

When recorded return to:

Hidden Meadow Ranch

PO Box 300
620 CRN 1325
Greer AZ 85927

**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE CLUB AT HIDDEN
MEADOW RANCH**

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**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE CLUB AT IDDDEN MEADOW RANCH**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Restated Declaration") is made and entered into as of the 1ST of June, 2023, by Baba Inv., LLC, an Arizona limited liability company (herein called "Declarant").

RECITALS

A. AM Ranch Company, LLC is the Declarant under the Declaration of Covenants, Conditions and Restrictions for The Club at Hidden Meadow Ranch recorded as document 2002-07463 of the official records of Apache County, Arizona (the "Original Declaration"). Baba Inv. LLC is the Declarant pursuant to the transfer of ownership dated 03/07/2016. Per Section 18 of the Original Declaration, Declarant has the right to amend the Original Declaration. Declarant now wishes to amend and restate, and wholly replace, the Original Declaration as provided herein. This Restated Declaration applies to that parcel of real property situated in Apache County, Arizona, described on Exhibit "A", attached hereto and by reference made a part hereof (the "Parcel"), which includes the property covered by the Club Plat and by the Lodge Plat, which was annexed to the Original Declaration prior to the date of this Restated Declaration.

B. Declarant desires to submit and subject the Parcel, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances, and privileges belonging or in any way pertaining thereto (all of which comprise a part of the "Property" as hereinafter defined), to the covenants, conditions, restrictions, lien, assessments, easements, privileges and rights contained herein.

C. Declarant desires that the Property be developed as a residential community to be known as "The Club at Hidden Meadow Ranch".

D. Declarant deems it desirable to establish covenants, conditions and restrictions applicable to the Property and each and every portion thereof, and certain mutually beneficial restrictions and obligations with respect to the proper use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property.

E. It is desirable for the efficient management of the Property to create an owners

association and to delegate to it the powers of (i) managing, maintaining and administering the Common Areas and any Areas of Common Responsibility within the Property, (ii) administering and enforcing these covenants, conditions and restrictions and (iii) collecting and disbursing funds pursuant to the assessments and charges hereinafter created and performing other acts provided for in this Declaration or which generally benefit its Members, the Property, and the owners of any interests therein.

F. The Owners Association for The Club at Hidden Meadow Ranch, an Arizona nonprofit corporation, has been incorporated under the laws of the State of Arizona for the purpose of exercising the foregoing powers and functions. In addition, the Association has been organized in part to deliver water to the Members of the Association and to own, operate and maintain the Club Water System to that end, in accordance with this Declaration and all applicable governmental regulations.

G. Declarant desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and all other Persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the Property.

DECLARATIONS

NOW, THEREFORE, Declarant, for the purposes above set forth, declares that the Property shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each owner thereof, the Association and each member of the Association. This Restated Declaration amends and restates and wholly replaces the Original Declaration and all prior amendments to the Original Declaration.

1. DEFINITIONS.

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

1.1 "Annexable Property" means the any real property located within one-quarter mile of the Property.

1.2 "Annexed Property" means any additional real property that is annexed to the Property in accordance with Section 15, thereby becoming a part of the Property and subject to this Declaration.

1.3 "Area of Common Responsibility" means any area that is not owned, leased or otherwise held by the Association (and is therefore not part of the Common Areas) but for which the Association has maintenance, repair, and/or operational responsibility by the terms of this

Declaration, any Supplemental Declaration or other applicable real property covenants, by requirements of governmental authorities, or by contract. Any area described in the preceding sentence shall continue to be an Area of Common Responsibility only so long as the Association's responsibility for it continues.

1.4 "Articles" means the Articles of Incorporation of the Association, as they may be amended from time to time.

1.5 "Assessments" shall include the following:

1.5.1 "Fixed Water Costs Assessment" means the amounts that are to be paid by Owners pursuant to Section 5.9.1.

1.5.2 "Regular Assessment" means the amount that is to be paid by each Owner as the Owner's Proportionate Share of the Common Expenses of the Association, as provided in Section 7.3.

1.5.3 "Special Assessment" means the amounts that are to be paid by Owners pursuant to Section 7.4.

1.5.4 "Variable Water Costs Assessment" means the amounts that are to be paid pursuant to Section 5.9.2.

1.6 "Association" means the Owners Association for The Club at Hidden Meadow Ranch, an Arizona nonprofit corporation, its successors and assigns.

1.7 "Association Rules" means the rules and regulations adopted by the Board pursuant to Section 3.10.

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

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

1.10 "Charter Lots" means Lots 32 through 47, inclusive, according to the Club Plat.

1.11 "Club Cabin Lots" means those Lots included in the Club Plat that are also subjected to fractional ownership, further described in Section 23.

1.12 "Club Lots" means Lots 1 through 31, inclusive, and Lots 48 through 52, inclusive, according to the Club Plat, which may be owned as whole ownership Lots or as fractional ownership Club Cabin Lots.

1.13 "Club Plat" means the Amended Replat of The Club at Hidden Meadow Ranch, recorded in the official records of Apache County, Arizona on April 9, 2007, in Book 16 of Land Surveys, at page 186.

1.14 "Common Areas" means all real property (and the improvements or amenities thereon) that may from time to time be owned or leased by the Association or otherwise held by the Association for the common use and enjoyment of the Owners. The Common Areas include, but are not limited to, any Private Roads. The Common Areas do not include the Areas of Common Responsibility. Any real property, and improvements or amenities thereon, that are described as "tracts," "common areas" or "open space" in a Supplemental Declaration or a Plat shall be deemed to be "Common Areas" as that term is defined herein for the common use and enjoyment of the Owners, as may be provided, and shall, for all purposes, be integrated into and deemed to be a part of the Common Areas subject to this Declaration. Common Areas may be abandoned or modified as provided in Section 2.1.4 and Section 3.20.

1.15 "Common Expenses" means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Property, and in owing or leasing any portions thereof, and in otherwise performing its rights and responsibilities, including but not limited to, costs associated with operation and maintenance of the Club Water System pursuant to Section 5 and costs associated with monitoring of septic systems by the Association pursuant to Section 6.3. If any services furnished to the Property are part of services that are provided to or benefit other property in addition to the Property, Common Expenses shall only include that portion of the cost reasonably allocated to the services provided to the Property.

1.16 "County" means Apache County, Arizona, a political subdivision of the State of Arizona.

1.17 "Declarant" means Baba Inv. LLC, an Arizona limited liability company, its successors and assigns, or any Person to whom Declarant's rights hereunder are hereafter assigned in whole or in part by recorded instrument, or any Mortgagee of Declarant that acquires title to or succeeds to the interest of Declarant in any Lot or other portion of the Property by reason of the foreclosure (or conveyance in lieu of foreclosure) or trustee's sale under the Mortgage of said Mortgagee. The term "Declarant," as used herein, shall include not only the named Declarant but also any of the foregoing successors, assigns, assignees of right(s) and Mortgagees. An assignment by recorded instrument of all of Declarant's rights shall vest in the assignee all of Declarant's rights hereunder on the same terms that they were held by Declarant hereunder. An assignment by recorded instrument of part of Declarant's rights shall vest in the assignee the specific Declarant's right(s) named in the instrument of assignment on the same terms that they were held by Declarant hereunder. Notwithstanding anything to the contrary herein, an assignment of all or any portion of Declarant's rights, or a sharing of those rights with any Designated Builder, shall not deprive the assignor of any protection, indemnity or freedom from liability that would otherwise exist under this Declaration if the assignor had retained all of Declarant's rights hereunder.

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

1.19 "Default Rate of Interest" means an annual rate of interest equal to the greater of (i) 15% per annum or (ii) 4% plus the prime rate announced by Bank One, Arizona, NA (and charged to its largest and most creditworthy customers), but in no event greater than the highest lawful rate of interest. If Bank One, Arizona, NA should cease doing business or no longer announce its prime rate as described above, the Board may compute interest based upon the announced prime rate of any other bank doing business in Arizona. If banks should cease announcing prime rates, the Board may elect to use 15% as the Default Rate of Interest, or may specify the rate, in lieu of the prime rate, for purposes of the computation hereunder that the Association would reasonably have to pay to borrow money at the time.

1.20 "Design Guidelines" means the rules, regulations, restrictions, architectural standards and design guidelines from time to time adopted by the Design Review Committee or, prior to the Transition Date, Declarant, pursuant to Section 12.3.

1.21 "Design Review Committee" means the committee provided for in Section 12.

1.22 "Designated Builder" means a Person that constructs or causes the construction of dwelling units on one or more Lots within the Property for sale to Retail Purchasers and that Declarant elects, in its sole and absolute discretion, to name as a "Designated Builder" in a written notice delivered to the Association. In any written notice naming a Designated Builder, Declarant shall specify what rights, privileges, obligations and exemptions of Declarant that particular Designated Builder will have with respect to this Declaration, any applicable Supplemental Declaration, the Association Rules and the Design Guidelines. Declarant may revise, alter,

supplement or rescind the rights, privileges, obligations and exemptions previously given to a Designated Builder by delivering written notice to the Association detailing any revisions, alterations, supplements, or rescissions.

1.23 "Lodge Lots" means Lots 1 through 18, inclusive, according to the Lodge Plat.

1.24 "Lodge Plat" means the Final Plat of The Lodge at Hidden Meadow Ranch - Amended, recorded in the official records of Apache County, Arizona on December 19, 2005, in Book 9 TM, at page 18.

1.25 "Lot" means a subdivided lot as shown on the Plat. A "Lot" includes the residential dwelling unit and other improvements constructed thereon. In the event that the Association owns a subdivided lot shown on the Plat for the common use and enjoyment of the Owners, it will be considered "Common Area" in accordance with Section 1.14 and not a "Lot" pursuant to this Section, notwithstanding its designation as a "Lot" on the Plat.

1.26 "Majority of Members" means the Members holding more than 50% of the total votes entitled to be cast by Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) with respect to a given matter. Any specified fraction or percentage of the Members means the Members holding that fraction or percentage of the total votes entitled to be cast by Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) with respect to a given matter. A "Majority of a Quorum of Members" means the Members holding more than 50% of the total votes entitled to be cast by the Members (including, unless otherwise specifically provided herein, Declarant so long as Declarant or any Related Party owns any portion of the Property) who are present (in person or by proxy) at a meeting at which a quorum of Members (as defined in the Bylaws) is present. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of a Quorum of Members.

1.27 "Member" means every Person who is a member of the Association.

1.28 "Membership" means a membership in the Association.

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

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

1.31 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether an Owner's immediate family member, guest, tenant or other individual.

1.32 "Original Declaration" is defined in the Recitals.

1.33 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, to any Lot that is a part of the Property, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation. If a Lot is subject to a deed of trust pursuant to Arizona law (as amended from time to time), legal title shall be deemed to be in the trustor under the deed of trust. If fee simple title is vested of record in a trustee pursuant to Arizona law, legal title shall be

deemed to be in the beneficiary.

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

1.35 "Person" means an individual, corporation, partnership, limited liability company, trustee or other entity capable of holding title to real property, and their respective heirs, successors and assigns.

1.36 "Plat" means the subdivision plat of the Parcel as first recorded in the official records of Apache County, Arizona, and as thereafter from time to time amended or supplemented, together with all recorded plats of subdivision for any Annexed Property.

1.37 "Private Road" means any street, roadway or other similar right-of-way within or partly within the Property that has not expressly been dedicated to public use.

1.38 "Property" means the Parcel and any additional real property made subject to this Declaration by annexation pursuant to Section 15, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto. The Property shall not include any property other than the Parcel, unless and until the property is annexed hereto pursuant to Section 15.

1.39 "Proportionate Share" means that fraction wherein the numerator is one and the denominator is the sum of the total number of Lots in the Property.

