Association shall furnish a written statement setting forth the amount of Assessments, charges, fines or penalties, if any, due or accrued and then unpaid with respect to the Owner and/or the Unit Estate owned by such Owner and the amount of the Assessments for the current fiscal period of the Association payable with respect to the Unit Estate owned by such Owner, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association that no greater or other amounts were due or accrued and unpaid as of the date of issuance of such statement.

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9.10 Liability of Owners and Purchasers. The amount of any Assessment, charge, fine or penalty owing to the Association by any Owner under this Declaration shall be a joint and several obligation to the Association of such Owner and such Owner's heirs and assigns and administrators, personal representatives, successors and assigns; provided,

however, that an Owner who was not an Owner of a Unit Estate at the time an Assessment became due shall not be personally obligated with respect to said Assessment unless he or she agreed or agrees to personally assume the same. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

9.11 Financial Statements. Within ninety (90) days after the end of each fiscal year, the Association shall distribute to its Members an Association balance sheet as of the last day of such year and an operating statement for such year. Such financial statements shall be audited by an independent public accountant if the Board so desires or if any First Mortgagee or Insurer or Guarantor submits a written request for an audited statement.

9.12 Inspection of Books and Records. The membership register; books of account; minutes of meeting of the Members, of the Board and of committees of the Board; current Association Articles of Incorporation; current Association Bylaws; Association financial statements and other books and records of the Association, including a current copy of this Declaration and any annexation documents shall be made available for inspection and copying by any Member, by his or her duly appointed representative, by First Mortgagees, and by Insurers or Guarantors at any reasonable time at the office of the Association or at such other place, within reasonable proximity to the Property, as the Board shall prescribe. The Board may establish reasonable rules with respect to the notice to be given to the custodian of the records by the party desiring to make the inspection, hours and days of the week when such an inspection may be made, and payment of the cost of reproducing copies of documents requested.

9.13 Membership Fee. Each Owner who purchases a Unit Estate, shall at the close of escrow of such purchase pay to the Association a one-time non-refundable fee in the amount of \$250.00 to establish an operating fund and reserve account for the benefit of the Association, which fee may be increased or decreased from time to time by the Board ("Membership Fee").

10. MISCELLANEOUS

10.1 Duration of Declaration. Each of the provisions contained in this Declaration shall run with the land and continue and remain in full force and effect for a period of twenty (20) years beginning as of the date of recordation of this Declaration, and shall automatically be extended thereafter for successive periods of ten (10) years each unless an instrument executed by the then Owners of not less than two-thirds (2/3) of the Unit Estates has been recorded agreeing to terminate this Declaration at the end of said twenty (20) years or at the end of an applicable ten-year extension period.

10.2 Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or

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interest to effectuate any provision of this Declaration (i) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in the property or in any Unit Estate is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (ii) shall, by virtue of acceptance of any right, title or interest in the Property or in any Unit Estate by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, executors, representatives, personal representatives, successors and assigns and shall be deemed a personal covenant to, with and for the benefit of the Association and with and for the benefit of any other Owner; (iii) shall be deemed a real covenant by Declarant for itself, its successors and assigns and also an equitable servitude, running, in each case, as a burden with an upon the title to the Property and each Unit Estate and as a real covenant and also as an equitable servitude and shall be deemed a covenant and servitude for the benefit of the Property and each Unit Estate; and (iv) shall be deemed a covenant, obligation and restriction secured by a lien in favor of the Association burdening and encumbering the title to the Property and each unit Estate in favor of the Association.

10.3 Enforcement and Remedies. In addition to any other remedies herein provided, each provision of this Declaration with respect to an Owner, the Unit Estate of an Owner and the Association shall be enforceable by Declarant, the Association or any Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages. Notwithstanding any other provision hereof to the contrary, neither Declarant nor the Association shall alter or demolish items of construction on a Lot as a result of a violation of the provisions of this Declaration without first obtaining the approval of the Owner thereof or instituting Court proceedings and obtaining Court approval therefor. If any Court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party or parties shall be entitled to recover from the losing party or parties any costs and expenses in connection therewith, including reasonable attorneys' fees.