1.40 "Related Parties" means Declarant's constituent members; the members, partners, shareholders and owners of the Declarant's constituent members and their constituent entities; Declarant's affiliates; the affiliates of Declarant's constituent members; and the officers, directors, members, shareholders, trustees and other principals of Declarant and of all of the foregoing entities, and their respective successors and assigns.

1.41 "Restated Declaration" means this instrument.

1.42 "Retail Purchaser" means a Person who purchases a Lot in a retail transaction and shall not include Declarant, any Related Party, any Designated Builder or any other Person who acquires a Lot (i) in a bulk sale transaction, or (ii) by distribution (as distinguished from purchase), or (iii) in any similar transaction.

1.43 "Shared Access Easement" is defined in Section 4.10.

1.44 "Supplemental Declaration" means a declaration of covenants, conditions and restrictions, or similar instrument, annexing additional real property to the Property and subjecting the Annexed Property to this Declaration as provided in Section 15.

1.45 "Transition Date" means 90 days following the date upon which 90% of the Lots within the Property have been conveyed to Retail Purchasers or such earlier date as Declarant voluntarily specifies in an instrument recorded in the official records of the County.

2. RIGHTS OF ENJOYMENT.

2.1 Owners' Right of Enjoyment. Declarant and every Owner and Occupant shall have a nonexclusive easement for use and enjoyment in and to, and access, ingress and egress over, the Common Areas, which easement shall be appurtenant to, and shall pass with, the title to every Lot, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration including, but not limited to, the following provisions:

2.1.1 The right of the Association to establish reasonable rules and regulations pertaining to or restricting the use of the Common Areas by Owners, Occupants, guests or other Persons and the right of the Association, in its reasonable discretion, to charge admission, membership and other fees for the use of any Common Areas.

2.1.2 The right of the Association to suspend the right of an Owner, Occupant and any other Person to use the Common Areas, or any designated portion thereof, during any time in which any Assessment attributable to the Owner or the Owner's Lot remains unpaid and delinquent and for a reasonable period of time for any breach of this Declaration, any applicable Supplemental Declaration, the Association Rules or Design Guidelines. Notwithstanding the foregoing, the Association shall not have the right to suspend any Owner's right to use any portion of the Property, including any Private Roads, necessary for the Owner to gain access to the Owner's Lot.

2.1.3 The right of the Association to dedicate or transfer all or any part of, or interest in, the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association provided that these actions otherwise comply with this Declaration.

2.1.4 The right of the Association to change the use, size, shape or location of Common Areas, to exchange Common Areas for other properties that then become Common Areas, and to abandon or otherwise transfer Common Areas, provided that all of these actions otherwise comply with this Declaration.

2.1.5 The right of the Association to limit or restrict the right of Owners and other Persons to use portions of the Common Area which exist for the benefit of the Association, but which by their nature are not intended for access by Owners including, but not limited to, portions of the Common Area that are subject to drainage, utility, water line, or similar easements or restrictions.

2.2 Delegation of Use. No Owner may delegate the Owner's right to use and enjoy the Common Areas to any Person, to Occupants of the Owner's Lot, or to the Owner's guests, except as permitted by the Association Rules. An Owner's right of use and enjoyment of the Common Areas shall be appurtenant to and shall pass with title to the Owner's Lot.

2.3 Waiver of Use. No Owner may exempt himself, and no Owner shall be exempt, from personal liability for Assessments or release any Lot the Owner owns from the liens, charges and other provisions of this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, by voluntary waiver of, or suspension or restriction of the Owner's right to, the use and enjoyment of the Common Areas, or the abandonment of the Owner's Lot.

3. ASSOCIATION.

3.1 Purpose of Association. The Association has been incorporated as a nonprofit corporation to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Property, including but not limited to the provision of water to the Property and coordination of septic services for the Property, and for the assessment of expenses, payment of losses, disposition of casualty insurance and other matters as provided in this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules and Design Guidelines. The

Association shall not be deemed to be conducting a business of any kind and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, any applicable Supplemental Declaration, the Articles and the Bylaws.

3.2 Membership in Association. Except as provided in Sections 3.5 and 3.17, there shall be one Membership in the Association with one Membership vote for each Lot. Each Membership shall be entitled to one vote on each matter to be decided by the Members. If the Owner of a Lot is other than one individual, each individual and entity comprising the Owner shall be considered a Member but the number of Memberships or votes attributable to the Lot shall not be increased by the fact of multiple ownership. In the case of multiple ownership or ownership by an entity, the Owner shall give the Association written notice identifying the individual who is entitled to cast the Membership vote for the Lot. In the absence of written notice, Assessments shall nevertheless be charged against the Lot and the Owner thereof, but there shall be no right to cast the Membership vote. The individual, as so specified, shall be the only Person entitled to vote for the Owner of the Lot at Association meetings and elections. An Owner may change the individual who is designated for the Owner's Lot, subject to such reasonable procedures and processing fees as the Board may establish from time to time. An Owner shall remain a member of the Association until the Owner ceases to be an Owner, at which time the Owner's membership in the Association shall automatically cease.

3.3 Suspension of Voting Rights. No Owner shall be entitled to exercise any voting rights as a Member in the Association during any period in which the Owner is delinquent in the payment of any Assessments.

3.4 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 Owner's Lot to a Mortgagee as additional security, only the vote of the Mortgagee will be recognized if a copy of the proxy or other instrument pledging the vote has been filed with the Association. In the event that more than one irrevocable proxy or pledge has been filed, the Association shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves.

3.5 Assignment of Declarant's Voting Rights. If any lender to whom Declarant has assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security succeeds to the interests of Declarant by virtue of the assignment, the absolute voting rights of Declarant provided for in Section 3.17 shall not be terminated by the assignment, and the lender shall hold Declarant's memberships and voting rights on the same terms as they were held by Declarant pursuant hereto.

3.6 Board of Directors.

3.6.1 The affairs of the Association shall be conducted by the Board as provided herein and in accordance with the Articles and Bylaws. Except for directors appointed by Declarant, each director shall be an Owner or the spouse of an Owner. In the case of ownership by an entity, a Director related to the entity-owner shall meet such other qualifications as the Board may determine from time to time. If a director ceases to meet the foregoing qualifications during the director's term, the director will thereupon cease to be a director and the director's place on the Board shall be deemed vacant. Unless the vote or consent of the Members is expressly required hereunder, any action required or permitted to be taken by the Association, shall be satisfied or taken by the Board. The Board may appoint various committees (which may consist, in whole or in part, of individuals who are not on the Board) and may delegate responsibilities to those committees.

3.6.2 Declarant shall have the absolute power and right to appoint and remove the members of the Board until the Transition Date. After the Transition Date, the Members shall have the power and right to elect and remove the members of the Board as provided in the Articles and Bylaws. Declarant may (but shall not be required to) relinquish its rights under this Section prior to the Transition Date by recording a notice of relinquishment.

3.7 Board's Determination Binding. Subject to the provisions of Section 16, in the event of any dispute or disagreement between or among any Owners, Members, or any other Persons subject to this Declaration, relating to the Property, or any question of interpretation or application of the provisions of this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, then (subject to any judicial decision by a court of competent jurisdiction) the determination thereof by the Board shall be final and binding on each Owner, Member or other Person subject to this Declaration.

3.8 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration, any Supplemental Declaration, the Articles or Bylaws, any provision of this Declaration, any Supplemental Declaration, the Articles or Bylaws that requires the vote or written assent of the Members of the Association 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 Articles or Bylaws.

(c) 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.

3.9 Association Rules. The Board shall be empowered to adopt, amend or repeal rules and regulations that it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the Association, the use and/or occupancy of the Common Areas or any other part of the Property (including, but not limited to, septic systems), and the delivery of any services provided by the Association including, but not limited to, water provided by the Club Water System. The Association Rules may establish a system of fines and penalties enforceable as Special Assessments. The Association Rules may not discriminate among similarly situated Owners except as expressly provided or permitted herein, or in a Supplemental Declaration with regard to property subject to the Supplemental Declaration, and shall not be inconsistent with this Declaration, any Supplemental Declaration, the Articles, Bylaws or Design Guidelines. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner 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, any Supplemental Declaration, or the Articles, Bylaws or Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, any Supplemental Declaration, the Articles, Bylaws or Design Guidelines to the extent of the conflict.

3.10 Indemnification. To the fullest extent permitted by law, the Association shall indemnify the following Persons against all expenses and liabilities including, but not limited to, attorneys' fees, witness fees (including expert witness fees), costs and litigation-related

expenses reasonably incurred by or imposed upon them in connection with any proceeding to which they may be parties, or in which they may become involved, by reason of their being or having served in those capacities on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board or the Design Review Committee), or any settlement of any such proceeding: (i) every director and officer of the Association; (ii) every member of the Design Review Committee and other committees of the Association; (iii) Declarant and all Related Parties (and their respective employees); and (iv) all the employees of the Association. Any agent of the Association may, in the discretion of the Board and subject to the findings described below, also be indemnified by the Association. Any Person described in the first sentence shall be entitled to indemnification whether or not that Person is a director, officer, member of the Design Review Committee or serving in any other specified capacity at the time the expenses are incurred. Notwithstanding anything to the contrary in this Declaration, before any Person is entitled to indemnity pursuant to this Section 3.11, the Board shall determine, in good faith, that the Person to be indemnified did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of that Person's duties. These rights of indemnification shall be in addition to and not exclusive of all other rights to which the Persons to be indemnified may be entitled at law or otherwise.

3.11 Non-Liability of Officials. To the fullest extent permitted by law, none of the following Persons 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 following Persons reasonably believed to be within the scope of their respective duties, including but not limited to, matters related to the Club Water System and septic systems: (i) every director and officer of the Association; (ii) every member of the Design Review Committee and other committees of the Association; (iii) Declarant and all Related Parties (and their respective employees); and (iv) all the employees of the Association. Each Owner, Occupant, and other Person having any interest in the Property or entering upon or using any portion of the Property is deemed to acknowledge and accept the following:

(a) None of the Persons described above in this Section 3.12 shall be liable or responsible for, or in any manner be guarantor or insurer of, the health, safety, or welfare of any Owner, Occupant, or other Person entering upon or making use of any portion of the Property. Each Owner, Occupant, and other Person assumes all risks associated with the use and enjoyment of the Property including, but not limited to, any recreational facilities upon or within the Property and the risk of forest fires or other natural calamities.

(b) None of the Persons described above in this Section 3.12 shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of the Club Water System or any septic system, utility line, equipment, or substation adjacent to, near, over, or on the Property. Each Owner, Occupant and other Person assumes all risks of personal injury, illness, or other loss or damage arising from the presence or malfunction of any utility line, equipment, or substation adjacent to, near, over, or on the Property.

(c) No provision of this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines shall be construed or interpreted as creating a duty by any of the Persons described above in this Section 3.12 to protect or further the health, safety, or welfare of any Person, even if funds of the Association are used for such a

purpose.

3.12 Easements. In addition to the other easements granted hereunder, the Association is authorized and empowered to grant permits, licenses, easements and rights-of-way upon, across or under real property owned or controlled by the Association for public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the development, maintenance or preservation of the Common Areas, or Areas of Common Reasonability, for installation, maintenance or preservation of the Club Water System or septic systems, or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot resulting from a grant of any of the foregoing rights shall be repaired by the grantee at its expense.

3.13 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, and shall have available for the inspection of all Owners at reasonable times during regular business hours at the principal office of the Association, books or other records specifying in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise. The Association shall cause the books and records of the Association to be audited on an annual basis by an accounting firm selected by the Board.

3.14 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Owner, at the Association's office, the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration, any Supplemental Declarations, the Articles, Bylaws, Association Rules and Design Guidelines. Declarant shall be under no obligation to make its own books and records available for inspection by any Owner or other Person.

3.15 Managing Agent. All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to one or more managing agent(s) under management agreements; provided, however, that no delegation shall relieve the Association of its obligation to perform any delegated duty.

3.16 Declarant's Control of Association. Notwithstanding anything in this Declaration to the contrary, Declarant shall maintain absolute control over the Association, including appointment of the members of the Board, until the Transition Date. In addition, until the Transition Date, Declarant shall have exclusive jurisdiction over architectural and design matters and shall be entitled to exercise the architectural and design review powers reserved to Declarant under this Declaration as provided in Section 12. Until the Transition Date, only Declarant will be entitled to cast any vote with respect to any matter requiring the approval of the Members except referendums of the Members with respect to certain provisions of this Declaration as set forth in Sections 7.3.4, 7.4.3, 7.4.4 and 18.4. Declarant voluntarily may (but shall not be required to) permit the Members to vote on particular matters or to assume control of the Association at any time.

3.17 Rights of Enforcement. The Board shall have the exclusive right to enforce the provisions of this Declaration, any Supplemental Declaration, the Design Guidelines, the Association Rules and/or any and all other covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration or other instrument relating to the Property that have been executed pursuant to, or subject to, the provisions of this Declaration, or that otherwise indicate its provisions were intended to be enforced either by the Association or by Declarant for the Association. If, however, the Board fails or refuses to enforce this Declaration or any provision of the instruments listed above for an unreasonable period of time after written request to do so, then an Owner (at the Owner's expense)

may enforce them on behalf of the Association by any appropriate legal action, whether at law or in equity. Notwithstanding any provision hereof concerning the rights and powers of the Board, Declarant may pursue whatever rights and remedies might be available to it at law or in equity. Notwithstanding any provision of this Declaration, Declarant shall have no duty to undertake any such enforcement actions and shall not be deemed a guarantor of enforcement.

3.18 Contracts With Others For Performance of Association's Duties. Subject to the restrictions and limitations contained in this Declaration, the Board may enter into contracts and transactions with others, including Declarant, any Related Party and any affiliated Persons, for the performance of the Association's duties and for other purposes consistent with this Declaration.

3.19 Changes to Common Areas. The Association, through the action of the Board, may sell, exchange, convey, abandon or change the use of any Common Areas, provided the Board has determined that the change is in the best interest of the Property and the Owners and does not fundamentally diminish the amenities or services available to Owners. Prior to the Transition Date, the Board may act to effect a change described in this Section 3.20 without the vote or consent of any Owner or other Person. After the Transition Date, the Board may act to effect a change described in this Section 3.20 only with the consent of Declarant, so long as Declarant or any Related Party owns any portion of the Property.

3.20 Purposes For Which Association's Funds May be Used. The Association, except as otherwise permitted in this Declaration, shall apply all funds and property collected and received by it from any source (including Assessments, fees, loan proceeds, and surplus funds) for the common good and benefit of the Property, the Owners, and Occupants by devoting these funds and property, among other things, to the Common Expenses described in Section 1.15. Notwithstanding these requirements, all funds of the Association shall be deemed to be the sole property of the Association in its corporate capacity, and not trust funds, and the Association shall not be deemed to hold any funds as trustee or in any fiduciary capacity, except as expressly provided in this Declaration.

3.21 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in that year, regardless of source, unless specifically provided to the contrary in this Declaration. The Association may carry forward as additional working capital or reserve any remaining balances, except as otherwise provided in Section 5. The Association shall not be obligated to reduce the amount of the Regular Assessments in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year any surplus that the Board, in its discretion, may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes, except as otherwise provided in Section 5 or elsewhere in this Declaration.

3.22 Mergers, Consolidations and Federations. The Association shall have the right and power to participate in mergers, consolidations and federations with any other non-profit corporations or associations regardless of whether the objects, purposes, rights and powers of such nonprofit corporations or associations are lesser than, the same as, or greater than those of the Association. Any proposed merger, consolidation or federation shall not be effective or voted upon by the Owners without prior approval of the Board. Any such mergers, consolidations or federation shall be consummated only upon an affirmative vote of two-thirds of the Members except Declarant and also by Declarant (so long as Declarant owns any portion of the Property). Upon any such merger or consolidation, all of the properties, rights and obligations of the other non-profit corporation or association shall be transferred to and assumed by the Association as the survivor, or alternatively, all of the properties, rights and obligations of the Association shall be

transferred to and assumed by the surviving or newly created non-profit corporation or association.

3.23 Designated Service Providers. The Board shall have the authority to designate exclusive providers of services within the Property when the Board deems it necessary or desirable to do so for reasons of obtaining better rates or terms of service or for other reasons deemed reasonable by the Board. If the Board makes such a designation, the Association may enter into an agreement with the designated service provider, and the cost of services purchased by the Board shall be considered a Common Expense of the Association and shall be included in the Regular Assessments payable by each Owner; provided, however, the Board may allocate such costs between improved and unimproved properties, or among particular properties, as a Special Assessment, in such a manner as the Board deems in good faith to be equitable. Notwithstanding any designation and negotiation with a service provider, each Owner may contract separately with the designated service provider to receive services in excess of those provided to the Property pursuant to the service provider's agreement with the Association, and the cost of the additional services shall be paid separately by the Owner and shall not be an Assessment under this Declaration. Any service provider designated by the Board pursuant to this Section 3.24 shall have an easement over the Common Areas to the extent necessary or convenient for the efficient delivery of the designated service.

4. EASEMENTS.

4.1 Blanket Easements. There is hereby created a perpetual, non-exclusive blanket easement upon, across, over and under the Property (including all Lots, Common Areas and Areas of Common Responsibility) for ingress and egress, installing, constructing, replacing, repairing, maintaining and operating all utilities, and in addition thereto for the use of emergency vehicles of all types. By virtue of the easement, it shall be expressly permissible for the service provider to erect (including, but not limited to, underground installation) and maintain the necessary or appropriate 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 electrical lines, water lines or other facilities for utilities be installed or relocated, except as initially created and approved by Declarant or thereafter created or approved by the Association. This provision shall in no way affect any other recorded easements on the Property.

4.2 Utility Easement. The Plat may designate portions of the Property to be subject to an easement shown as a "Utility Easement" or a similar designation (each, a "Utility Easement"). Utility Easements shall be perpetual, non-exclusive easements in favor of the service provider named on the Plat and any successor provider of the same type of utility service to the Property. If the Plat does not name a utility provider for a Utility Easement, that Utility Easement shall be in favor of such parties as the Declarant or the Association may designate from time to time. In addition to any other utilities that may be located within Utility Easements, Utility Easements may include "Transmission Lines," "Lateral Lines" and other components of the "Club Water System" (as such terms are defined in Section 5.1 below). The provisions of this Section .2 shall in no way limit or otherwise alter the blanket easement described in Section 4.1 above.

4.3 Telephone Easement. The Plat may designate portions of the Property to be subject to an easement shown as a "Telephone Easement," or a similar designation (each a "Telephone Easement"). Telephone Easements shall be perpetual, non-exclusive easements in favor of the service provider named on the Plat and any successor provider of the same service to the Property. If the Plat does not name a service provider for a Telephone Easement, that Telephone Easement shall be in favor of such parties as the Declarant or the Association may designate from time to

time.

4.4 Exclusive Use Rights. Certain portions of the Common Areas may be reserved by any Supplemental Declaration, any Plat or by the Board, in its reasonable discretion, for the exclusive control, possession and use of the Owner of a Lot or the Owners of more than one but fewer than all Lots. If any such portion of the Common Area serves as access to and from two or more Lots, the Owners of the affected Lots shall have joint control, possession and use of the portion of the Common Area that reasonably serves the affected Lots. The exclusive use rights created in this Section 4.4 are subject to the blanket easement, maintenance, architectural, landscape control and other provisions contained in this Declaration, any Supplemental Declaration, the Association Rules and the Design Guidelines as well as any reasonable rules and regulations with respect to possession, control, use and maintenance as the Board may from time to time promulgate. Easements are hereby created in favor of and running with each Lot having an area described in the first sentence of this Section 4.4, for the exclusive control and use of the applicable portion of the Common Area. Each Owner, by accepting title to a Lot, shall be deemed to have further ratified the easements and rights to exclusive use created by this Section 4.4.

4.5 Trail Easement. The Plat may designate portions of the Property to be subject to an easement shown as a "Trail Easement" or a similar designation (each, a "Trail Easement"). Trail Easements shall be perpetual, non-exclusive easements in favor of Declarant, the Association, the Owners and such other parties as may be designated by the Association, from time to time, for pedestrian uses and for such other uses as the Association may elect to permit from time to time, including, but not limited to, equestrian uses. Declarant and the Association shall have the right, without obligation, to install, construct, plant, and otherwise locate in the Trail Easement (and the further right to relocate, replace, repair, rebuild, maintain and otherwise operate and manage) trail markers, wood chips, rocks, plants, underground utility lines, lights, signs and such other improvements as may be reasonably necessary or convenient to the use of the Trail Easements in accordance with this Section 4.5.

4.6 Declarant Easement. There is hereby created a nonexclusive easement for ingress and egress over, for the right to go over, under, and across, and for the right to enter and remain upon, all portions of the Property, including, but not limited to, Lots (except the interiors of occupied dwelling units) and Common Areas for the purpose of enabling Declarant, the Related Parties and their respective employees, agents, invitees, licensees, contractors and guests to exercise Declarant's rights and obligations hereunder and to engage in activities reasonably related to the development, management, administration, operation, maintenance, advertisement and sale or rental of the portions of the Property owned by Declarant or any Related Party. The easement created in this Section 4.6 shall be in favor of Declarant and the Related Parties, and appurtenant to portions of the Property owned by Declarant or a Related Party. The rights of access established in this Section 4.6 shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Lot by its Owner and any Occupant. The easement created in this Section 4.6 shall continue until the day upon which neither Declarant nor any Related Party has any interest in any portion of the Property.

4.7 Association Easement. There is hereby created a nonexclusive easement in favor of the Association for ingress and egress over all the Property (except the interiors of occupied dwelling units) for the purpose of enabling the Association and its contractors, employees, representatives, and agents to implement the provisions of this Declaration. The rights of access established in this Section 4.7 shall be exercised so as to reasonably minimize

interference with the quiet enjoyment of a Lot by its Owner and any Occupant.

4.8 Drainage Easement. All Lots and Common Areas are hereby subjected to a perpetual, non-exclusive easement for drainage of storm water runoff from other portions of the Property. The Plat may designate portions of the Property, which are likely to be subject to storm water runoff, as a "Drainage Easement" or a similar designation. The designation of certain areas as "Drainage Easements" on the Plat is intended to indicate certain likely drainage patterns over the Property but shall not limit the generality of the easement created by this Section 4.8 in any way. No Person shall be entitled to alter the drainage patterns on any portion of the Property that are set forth on drainage plans approved by the County to increase materially the drainage of storm water onto adjacent portions of the Property (or materially relocate its locations) without the consent of any Owners of the affected property, the Declarant and the Board.

4.9 Restrictive Covenant Applicable to Meadow Area. Owners and other Persons hereafter acquiring an interest in the Property are hereby notified that, prior to the Transition Date, the Declarant may subject the meadow included in the Common Areas of the Property to restrictions, by recorded covenant or otherwise, in order to preserve its environmental attributes and aesthetic qualities; provided, however, if the meadow has been conveyed to the Association, any restrictions shall require the prior written approval of the Association. Such restrictions may include, but need not be limited to, restrictions on the dates, times and ways in which the meadow may be available to Owners and other Persons.

4.10 Shared Driveways. The Design Guidelines and requirements of the Design Review Committee may provide that certain Lots will be served by a driveway shared with one or more adjacent Lots. In that event, the provisions of this Section 4.10 shall apply.