10.4 Construction. The provisions of this Declaration shall be liberally construed to promote and effectuate the fundamental concepts of the Property as set forth in this Declaration, and no provision hereof shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over the Property.

10.5 Assignment of Powers. Any and all of the rights and powers vested in Declarant pursuant to this Declaration may be delegated, transferred, assigned, conveyed or released by Declarant to the Association and the Association shall accept the same effective upon the recording by Declarant of a notice of such delegation, transfer, assignment, conveyance or release. Upon the sale to any person of substantially all of the Property owned by Declarant at any time, Declarant may assign all of its rights as Declarant to such person as successor Declarant and may require the successor Declarant to assume all of the obligations of Declarant hereunder, by recording an Assignment and Assumption of Declarant's Rights and Obligations, executed by Declarant and by the successor Declarant in the records of Pima County, Arizona. Upon such recordation, such successor Declarant

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shall become the Declarant for all purposes under this Declaration.

10.6 Non-Avoidance. No Owner through non-use or abandonment of his Lot or Unit Estate may avoid the burdens or obligation imposed on him by this Declaration.

10.7 Limited Liability. Neither Declarant, the Association, the Board, any member of the Board, any officer of the Association, nor any agent or employee of Declarant, the Association or the Board shall be liable to any Owner or other person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith. The Association shall indemnify every present and former officer and employee of the Association and every present and former Board member against all liabilities incurred as a result of holding such office, to the full extent permitted by law. The Association may additionally provide for the indemnification of Association directors, officers, members, employees, agents, contractors and other persons and entities in its Articles of Incorporation and/or Bylaws.

10.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association, each Owner and their respective heirs, personal representatives, successors and assigns unless otherwise provided herein.

10.9 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid or enforceable part of a provision of this Declaration.

10.10 Captions. The captions and heading in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

10.11 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

10.12 Further Assurances. The Association and each Owner hereby agree to do such further acts and execute and deliver such further instruments as may reasonably be required to effectuate the intent of this Declaration.

10.13 Notices. Any notice, information or material required to be given hereunder shall be deemed furnished or delivered to a party upon the earlier of (1) the time a copy thereof is deposited in the mail or at a telegraph office, postage or charges prepaid, addressed to the party, or (2) when such party actually physically receives such notice, information or material. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by such Owner or, if a name and address is not so furnished, if it is addressed to the Owner at the street address of a Unit owned by the Owner, or if there is no Unit on a Lot owned by the Owner, then to the address of the Owner as reflected on the records of the Pima County Assessor for real property tax purposes. Notice, information and material required to be given

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hereunder to Declarant, the Association or the Board shall be addressed to such entity care of the Association at the main office of the Association.

10.14 Amendment of this Declaration. During the first twenty (20) years, this Declaration may only be amended upon the approval and consent of Owners representing not less than sixty-seven percent (67%) of the Lots. As long as there are Class B voting rights, any amendment of this Declaration shall also require the approval of either the Veterans Administration or the Federal Housing Administration. Thereafter, this Declaration may be amended by a recorded instrument approved by sixty-seven percent (67%) of the Owners. Notwithstanding anything to the contrary in this Declaration, the Board shall have the right, but not the obligation, to amend this Declaration, without obtaining the approval or consent of any other Owner or Mortgagee, in order to conform the Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or other government or governmental approved agencies when such modification is required to qualify for the use of the services, insurance or other guarantees provided by such agencies.

10.15 Annexation. All or any portion of the property adjacent to the Property may be annexed to the Property as follows: (i) by Declarant from time to time prior to January 1, 2010, so long as Declarant has Class B voting rights, and (ii) at any time, with the consent of two-thirds (2/3) of the Members. A property which is annexed as heretofore provided shall become a portion of the Property and subject to the duties, powers and jurisdiction of the Association and to this Declaration provided that the Veterans Administration ("VA") and the Federal Housing Administration ("FHA") determine that the Association is in accord with the general plan heretofore approved by them. Notwithstanding any provision contained in this Declaration to the contrary, VA and/or FHA approval shall only be required if Developer has submitted the Property to the FHA and/or VA for approval for permanent financing of houses built within the Property.