4.10.1 Each Lot served by a shared driveway shall have an easement (a "Shared Access Easement") over those portions of adjacent Lots crossed by the shared driveway. The Shared Access Easement shall be non-exclusive and shall be for access and utility purposes.

4.10.2 A Shared Access Easement shall benefit the Owner of a Lot served by the shared driveway, so long as the Owner holds title to the Lot, and the Owner's contractors, invitees and agents.

4.10.3 An Owner benefited by a Shared Access Easement shall have the right to use the Shared Access Easement for construction, reconstruction, operation, use, maintenance and repair of driveways, utilities and related improvements.

4.10.4 Subject to the approval requirements of Section 12, each Owner benefited by a Shared Access Easement shall have the right to enter upon any adjacent Lot to the minimum extent reasonably necessary to construct, install, maintain and use improvements permitted in the Shared Access Easement, including, but not limited to, excavation, compaction, re-contouring, re-vegetating, and other similar work.

4.10.5 Upon the request of the Association, any lender with a security interest in any Lot benefited or burdened by a Shared Access Easement, or Declarant, or when required by governmental authorities, the Owners of any Lots benefited or burdened by a Shared Access Easement shall execute and record one or more separate instruments memorializing the nature and/or location of the improvements placed within the Shared Access Easement pursuant to this Section.

4.10.6 The Owners of Lots served by a Shared Access Easement shall bear the

costs related to improvements within, and use of, the Shared Access Easement on a reasonably prorated basis determined by the affected Owners.

4.10.7 Any Shared Access Easement can be amended, modified, or terminated by a separately recorded instrument, with the consent of the Board and the Owners of Lots benefited and burdened by the Shared Access Easement, and any required consent or approval of the County, without requiring the approval of consent of any other Person. No such amendment, modification, or termination of a Shared Access Easement pursuant to this Section shall be considered an amendment of this Declaration.

5. DOMESTIC WATER SERVICE.

5.1 Definitions. For purposes of this Section 5 and any other applicable references throughout this Declaration, the following terms shall have the meanings set forth below.

5.1.1 "Club Water System" means the entire domestic water production, storage, treatment and delivery system of the Property, as initially installed and as later modified through annexation of the property included in the Lodge Plat and the Lodge Water System, including all wells, all Transmission Lines, all Lateral Lines, all Meters, all easements and licenses, all other related real property interests, and all related personal property and facilities owned, managed or maintained by the Association under this Declaration for the purpose of providing domestic water service to the Lots, but excluding the Service Lines (each of which will be owned by the Owner of the Lot served by the Service Line).

5.1.2 "Connected Owner" means an Owner whose Lot contains improvements that are connected to a Meter by means of a Service Line.

5.1.3 "Fixed Water Costs" mean all those costs and expenses (excluding Variable Water Costs) associated with use, operation, maintenance, repair and replacement of the Club Water System, or any component thereof, including, but not limited to: water quality monitoring and treatment costs; water quality measurement and monitoring costs; personnel costs; taxes; insurance costs; administration and billing costs; and costs associated with the establishment of a reserve account for maintenance, repair and replacement of the Club Water System.

5.1.4 "Lateral Lines" mean those water pipelines running from Transmission Lines to Meters, including connections into Meters. To the extent that any Lateral Lines or Meters are placed on Lots in connection with the original construction of the Club Water System by Declarant, an easement is hereby created for their installation, maintenance, repair and replacement from time to time as required or permitted by this Declaration.

5.1.5 "Lodge Water System" means the domestic water production, storage, treatment and delivery system of the property included in the Lodge Plat, as initially installed and as later modified.

5.1.6 "Meters" mean water measuring devices to be installed within the boundary of Lots for the measurement of water delivered to each Lot through a Service Line.

5.1.7 "Service Lines" mean those water pipelines running from a Meter to improvements located on a Lot.

5.1.8 "Transmission Lines" mean those water pipelines and related parts, equipment and components for the distribution of water through the Club Water System to

Lateral Lines, including connections into Lateral Lines.

5.1.9 "Variable Water Costs" mean those costs and expenses directly associated with the quantity of water delivered through the Club Water System, including, but not limited to, the cost of energy required to operate any wells, and the cost of water withdrawal fees or other taxes imposed by the Arizona Department of Water Resources or any other local, state or federal governmental authority.

5.1.10 "Water Costs" mean the Fixed Water Costs and the Variable Water Costs.

5.2 Ownership and Operation of Club Water System.

5.2.1 Declarant shall construct the Club Water System, including installation of all Meters, in a good and workmanlike manner, in accordance with all applicable regulations of the County and any other governmental authority having jurisdiction. Upon completion of the Club Water System, Declarant shall transfer ownership of the Club Water System to the Association. The Association shall own the Club Water System and shall manage, use, operate, maintain, repair and replace the Club Water System pursuant to the terms and conditions hereof, in accordance with the laws, rules, ordinances and regulations of any governmental authority having jurisdiction, and in conformity with good management practices. The Club Water System shall be operated by a properly qualified certified operator, holding any necessary licenses and permits, in accordance with all applicable regulations of the County and any other governmental authority having jurisdiction. The Club Water System may be altered, modified, relocated, and improved by the Association, in accordance with the laws, rules, ordinances and regulations of any governmental authority having jurisdiction.

5.2.2 Declarant intends to connect the Club Water System to the Lodge Water System in order that each system may provide emergency back-up for the other and the two systems may be operated together for enhanced efficiency.

5.3 Use of Club Water System.

5.3.1 The Association shall use and operate the Club Water System solely for the purposes of (a) providing domestic water services to the Property, for the benefit and enjoyment of Declarant, the Association, the Owners, the Occupants and their respective agents, servants, invitees and designees; (b) providing water for construction at the Property, for the benefit and enjoyment of Declarant, the Association, the Owners, the Occupants and their respective agents, servants, invitees and designees; (c) providing water for temporary operation of sales trailers and/or model homes at the Property, for the benefit and enjoyment of Declarant, and its respective agents, servants, invitees and designees; and (d) providing emergency back-up water supplies. The Association shall not use or operate the Club Water System for the purpose of providing water service to, or for construction at, any property outside of the Property except to the extent of physically connecting the Club Water System to the Lodge Water System and providing emergency back-up water if and when required.

5.3.2 The Association Rules shall include regulations and requirements that the Board deems reasonable and appropriate for the use of the Club Water System, including, but not limited to, requirements for establishing connections to the Club Water System. No rule shall prohibit or materially impair use of the Club Water System in an

integrated combination with the Lodge Water System or as emergency back-up for the Lodge Water System.

5.4 Service Lines. Upon compliance with any applicable rules and regulations for connection into the Club Water System established by the Association from time to time, an Owner may connect one Service Line on the Owner's Lot into the Meter for that Lot. Each Owner shall be responsible for all costs of connecting the Owner's Service Line to the Club Water System and shall own the Service Line located on the Owner's Lot. Each Owner shall keep and maintain the Service Line for that Owner's Lot in good repair and condition at its sole cost and expense. A connection from a Service Line into the Club Water System may be made only through a Meter and not directly into a Lateral Line or a Transmission Line.

5.5 Construction Water. Upon compliance with the rules and regulations for connection into the Club Water System for construction purposes established by the Association from time to time, an Owner may take water from the Club Water System through a temporary meter for construction purposes at the Owner's Lot. Declarant also may utilize the Club Water System to provide water for temporary construction and operation of sales trailers and/or model homes at the Property, for the benefit and enjoyment of Declarant, and its respective agents, servants, invitees and designees.

5.6 Entitlement to Take Water. At all times during the term of this Declaration, subject to the terms, conditions, covenants and restrictions contained herein (including, but not limited to, the provisions of Section 5.8 relating to a shortage of water), each Connected Owner (including, but not limited to, the Declarant, for so long as Declarant owns any portion of the Property, and the Association, for so long as the Association owns any portion of the Property) shall have the right to take and receive water from the Club Water System for the purposes described in this Section 5.

5.7 Permitted Water Use. Water from the Club Water System shall be used only for (a) domestic water purposes throughout the Property, including, but not limited to, use for ordinary and typical household purposes, irrigation of landscaping, vegetable and fruit gardens, and incidental livestock watering purposes (not including stock ponds or publicly available stables); (b) construction purposes throughout the Property; (c) by the Declarant for temporary operation of sales trailers and/or model homes at the Property; (d) by the Association for landscaping and similar purposes on the Common Areas; and (e) emergency back-up for the Lodge Water System. Water shall not be used for the irrigation of lawns (with the exception of common areas), field crops, tree groves, wholesale nursery stock or for any commercial, industrial or other purpose requiring the consumption of large volumes of water, whether continuous or intermittent.

5.8 Quality and Quantity of Water.

5.8.1 If the amount of water available from the Club Water System is insufficient to serve the then-existing demands for water at the Lots owned by Connected Owners, the Connected Owners will share the available water supply in equal proportions.

5.8.2 If the quantity or quality of water available through the Club Water System is inadequate or insufficient for any reason, or if any portion of the Club Water System, including, but not limited to any well, fails for any reason, the Association shall use reasonable efforts to address the deficiency or failure in a timely manner, or, if necessary, to find an alternative source of water in a timely manner. If, despite reasonable efforts, the Association is unable to resolve the deficiency or failure or to find an alternative source of water in a timely manner, the Association shall provide notice to the Owners, and each Owner shall thereafter be responsible for

obtaining replacement water for the Owner's Lot from other sources, at the Owner's expense. Except as expressly provided in this Section, each Owner assumes all risks regarding the quantity and quality of water supplied by the Club Water System and waives any right to make, file or prosecute any claims, demands or causes of action for losses, costs, injury to person or damages to property with respect to the quantity or quality of water supplied by the Club Water System, unless the problem arises or is caused by the gross negligence or willful misconduct of the Association.

5.9 Water Assessments.

5.9.1 As a part of the budget process described in Section 7.3.2 below, the Association will estimate the Fixed Water Costs for the upcoming calendar year and determine each Owner's Proportionate Share of the Fixed Water Costs, the amount of which shall constitute the "Fixed Water Costs Assessment." Each Owner shall thereafter pay to the Association the Fixed Water Costs Assessment at such regular intervals as may be determined by the Board from time to time. Each installment shall be due and payable on the date fixed by the Board. At the end of each calendar year, the Association will determine whether the Fixed Water Costs Assessment for the calendar year was greater than or less than the actual Fixed Water Costs for that calendar year. The Association shall apply any overpayment against the estimated Fixed Water Costs Assessment for the upcoming calendar year or shall increase the estimated Fixed Water Costs Assessment for the upcoming calendar year by the amount of any underpayment.

5.9.2 As a part of the budget process described in Section 7.3.2, the Association may also estimate the total charges for Variable Water Costs for the upcoming calendar year. The Association shall then allocate the estimated total for Variable Water Costs equally among all Lots owned by Connected Owners (the "Variable Water Costs Assessment"). Each Connected Owner shall thereafter pay to the Association the Variable Water Costs Assessment at such regular intervals as may be determined by the Board from time to time. Each installment shall be due and payable on the date fixed by the Board. At the end of each calendar year, the Association will calculate the volume of water from the Club Water System used by each Connected Owner for the calendar year, the total volume of water used from the Club Water System by all Connected Owners during the same period, and the proportionate share of actual Variable Water Costs incurred during the 12 month period for which each Connected Owner is responsible based on the Owner's actual use of water. The Association will make appropriate adjustments to its calculations to account for any Lot first connecting to the Club Water System during the calendar year. If a Connected Owner paid more than the Owner's proportionate share of the Variable Water Costs for the calendar year, the Association will apply the overpayment against that Connected Owner's next Variable Water Costs Assessment. If a Connected Owner paid less than the Owner's proportionate share of the Variable Water Costs for the calendar year, the Association will levy an additional lump sum assessment against that Owner for the underpayment. The Association shall notify each Connected Owner who paid less than the correct share of Variable Water Costs, and each such Owner shall remit the lump sum amount to the Association within 30 days after notification.

5.9.3 Alternatively, the Variable Water Costs may be billed separately on a regular basis at a per-gallon charge to be determined from time to time by the Board.

5.9.4 The lien rights created in Section 7.1 below shall apply to the Fixed Water Costs Assessment and the Variable Water Costs Assessment.

5.9.5 The Association may elect, in its discretion, to incorporate the Fixed Water Costs Assessment and the Variable Water Costs Assessment into the other Assessments that are collected pursuant to this Declaration.

6. SEPTIC SYSTEMS.

6.1 Ownership and Maintenance of Septic Systems.

6.1.1 Each Owner shall be responsible for causing the construction of a septic system on the Owner's Lot. To enhance the uniformity and maintainability of septic systems throughout the Property, and in accordance with Section 12 of this Declaration, septic systems must be constructed in accordance with any applicable Design Guidelines, and Owners must receive the prior written approval of the Design Review Committee before commencing construction of a septic system on their Lots. Each Owner shall own the septic system on the Owner's Lot and, except to the limited extent specifically provided in Section 6.2 below, shall be responsible for all maintenance, repair, and replacement of the septic system.

6.1.2 If any Owner fails to maintain, repair or operate the septic system on the Owner's Lot in accordance with Section 11.1.1 and other applicable provisions of this Declaration, the Board may cause corrective action to be taken, at the Owner's cost, in accordance with the procedures set forth in Section 11.1.2.

6.2 Ownership and Maintenance of Septic Systems on Lodge Plat Properties. Septic systems for Lots in the Lodge Plat may be located on Common Area tracts and may be shared with other Lodge Lot Owners. For purposes of any maintenance or replacement costs, such costs shall be allocated on a pro-rata basis according to the number of Lots sharing the particular system. In the event that a Lodge Lot has an individual on-site septic system, that system shall be treated as those on the Club Plat in accordance with Section 6.1 above.

6.3 Routine Monitoring of Septic Systems by Association. In order to protect the water table that provides for all Lot Owners, the Association shall perform routine monitoring, inspection and testing of all septic systems on Lots and shared systems for Lodge Lots. The costs associated with routine monitoring of the septic systems pursuant to this Section 6.2 shall be included in the Common Expenses and shall be charged to the Owners as part of the Regular Assessments. The Association reserves the right to inspect and test any septic system in the Property as it deems necessary in its sole and absolute discretion in order to protect the water table. Periodic pumping of septic systems and annual maintenance or replacement of pumps, filters and control systems, if any, shall be the obligation of the Owner or shared among the Owners of a shared septic system on a schedule set according to the individual system design. At the request of an Owner, the Association may, in its sole and absolute discretion, contract for annual maintenance of that Owner's septic system as a part of a larger contract but the Owner will be billed directly for that service.

6.4 Construction and Maintenance in Accordance with Applicable Laws. All construction, maintenance, repair, replacement, inspection and testing of septic systems by Owners pursuant to Section 6.1 and by the Association pursuant to Section 6.2 above shall be performed by properly qualified individuals holding any necessary licenses and permits, in accordance with all applicable laws, rules, ordinances and regulations of the Arizona Department of Health Services, the County and any other governmental authority having jurisdiction.

6.5 Additional Rules. As part of the Association Rules pursuant to Section 3.10 of this Declaration, the Board may adopt, amend and repeal rules and regulations regarding the operation, maintenance, repair, inspection and testing of septic systems.

7. ASSESSMENTS.

7.1 Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Fixed Water Costs Assessments, Variable Water Costs Assessments, if applicable, and any other sums established and collected from time to time as provided in this Declaration, any applicable Supplemental Declaration, the Association Rules and the Design Guidelines. All Assessments shall be established and collected, from time to time, as provided in this Declaration. The Assessments and charges provided for in this Declaration, any applicable Supplemental Declaration, the Association Rules and Design Guidelines, together with interest thereon, late charges, attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Owner's Lot against which the Assessments and charges are made. Each Assessment and charge, together with interest and other costs, shall also be the personal obligation of the Owner to whom the Assessment or charge relates. The personal obligation for delinquent payments shall not pass to an Owner's successor unless expressly assumed by the Owner's successor. If more than one Person owns a Lot, all co-Owners of the Lot shall be jointly and severally liable for all Assessments, charges and other obligations provided for in this Declaration, any applicable Supplemental Declaration, the Association Rules and the Design Guidelines.

7.2 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners, to enhance the quality of life within the Property, to preserve the value of the Property, to pay the costs of administration of the Association and all other Common Expenses and to otherwise further the interests of the Association. If a Lot has separate utility service from a third-party provider, all costs related to the service (including, but not limited to, service charges, repairs, and maintenance) shall be the personal obligation of the Owner of the Lot and shall not be part of the Common Expenses to be paid through Assessments, unless (and then only to the extent that) the Board elects to enter into agreements with designated service providers pursuant to Section 3.24.

7.3 Regular Assessments.

7.3.1 Except as otherwise specifically provided herein, each Owner's Regular Assessment shall be the Owner's Proportionate Share of the Common Expenses.

7.3.2 Not later than 60 days prior to the beginning of each fiscal year of the Association (starting with the first full fiscal year after the sale of the first Lot to a Retail Purchaser), the Association shall make available for review by each Owner 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 the fiscal year. The Association shall at that time determine the amount of the Regular Assessment to be paid by each Owner and notify each Owner thereof. Each Owner shall thereafter pay to the Association the Owner's Regular Assessment at such regular intervals as may be determined by the Board, from time to time. Each installment shall be due and payable on the date set forth in the written notice sent to Owners. The fiscal year of the Association shall be the calendar year, unless otherwise specified in the Articles or Bylaws.

7.3.3 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 Association shall then determine the approximate amount of the inadequacy and issue a supplemental estimate of the Common Expenses and determine the

revised amount of Regular Assessments to be paid by each Owner for the balance of the year, and the date or dates when due. If the estimated total Regular Assessments for the current year prove to be in excess of the actual Common Expenses, the Association may, at the discretion of the Board, retain the 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 a period of time deemed appropriate by the Board. No reduction or abatement of Regular Assessments because of any anticipated surplus may diminish the quantity or quality of services upon which the Common Expenses for the year in question are based.

7.3.4 From one fiscal year to the next, in no event shall the Board increase Regular Assessments payable by Lots by more than the greater of (a) fifteen percent (15%) or (b) the increase during the preceding year of the Consumer Price Index for All Urban Consumers - U.S. Cities Average - All Items (the "CPI") published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 = 100), without the approval of a Majority of a Quorum of Members except Declarant and by Declarant (so long as Declarant owns any Lot within the Property), but in no event more than the maximum increase permitted by applicable law. In the event the Bureau of Labor Statistics ceases to publish the CPI and such information is not available from any other source, public or private, then a new formula for determining the maximum annual increase without a vote or written consent of the Members shall be adopted by the Board.

7.4 Special Assessments. Subject to the provisions of any applicable Supplemental Declaration with respect to any portion of the Property subject to the Supplemental Declaration, the Association may levy Special Assessments in accordance with the following:

7.4.1 The Association may levy a Special Assessment against a particular Owner and Lot that is subject to Assessment to recover the cost, including overhead and administrative expenses, of providing benefits, items, or services to the Lot, or to its Owner or Occupant that are not included in the Common Expenses payable as Regular Assessments. Special Assessments under this Section 7.4.1 may be levied in advance and payment of the Special Assessment may be a condition of providing the benefit, item or service. Such benefits, items and services may, but are not required to, include such things as the delivery of firewood, winterizing or other opening or closing preparation of residences for Owners, delivery of supplies, and other offerings for the convenience and enjoyment of Owners.

7.4.2 The Association may levy a Special Assessment against a particular Owner and Lot that is subject to Assessment to cover the cost of bringing a Lot (or its Owner or Occupant) into compliance with the requirements of this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules and Design Guidelines. Before any Special Assessment is levied pursuant to this Section 7.4.2, any Owner affected by the Special Assessment shall be given notice and an opportunity to be heard by the Board (or by a committee designated for the purpose by the Board). The term "Special Assessment" shall also include any fines levied or fixed by the Board or the Design Review Committee pursuant to this Declaration, any Supplemental Declaration, the Association Rules and the Design Guidelines and attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses, interest and other costs incurred in connection with a Special Assessment.

7.4.3 The Association may levy a Special Assessment against each Owner, for the Proportionate Share of each Lot owned by that Owner, for the purpose of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with, or the cost of any construction or replacement of, a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. Without the vote of a Majority of a Quorum of Members (and, after the Transition Date, the written consent

of Declarant), the Association shall not impose a Special Assessment for the purposes described in this Section 7.4.3 in an amount that in any one year exceeds 5% of the estimated annual Common Expenses. All amounts collected as Special Assessments pursuant to this Section 7.4.3 shall be used only for the purposes set forth in this Section 7.4.3.

7.4.4 The Association may levy a Special Assessment against each Owner, for the Proportionate Share of each Lot owned by that Owner, for the purpose of providing any necessary funds for restoration and repair of damaged or destroyed Common Areas or Areas of Common Responsibility in accordance with Section 9. Notwithstanding the foregoing sentence, if the amount available from the proceeds of any insurance policies for restoration and repair, together with any uncommitted or unreserved capital of the Association, is less than 75% of the estimated cost of restoration and repair, the Association may levy a Special Assessment pursuant to this Section 7.4.4, unless two-thirds of the Members, at a special meeting held for that purpose, disapprove the restoration and repair. All amounts collected as Special Assessments pursuant to this Section 7.4.4 shall be used only for the purposes set forth in this Section 7.4.4.

7.4.5 The Association also may levy Special Assessments for any other charge designated as a Special Assessment in this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines.

7.5 Uniform Assessment. The Board may, in its discretion, determine that certain services or other items of Common Expense disproportionately benefit improved Lots (that is, Lots with completed residential structures on them). In that event, Regular Assessments may be allocated between improved Lots and unimproved Lots in a manner that takes the disproportionate benefit into account (including, but not limited to, allocating all of a particular service or item of cost to improved Lots). Except as provided above in this Section, the Regular Assessment and any Special Assessments imposed pursuant to Section 7.4.3 or 7.4.4 shall be uniform for all Lots. If the Board allocates Regular Assessments to take disproportionate benefits into account, the Regular Assessment imposed on each Lot of the same type (that is, improved or unimproved) shall be uniform.

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

7.7 Date of Commencement of Regular Assessments. Regular Assessments, as to Lots within the Property subject to Assessment, shall commence on the first day of the month following the date of conveyance of the first Lot to be conveyed to a Retail Purchaser. Regular Assessments for Lots within any Annexed Property, as to Lots within the Annexed Property subject to Assessment, shall commence upon the effective date of the annexation making them Annexed Property.

7.8 Time and Manner of Payment: Late Charges and Interest. The manner and timing of payment of Assessments shall be designated by the Board. The Board may, in its discretion, establish late fees and charge interest (including interest at the Default Rate of Interest) on any Assessment not paid by its due date. The Board 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. All Assessments, dues and payments are due on the 30th day of the month. Any payments not received in full by the 10th day of the following month shall bear a late fee charge of \$75.00. Any payment more than 30 days in arrears shall bear an additional interest rate charge of 12% per annum or as may be determined from time to time by the Board of Directors.

7.9 No Offsets. All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against the specified amount shall be permitted

for any reason including, but not limited to, a claim that (a) the Association, the Board or Declarant is not properly exercising its duties and powers as provided in this Declaration; (b) Assessments for any period exceed Common Expenses; or (c) a Member has made, and elects to make, no use of the Common Areas.