10.15.1 Procedure for Annexation. Such annexation shall be made by and shall be effective upon filing of record, in the Office of the County Recorder of Pima County, Arizona, a Declaration of Annexation, or similar instrument executed by Declarant, relative to the additional property or properties to be annexed.

10.15.2 Consequences of Annexation. The recordation of any Declaration of Annexation as provided hereinabove shall constitute and effectuate the annexation of the real property described therein, making said real property subject to this Declaration, as amended, and subject to the functions, powers, duties and jurisdiction of the Association, and thereafter all Owners of Unit Estates within the annexed property shall automatically be Members of the Association.

10.15.3 Adjustment of Assessments. Upon the occurrence of any such annexation, the Board shall have the power to make such equitable and reasonable monetary adjustments in the Regular and Supplementary Assessments of Owners as may be

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necessary, taking into consideration both the increased Association membership obligated herein to pay Assessments and the addition of the new Common Area and Association Walls. However, the Board shall make no adjustments to the Assessments which are inconsistent with the provisions of Section 9.6 without the amendment of this Declaration in conformance with the provisions of Section 10.14 above.

10.16 Arbitration. In the event that a dispute or claim shall arise with respect to any of the terms or provisions of this Agreement, or with respect to the performance by any of the parties hereto (including an Owner or the Association) of the undertakings or agreements herein contained or contained in any agreements attached hereto and made a part hereof, then either party may, by written notice to the other party ("Initial Notice") require that such dispute or claim be submitted to arbitration within ten days after such Initial Notice is given by such party. The party giving the Initial Notice shall designate one arbitrator in the Initial Notice. Within said ten days, the other party shall designate one arbitrator, and the third arbitrator shall be designated within twenty (20) days after the Initial Notice by the two arbitrators so designated, and all disputes or claims shall be resolved in accordance with the Arizona Uniform Arbitration Act.

In the event that the two arbitrators designated as hereinabove provided shall fail to timely designate a third arbitrator, or in the event a person designated as arbitrator as hereinabove provided refuses or becomes unable to act as such and the party on whose behalf such person was designated as arbitrator fails to designate a successor arbitrator, the then Presiding Judge for the Pima County Superior Court shall designate the third arbitrator or the successor arbitrator, as the case may be, at the request of any party hereto.

Within forty (40) days after the Initial Notice, the arbitrators shall render a decision in writing and the decision in which any two arbitrators shall concur shall in all cases be binding on the parties. The arbitrators shall deliver to the parties duplicate original copies of their decision on the date rendered. All resulting awards and determinations made by the arbitrators pursuant to the provisions of this section shall be conclusively binding upon all parties hereto and judgment may be rendered thereon.

Each party shall pay the fees and expenses of its arbitrator. The fees and expenses of the third arbitrator in connection with each arbitration shall be paid as the arbitrators shall award.

10.17 Disclaimer of Representations. Neither Declarant nor Developer makes any representations or warranties whatsoever that: (i) the development of the Property will be completed in accordance with the plans for the development of the Property as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; (iii) the use of any Property subject to this Declaration will not be changed in the future.

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

DECLARANT

Lawyers Title of Arizona, Inc.,
an Arizona corporation,
not in its corporate capacity, but acting solely as
trustee under Trust No. 7892-T

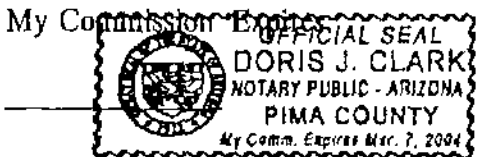
By [Signature]

Its: Asst. Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 28 day of Sept.
2000, ~~19~~ by Joyce M. Rodda, Asst. Vice President
of Lawyers Title of Arizona, Inc., an Arizona corporation, not in its
corporate capacity, but acting solely as trustee under Trust No. 7892-T

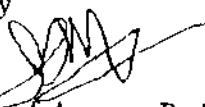
[Signature]
Notary Public



[Signature]
NOTARY PUBLIC

EXHIBIT "A"

Property



Lots 1 through 99 and Common Area ~~A~~ and ~~B~~, of Armory Park del Sol, according to the Map or Plat of record in Book 53 of Maps at page 98 thereof, records of Pima County, Arizona.

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