7.10 Subordination of Lien. Any lien that arises against a Lot by reason of the failure or refusal of an Owner to make timely payment of any Assessment shall be subordinate to the lien of a prior recorded Mortgage on the Lot, acquired in good faith and for value, except for the amount of the unpaid Assessment that accrues from and after the date on which a Mortgagee comes into possession of or acquires title to the Lot, whichever occurs first (together with any reasonable attorneys' fees, witness fees (including expert witness fees), costs, litigation-related expenses, interest and any late charges related thereto).

7.11 Enforcement of Lien. The lien provided for in this Section 7 may be foreclosed by the Board 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 7 relating to the enforcement of the lien provided for herein (including, but not limited to, the subordination provisions in Section 7.10 or the provisions of this Section 7.11) shall apply with equal force in each other instance provided for in this Declaration, any Supplemental Declaration, the Association Rules or Design Guidelines 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 7. Nothing in this Section shall be construed as requiring that the Association take any action 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 action at a later time or in a different instance.

7.12 Exemption of Unsold Lots. There shall be no exemption for unsold Lots. All Lot Owners including Declarant will pay all monthly assessments for each Lot owned when payment is due.

8. INSURANCE.

8.1 Authority to Purchase. The Board shall have the power and authority to purchase, with Association funds, such public liability, casualty, officers' and directors' liability and indemnity, workers' compensation, fidelity and other insurance as the Board shall deem reasonably necessary or appropriate from time to time. Policies shall be on such terms and conditions as the Board shall determine in its discretion. All policies maintained by the Association, and endorsements thereon, or copies thereof shall be deposited with the Association. The Association shall advise the Owners of the coverage of any policies purchased by the Association in order to permit the Owners to determine which particular items are included within the coverage so that the Owners may insure themselves as they see fit if certain item are not insured by the Association. All of the Association's insurance policies and claims thereunder shall be administered by the Board.

8.2 Owner's Responsibility. Each Owner shall provide insurance on any additions and improvements to the Owner's Lot in the amount of the full replacement cost of the additions and improvements. Each Owner also shall be responsible for providing insurance on the Owner's Lot, the furnishings and personal property located on the Owner's Lot, the Owner's personal property stored elsewhere within the Property, the Owner's personal liability to the extent not covered by the public liability insurance obtained by the Association and any other insurance as the Owner desires. No Owner shall maintain any insurance, whether on the Owner's Lot or otherwise, that 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.

8.3 Non-Liability of Association/Board. Neither the Association, the members of the Board, Declarant, the Related Parties, nor any of their respective employees shall be liable to any Owner, Mortgagee or other Person if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for additional insurance coverage and protection as the Owner may desire.

8.4 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 arising from the use, misuse, occupancy or abandonment of a Lot or its appurtenances, or of the Common Areas, by an Owner may be assessed against that particular Owner.

8.5 Insurance Claims. The Board, acting for 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.

8.6 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 or the Owners, as their interests may appear.

9. DAMAGE AND DESTRUCTION OF COMMON AREAS.

9.1 Duty of Association. In the event of partial or total destruction of all or any portion of the Common Areas or Areas of Common Responsibility, or any improvements thereon, the Board shall elect either (i) to restore and repair the destroyed area; or (ii) to clear and landscape the destroyed area as promptly as practical pursuant to this Section 9. The proceeds of any casualty insurance maintained pursuant to this Declaration shall be used for whichever purpose is elected by the Association pursuant to the foregoing sentence, subject to the prior rights of Mortgagees whose interest may be protected by said policies.

9.2 Excess Insurance Proceeds. In the event any excess insurance proceeds remain after any damaged or destroyed area is either restored and repaired or cleared and landscaped pursuant to Section 9.1, the Board, in its discretion, may retain those sums in the general funds of the Association or may distribute all or a portion of the excess to the Owners in their Proportionate Shares, subject to the prior rights of Mortgagees whose interests may be protected by the insurance policies carried by the Association. The rights of an Owner or the Mortgagee of a Lot to such a distribution shall be governed by the provisions of the Mortgage encumbering the Lot.

10. EMINENT DOMAIN.

10.1 Definition of Taking. The term "Taking" as used in this Section 10 shall mean condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Common Areas, the Club Water System or of all or any portion of the Association's interest in the Areas of Common Responsibility.

10.2 Representation in Condemnation Proceedings. In the event of a threatened Taking,

the Owners hereby appoint the Association (through individuals designated by the Board) to represent all of the Owners in connection therewith. The Board shall act in its sole and absolute discretion with respect to any awards being made in connection with the Taking and shall be entitled to make a voluntary sale to the condemn or in lieu of engaging in a condemnation action.

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

11. MAINTENANCE, REPAIRS AND REPLACEMENTS.

11.1 Maintenance of Lots.

11.1.1 Generally. Subject to the Association's obligations with respect to any Areas of Common Responsibility on Lots, each Owner shall furnish and be responsible for, at the Owner's expense, all of the maintenance, repairs and replacements within the Owner's own Lot. Subject to the Association's obligations with respect to any Areas of Common Responsibility on Lots, in the event of damage to or destruction of structures on any Lot, the Owner of the Lot shall proceed promptly to repair or reconstruct the structures in a manner consistent with the original construction or other plans and specifications approved in accordance with Section 12.5.

11.1.2 Improper Maintenance and Use of Lots. Subject to the provisions of Section 16, if (i) any portion of any Lot is so maintained as to present a public or private nuisance or an unreasonable condition (as determined by the Board) with respect to other Owners or Occupants, or as to detract substantially from the appearance or quality of the surrounding Lots or other areas of the Property; (ii) any portion of a Lot is being used in a manner that violates this Declaration, any applicable Supplemental Declaration, the Association Rules or the Design Guidelines; or (iii) the Owner of any Lot fails to perform any of the Owner's obligations under this Declaration, any applicable Supplemental Declaration, the Association Rules or Design Guidelines, then the Board may, by resolution, make a finding to that effect, specifying the particular condition or conditions that exist, and pursuant thereto give notice to the offending Owner that unless corrective action is taken within a deadline reasonably established by the Board, the Board may cause corrective action to be taken at the Owner's cost. If, at the expiration of the deadline fixed by the Board, the requisite corrective action has not been taken, the Board is authorized and empowered to cause remedial action to be taken. The cost of any remedial action shall become a Special Assessment against the offending Owner and the Owner's Lot and shall be secured by the lien provided for in Section 7.1. Notwithstanding the foregoing, if the Board believes that immediate action is or may be necessary to avoid a risk of serious physical injuries to individuals or damage to property, the Board shall be entitled, after giving notice to the affected Owner, to take whatever action it may believe to be minimally necessary to guard against or prevent injuries or damage without being required to wait for the period otherwise established by the Board as a deadline for action by the defaulting Owner.

11.2 Common Areas and Areas of Common Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas, including, but not limited to, all Private Roads, and all Areas of Common Responsibility; provided, however, the Association shall not be responsible for maintaining any Common Areas or Areas of Common Responsibility that are part of Lots unless the Association assumes in writing the responsibility

for the maintenance, or the Association's responsibility is set forth in a recorded instrument as provided in this Declaration (such as a Supplemental Declaration). The Board shall be the sole judge of the appropriate maintenance of all Common Areas and Areas of Common Responsibility. The County shall have no obligation or responsibility whatsoever with respect to the Private Roads, including, but not limited to, maintenance, repair or replacement of Private Roads, unless and until such Private Roads are brought into compliance with all applicable requirements for public roads and are dedicated to and accepted by the County, pursuant to all applicable County rules and regulations.

11.3 Assessment of Certain Costs of Maintenance and Repair of Common Areas and Areas of Common Responsibility. If the need for maintenance, repair, or replacement of Common Areas, Areas of Common Responsibility or any other areas maintained by the Association is caused through the willful or negligent act of any Owner or Occupant or the family, guests, or invitees of either, the cost of all required maintenance or repairs shall be a Special Assessment against the Owner and the Owner's Lot and shall be secured by the lien provided for in Section 7.1.

11.4 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 and Areas of Common Responsibility, or any equipment, facilities or fixtures affecting or serving other Lots and the Common Areas or Areas of Common Responsibility, or to perform any of the Association's duties or responsibilities hereunder.

12. ARCHITECTURAL AND LANDSCAPE CONTROL.

12.1 General Description of Improvements. Improvements on the Property should enhance the rural ranch character of the area and be in harmony with the natural features of the site, including the surrounding mountains, perimeter forest and central meadow area. Without altering the general statements included in this Section 12 regarding construction of improvements and the establishment of Design Guidelines, materials used in the construction of improvements on the Property are expected to include log, wood, stone and other natural materials that are consistent with the development of a high-quality mountain community, and improvements shall be site-built. In particular, primary residential structures shall have, as the major exterior wall material, full depth natural logs with a hand-peeled finish. If logs are squared, they shall be the full depth of the exterior wall and shall have a hand-peeled or adzed finish. Subject to Design Review Committee approval. "Post and Beam" design and other types of construction may be used however the final product must present a "high end" mountain log cabin look. Heavy wood siding with a natural live edge finish with chinking may be utilized. All exterior visible natural logs and finished beams must be a minimum of 10 inches in diameter.

12.2 Appointment of Design Review Committee. Subject to Section 12.8, the Association shall have a Design Review Committee consisting of not less than three nor more than five individuals, as specified from time to time by resolution of the Board. After the Transition Date or such earlier date as Declarant elects to delegate the design review powers to the Design Review Committee, members of the Design Review Committee shall be appointed by the Board. Individuals appointed to the Design Review Committee by the Board

must be Owners or satisfy any other requirements as may be designated by the Board.

12.3 Design Guidelines. The Design Review Committee shall establish reasonable procedural rules, regulations, restrictions, architectural standards and design guidelines (the "Design Guidelines"), which the Design Review Committee may, from time to time, in its sole and absolute discretion, amend, repeal or augment. After the Transition Date or such earlier date as Declarant elects to delegate the design review powers to the Design Review Committee, any change in the Design Guidelines will be effective only if it is approved by Declarant (so long as Declarant or any Related Party owns any portion of the Property). The Design Guidelines are hereby incorporated herein and shall be deemed to be a part of this Declaration and shall be binding on all Owners and other Persons having any interest in the Property as if expressly set forth herein. A copy of the current Design Guidelines shall at all times be a part of the Association's records.

12.4 General Provisions.

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

12.4.2 The Design Review Committee may delegate its plan review responsibilities, except final review and approval required by the Design Guidelines, to one or more of its members or architectural consultants retained by the Design Review Committee. Upon any delegation of responsibilities, the approval or disapproval of plans and specifications by the member or consultants shall be equivalent to approval or disapproval by the entire Design Review Committee.

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

12.4.4 The Design Review Committee, in its discretion, from time to time, may waive compliance with the restrictions set forth in this Section 12 or any comparable restrictions set forth in any Supplemental Declaration or the Design Guidelines; provided, however, following the Transition Date, any such waiver shall require the prior written approval of Declarant, so long as Declarant or any Related Party owns any portion of the Property.

12.5 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, but not limited to, 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 Design Guidelines. It is understood and agreed by each Person having or acquiring an interest in the Property that the Design Review Committee will include aesthetic judgment in its decision-making process and approval of submitted plans will not be required simply because the plans satisfy stated objective requirements.

12.6 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 (or other governmental requirements), and by approving the plans and specifications neither the Design Review Committee, the members thereof, Declarant, any Related Party, the Association, any Owner, nor the Board (nor any committee, officer, director, employee or agent of any of the

foregoing) assumes any liability or responsibility therefor, or for any defect in any structure constructed from the plans and specifications. Neither the Design Review Committee, any member thereof, Declarant, any Related Party, the Association, nor the Board (nor any committee, officer, director, employee or agent of any of the foregoing) 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 portion of the Property, or (d) the execution and filing of an estoppel certificate pursuant to the Design Guidelines, whether or not the facts therein are correct; provided, however, that the action, with the actual knowledge possessed by the Person executing and filing the estoppel certificate, was taken in good faith. Approval of plans and specifications by the Design Review Committee (or by Declarant pursuant to Section 12.8) 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.

12.7 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 the Lot to ascertain that the improvements have been or are being built in compliance with the Design Guidelines and this Declaration. The Design Review Committee shall cause an inspection to be undertaken within 30 days of a request from any Owner as to the Owner's Lot, and if the inspection reveals that the improvements located on the Lot have been completed in compliance with this Section 12, the Design Guidelines, and any applicable Supplemental Declaration, the Design Review Committee shall provide the Owner a notice of approval in recordable form which, when recorded, shall be conclusive evidence of compliance with the provisions of this Section 12 and the Design Guidelines as to the improvements described in the recorded notice, but as to the described improvements only.

12.8 Declarant Review. Each Owner acknowledges that Declarant, as the developer of the Property and as an owner of significant portions of the Property, has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation and do not impair Declarant's ability to market, sell or lease its property. Notwithstanding anything contained in this Declaration to the contrary, until the Transition Date, Declarant, shall have all of the rights granted in this Declaration or any Supplemental Declaration to the Design Review Committee, and shall exercise all of the powers granted in this Declaration or any Supplemental Declaration to the Design Review Committee through individuals appointed by Declarant for such purpose including, but not limited to, establishment of the Design Guidelines. Until the Transition Date or such earlier time as Declarant delegates all or a portion of its design review powers to the Design Review Committee, the Association shall have no jurisdiction over architectural or design review matters. If Declarant delegates all or a portion of its design review powers to the Design Review Committee prior to the Transition Date, Declarant shall give the Association at least 30 days prior written notice of the delegation. Upon the expiration or relinquishment of Declarant's rights under this Section, the Association, acting through the Design Review Committee, shall assume jurisdiction over architectural and design review matters. In exercising its powers under this Section 12.8, Declarant shall be acting in its own interest as developer of the Property.

12.9 Reconstruction of Common Areas. The reconstruction of any Common Areas or Areas of Common Responsibility after destruction by casualty or otherwise that is accomplished

in substantial compliance with "as built" plans for the Common Areas or Areas of Common Responsibility, as applicable, shall not require compliance with the provisions of this Section 12 or the Design Guidelines.

12.10 Additional Powers of the Design Review Committee. The Design Review Committee may promulgate as a part of the Design Guidelines additional architectural and landscape standards, rules and regulations as it deems appropriate; provided the standards, rules and regulations are not in conflict with this Declaration or the architectural and landscape standards, rules and regulations promulgated by Declarant in the exercise of its powers under Section 12.8. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE DESIGN REVIEW COMMITTEE MAY FIX A FINE AGAINST ANY OWNER AND ANY LOT SUBJECT TO THIS DECLARATION FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE DESIGN REVIEW COMMITTEE OR FOR FAILURE TO COMPLY WITH ANY APPROVAL OF THE DESIGN REVIEW COMMITTEE AND MAY REQUIRE SECURITY DEPOSITS TO ASSURE COMPLIANCE WITH APPLICABLE REQUIREMENTS. The Board of Directors will have the authority to assess fines of \$100.00 for the first violation and a fee of \$250.00 per month until the violation has been corrected. The Declarant / Board of Directors may amend these fine schedules as needed.

13. USE AND OCCUPANCY RESTRICTIONS.

13.1 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 Design Guidelines. Nothing herein contained shall be deemed to limit Declarant's rights as set forth in Section 16. The restriction on use of any Lot for business or commercial enterprise shall not prohibit an activity if it meets all of the following requirements: (a) is not apparent or detectable by sight, sound or smell from outside the Lot on which it occurs, (b) does not involve individuals coming onto the Lot who do not reside on the Lot (excluding once a day delivery services such as Federal Express) or solicitation of residents of the Property by anyone, whether or not a resident, and (c) is consistent with the residential character of the Lot and the Property and not a nuisance, or a hazardous or offensive use, as may be determined in the sole and absolute discretion of the Board. The scope of the types of activities that are prohibited by this Section may be clarified, supplemented and interpreted by the Board (or by Declarant, prior to the Transition Date) from time to time, as it may choose in its sole and absolute discretion, so long as not materially inconsistent with the terms set forth above.

13.2 Violation of Law or Insurance. No Owner or Occupant shall permit anything to be done or kept in the Owner's Lot or in or upon any Common Areas that will result in the cancellation, increase in premiums or reduction in coverage of insurance maintained by the Association or that would be in violation of any law or other applicable requirement of governmental authorities.

13.3 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) signs used by Declarant or any Related Party in connection with the development and sale of Lots in the Property; (b) signs required by legal proceedings, or the prohibition of which is precluded by law; (c) signs of an approved size placed in approved locations on a Lot indicating that the Lot is served by security or alarm services; and, (d) signs 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 or keep on record one "For Sale" or "For Rent" notice in a form approved by the Board in a location specified for that purpose by the Board, rather than on the Owner's Lot.

13.4 Animals. Domestic pet animals may be kept, bred or maintained on the Property only in accordance with the Association Rules. No animals shall be kept, bred or raised within the Property for commercial purposes. In no event shall any domestic pet be allowed to conduct itself so as to create a nuisance. No domestic pet may run free away from its owner or owner's Lot without a leash, unless it is a known pet that has proven itself well trained and safe to people and other pets to the satisfaction of the Board. Owners, Occupants or other Persons shall immediately clean up their animals' waste from the Common Areas and other portions of the Property. All domestic pets must be registered with the Association and must have proof of proper immunization presented with their registration. Declarant may designate equestrian trails in Common Areas subject to such rules and regulations as Declarant may provide. Horses and other stock animals shall not be maintained on Lots; instead such animals shall be kept only in the designated equestrian facilities within Common Areas.

13.5 Nuisances. No Owner or Occupant shall permit or suffer anything to be done or kept about or within the Owner's Lot, or on or about the Property, that will permit any nuisance or obstruct or unreasonably interfere with the rights of other Owners, Occupants or other individuals holding the right to use and enjoy the Common Areas or annoy them by unreasonable noises or otherwise. Each Owner and Occupant shall comply with the Association Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. Equestrian uses that comply with the Association Rules shall not be considered a nuisance or otherwise prohibited by this Declaration. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, provided they are in compliance with the Design Guidelines and requirements of the Design Review Committee and Board. Lots, Common Areas and Areas of Common Responsibility shall be kept in a neat and tidy condition during construction periods; trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials shall be piled only in such areas as may be approved by the Design Review Committee or Board. In addition, any construction equipment and building materials stored or kept on the Property during construction of improvements may be kept only in areas approved by the Design Review Committee or Board, which also may require screening of the storage areas. The Board, in its sole and absolute discretion (but subject to the provisions of this Declaration including, but not limited to, Section 16), shall have the right to determine the existence of any unreasonable annoyance or nuisance under this Declaration.

13.6 Motor Vehicles. No motor vehicles, including, but not limited to, automobiles, boats, trailers, buses, motor homes and campers (i) may be parked or stored on the Private Roads or other portions of the Common Area, except in parking areas designated by the Board; (ii) may be parked or stored upon a Lot except within an enclosed structure or as otherwise permitted by the Association Rules from time to time; or (iii) may be repaired or rebuilt upon any portion of the Common Area or on any Lot except within an enclosed structure or as otherwise permitted by the Association Rules from time to time. The Board may remove, or cause to be removed, any unauthorized vehicle at the expense of the owner of the vehicle in any manner consistent with law

13.7 Mining; Wells. No portion of the Property shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind; provided, however, the foregoing restriction shall not prohibit the location of one well (with a production rate not exceeding 35 gallons per minute) on the real property more particularly described on Exhibit "B" attached hereto. Notwithstanding the foregoing or anything to the contrary in this Declaration, Declarant and the Association shall have the right to place and maintain within the Property (a) wells and related facilities for potable or irrigation water purposes, and (b) sewage treatment facilities to accommodate residential, recreational, support services and other uses in the Property.

13.8 Antennas. No antenna, satellite dish, or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation which would be visible from neighboring property shall be erected, used or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, without the prior written approval of the Design Review Committee, which shall not be unreasonably withheld or delayed. The Board may adopt reasonable rules, restrictions and requirements from time to time regulating the placement, appearance, size, operation, and other aspects of any antennas, satellite dishes, and other structures and devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, allowed for use on Lots, within the constraints of any applicable law. Any such rules, restrictions and requirements shall take into account aesthetic considerations, available technology, cost, feasible alternatives, and the effect (if any) of applicable laws and other requirements of governmental authorities.

13.9 Fires. Other than gas barbecues, in properly constructed barbecue pits or grills, and (on Lots that are at least two acres in size) campfires in properly constructed fire rings or other appropriately confined areas, (all in accordance with the Design Guidelines), or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Lots, nor shall any other similar activity or condition be permitted that would tend to increase the insurance rates for the Common Area, or for other Owners. The Board may designate a portion of the Common Area where campfires may be allowed, subject to any applicable rules or requirements imposed by the Board.

13.10 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind. All laundry facilities shall be provided within the buildings to be constructed on each Lot.

13.11 Combinations/ No Further Subdivision.

13.11.1 With the prior written consent of the Board, two lots in the Club Plat may be combined by the Owner thereof (with the approval of Apache County) but in the event of such a combination of Lots the Owner of the two combined Lots shall continue to hold two Memberships, pay two sets of Assessments, and exercise the voting rights of Owners as though the two Lots remained separate.

13.11.2 Except as specifically provided in this Section 13.11, no Lot on the Club Plat shall be divided or subdivided. A Lot that is at least two acres may be divided or subdivided, subject to any applicable rules and regulations of the County, so long as no resulting Club Plat Lot is less than one acre. Lodge Plat Lots may not be divided or subdivided. Notwithstanding the foregoing, Declarant may amend any Plat prior to the date when any Lot within the Plat has been sold by Declarant and may adjust the Lot boundaries on any Plat (even after a Lot within the Plat has been sold) for any Lots not yet sold.

13.12 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction that would interrupt the normal drainage of the land or within any area designated on a Plat, or other binding document, as a "Drainage Easement" or similar designation, except that, with the prior consent of applicable governmental authorities and the Design Review Committee, non-permanent structures, including fences, may be erected in those areas that contain only underground closed conduit storm drainage facilities.

13.13 Use of Lots. An Owner shall be responsible for assuring compliance by any Occupants or guests of the Owner's Lot with all of the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, and shall be jointly and severally responsible for any violations of this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules and Design Guidelines by the lessee or other Person.

13.14 Enforcement. The Association and its authorized agents may enter any Lot in which a violation of these restrictions exists and may correct the violation at the expense of the Owner of the Lot. Any expenses, and any fines imposed pursuant to this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, shall be a Special Assessment secured by a lien upon the Lot enforceable in accordance with the provisions of Section 7.1. All remedies described in Section 17 and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, Occupant or other Person of any provision of this Section 13.

13.15 Repair of Structures. No building, structure, or improvement on the Property shall be permitted to fall into disrepair, and (subject to any provisions of this Declaration or a Supplemental Declaration expressly imposing maintenance and repair obligations on the Association or other Persons) each building, structure and improvement on a Lot shall at all times be kept by the Owner of that Lot in good condition and repair and adequately painted or otherwise finished.

13.16 Utility Service. All lines, wires, or other services for the communication or transmission of electric current or power or electromagnetic impulses, including telephone, television, and radio signals on the Property shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Design Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings, structures, or improvements approved by the Design Review Committee.

13.17 Health, Safety, and Welfare. If any uses, activities, and facilities are deemed by the Board to be an unreasonable annoyance or a nuisance, or to adversely affect the health, safety, or welfare of Owners or Occupants, the Board may make rules restricting or regulating their presence on the Property as part of the Association Rules or may direct the Design Review Committee to make rules governing their presence on Lots as part of the Design Guidelines. Any rules promulgated pursuant to this Section 13.17 shall be consistent with the provisions of this Declaration including, but not limited to, Section 16.

13.18 Implementation and Variances. Subject to Section 16, the Board may implement the restrictions set forth in this Section 13, or otherwise restrict and regulate the use and occupancy of the Property and the Lots by adopting or amending Association Rules. Subject to Section 16, the Board may, in its discretion, modify or waive the restrictions set forth in this Section 13; provided, however, following the Transition Date, any such waiver or variance shall require the prior written approval of Declarant, so long as Declarant or any

Related Party owns any portion of the Property.

13.19 Open Space. The Plat may designate portions of the Property as "Open Space" or a similar designation (each, an "Open Space Area"). In addition to the meadow included in the Common Area, natural woodland, grassy areas and other forms of open space, Open Space Areas may include common recreational facilities, structures and improvements for the benefit of the Owners and such other Persons as may be designated by the Declarant or the Association from time to time.

13.20 Perimeter Forest. Portions of the Property are adjacent to national forest land. Equestrian access from the Property into neighboring national forest land shall be limited to those points of access designated by the Association from time to time. Because the Property is encircled by a Wildlife Habitat Area of the National Forest that allows no vehicular access, there shall be no vehicular access from the Property to the National Forest.

13.21 No Construction on Common Area Tract. Without the consents provided for in this Section below, no significant structure or feature may be constructed or placed hereafter on any portion of that certain tract of Common Area (the "Restricted Tract") described as Tract D on the Amended Replat - The Club at Hidden Meadow Ranch, recorded in the official records of Apache County, Arizona on April 9, 2007, in Book 16LS of Maps, at page 186 (1-5) (the "Amended Plat"). The phrase "significant structure or feature" includes improvements such as, by way of example only and not limitation, a building, fence, wall, shed or parking lot. Any improvements placed on the Restricted Tract shall be of a rustic style consistent with the existing structures and atmosphere at The Club at Hidden Meadow Ranch. The foregoing restrictions shall not prohibit the existence, repair, maintenance, or remodeling of the cabin structure that is present on the Restricted Tract at the time this instrument is recorded. Structures and features otherwise prohibited by this Section may be constructed or placed on the Restricted Tract, provided that (i) a written document setting forth the permitted improvements and location thereof is consented to in writing by the Owners of at least four of the following five Lots, as shown on the Amended Plat: Lot 16, Lot 17, Lot 32, Lot 33 and Lot 34; and (ii) such document is approved by the Declarant and the Association in accordance with the procedures that would be required to amend the Club Declaration. If either the Declarant or the Association so desires, the document may be recorded. In addition, if either the Declarant or the Association so desires, the document may be an amendment to the Club Declaration. This Section 13.21 may not be amended at any time without the written consent of the Owners of at least four of the following five Lots, as shown on the Amended Plat: Lot 16, Lot 17, Lot 32, Lot 33 and Lot 34.

13.22 Rentals.

13.22.1 No rental or occupancy for compensation shall be allowed on any of the Lots. The only exception to these restrictions shall be in the case of rental or occupancy by (i) an Owner of another Lot; (ii) or immediate family or personal friends of an Owner; (iii) or as provided in Section 13.22.3 thru 13.22.6 below. Any Owner renting or otherwise granting a third person occupancy rights to the Owner's Lot shall be responsible for compliance by the occupant with all applicable requirements of Declaration, the Articles and Bylaws, and any Association Rules. Any Owner renting or otherwise granting occupancy rights for compensation shall give the Association prior written notice of the occupancy agreement including its term, the names and addresses of the occupant(s), and any other relevant information that the Association may reasonably require.

13.22.2 The maximum number of occupants during a rental period in any home at one time is limited by the sleeping capacity of the home, with a maximum of 12 individuals. The sleeping capacity of a home is the number of double, full, queen and king beds times two plus the number of single, bunk, and trundle beds times one.

13.22.3 Notwithstanding the foregoing, so long as the Owner of Parcel A of Lot 32 (according to the Minor Land Division approved by Apache County on April 28, 2009) on the date this Restated Declaration is recorded continues to hold title to Parcel A of Lot 32, no occupancy agreement may allow occupancy of Parcel A of Lot 32 for less than 2 consecutive days. The maximum number of occupants during a rental period at one time is limited by the sleeping capacity of the home, with a maximum of 15 individuals. The sleeping capacity of the home is the number of double, full, queen and king beds times two plus the number of single, bunk, and trundle beds times one.

13.22.4 Notwithstanding the foregoing, so long as the Owner of Parcel B of Lot 32 (according to the Minor Land Division approved by Apache County on April 28, 2009) on the date this Restated Declaration is recorded continues to hold title to Parcel B of Lot 32, no occupancy agreement may allow occupancy of Parcel B of Lot 32 for less than 2 consecutive days. The maximum number of occupants during a rental period at one time is limited by the sleeping capacity of the home, with a maximum of 15 individuals. The sleeping capacity of the home is the number of double, full, queen and king beds times two plus the number of single, bunk, and trundle beds times one.

13.22.5 For purposes of Section 13.22.3 and Section 13.22.4, the Owner of Parcel A of Lot 32 and the Owner of Parcel B of Lot 32 on the date this Restated Declaration is recorded shall be construed to mean any entity holding title on such date, any individuals holding title on such date, and any limited liability company, limited partnership, or similar entity formed by and comprised of such individuals (or their heirs) to hold title after such date.

13.22.6 Notwithstanding the foregoing, Declarant shall have the right to rent or grant occupancy rights to any Club Lot or Lodge Lot owned or leased by Declarant, for compensation, to the general public on a daily, weekly or other basis, and any such compensation shall inure to the benefit of Declarant. For itself and for any managing agent, and their successors, assigns, agents, employees, contractors, subcontractors and other authorized personnel, Declarant hereby reserves the exclusive right in, over and through the Club Lots, Lodge Lots, and Common Areas for the purpose of conducting use and rental activities under this Section including, but not limited to, the right (i) to utilize the Common Areas for the administration of rental activities, (ii) to use the Common Areas for access purposes to such Club Lots and Lodge Lots, and (iii) to build, furnish, refurnish, repair and maintain improvements on Club Lots and Lodge Lots. The exercise of Declarant's rights under this Section shall not unreasonably interfere with the Association's use of the Club Lots, Lodge Lots and Common Areas as necessary to perform its duties and obligations pursuant to this Declaration and the Association Rules, or the rights of Members and their permitted users to use and occupy other Club Lots, Lodge Lots and the Common Areas

14. RIGHTS OF MORTGAGEES.

14.1 General Provisions. Notwithstanding and prevailing over any other provisions of this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, the following provisions shall apply to and benefit each holder of a Mortgage

upon a Lot.

14.2 Liability for Assessments. A 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, and any third-party purchaser at a foreclosure sale or trustee's sale (a "Successor Owner"), will not be liable for the Lot's unpaid dues, charges or Assessments that accrued prior to the time the Successor Owner comes into possession of the Lot or becomes record Owner of the Lot, whichever occurs first. In addition, a Successor Owner shall acquire title free and clear of any lien authorized by or arising out of the provisions of this Declaration that secures the payment of any dues, charges or Assessments accrued prior to the time the Successor Owner either comes into possession of the Lot or becomes record Owner of the Lot. Any unpaid dues, charges or Assessments against the foreclosed Lot shall be deemed to be a Common Expense charged prorata against all of the Owners. Nevertheless, in the event the Owner against whom the original Assessment was made is the purchaser or redemption or, the lien shall continue in effect and may be enforced by the Board, for the Lot's Assessment that was due prior to the final conclusion of the foreclosure or equivalent proceedings. Further, any unpaid Assessment shall continue to exist as the personal obligation of the defaulting Owner of the Lot, and the Board may use reasonable efforts to collect unpaid Assessments from the Owner even after the Owner is no longer the Owner of the Lot.

14.3 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 that are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Section 14.

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

14.5 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a Mortgage (including any period of redemption) or from the time a trustee under a deed of trust has given notice of sale pursuant to power of sale conferred under the deed of trust and pursuant to law, the 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 of the Association in the place and stead of the defaulting Owner.

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

15. ANNEXATION OF ADDITIONAL PROPERTY.

Additional real property, including, but not limited to, the Annexable Property, may be annexed to and become subject to this Declaration as hereinafter set forth in this Section

15.

15.1 Development of the Property. Declarant may elect not to develop all or any part of the Annexable Property, to annex and develop property other than the Annexable Property in accordance with this Section 15, to annex the Annexable Property or other real property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order. Moreover, Declarant reserves the right to subject all or any portion of the Annexable Property it owns to the plan of this Declaration or to one or more separate declarations of covenants, conditions and restrictions which subject that property to the jurisdiction and powers of a homeowner association or other entity with powers and obligations similar to the Association and which is not subject to the provisions of this Declaration.

15.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form that annexes additional real property to the plan of this Declaration and that incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions of this Declaration. 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 Annexed Property and as are not materially inconsistent with the plan of this Declaration. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to any portions of the Property already subject to this Declaration. The recordation of a Supplemental Declaration shall effectuate the annexation of the Annexed Property described therein, making the Annexed Property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association. After annexation, the Annexed Property shall be part of the Property for all intents and purposes of this Declaration, and all of the Owners of Lots in the Annexed Property shall automatically be Owners and Members in accordance with Section 3.

15.3 Annexation Without Approval. Declarant shall have the sole right (with the consent of the other owner(s) of the additional property if Declarant does not own the additional property) to annex all or any portion of the Annexable Property (in such increments and at such times as Declarant may elect, in its sole and absolute discretion) to this Declaration as provided in this Section 15, without the approval, assent or vote of the Association or its Members, by recordation of a Supplemental Declaration covering the applicable portions of the Annexable Property.

15.4 Annexation With Approval. Declarant shall have the sole right (with the consent of the other owner(s) of the additional property if Declarant does not own the additional property) to annex additional property to this Declaration that is not part of the Annexable Property, with the approval of a Majority of a Quorum of Members, by recordation of a Supplemental Declaration covering the property to be annexed.

16. EXEMPTION OF DECLARANT FROM RESTRICTIONS.

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, any Related Party, or their respective employees, agents and subcontractors, or parties designated by them in connection with the construction, completion, sale or leasing of the Lots, Common Areas, the Property or other property owned by Declarant or any Related

Party (whether or not annexed to this Declaration). Without limiting the generality of this Section 16 in any way and notwithstanding anything to the contrary in this Declaration,

(a) Declarant is expressly exempted from the provisions of this Declaration requiring submittals to or authorizations by the Design Review Committee including, but not limited to, Section 12.5, and

(b) neither the provisions of Section 12, nor the Design Guidelines, nor any comparable provisions in any Supplemental Declaration shall apply to buildings and other structures or improvements constructed by Declarant, any Related Parties or their respective agents or employees. In addition, the Lot described on Exhibit "B" shall be exempt from the provisions of this Declaration requiring submittals to or authorizations by the Design Review Committee so long as the Lot is owned by Andersen (or any of them), but any improvements to or changes in the Lot shall remain subject to the prior approval of Declarant during that period.

17. REMEDIES.

17.1 General Remedies. In the event of any default by any Owner, Occupant or other Person under the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the Association, and its successors or assigns, and its agents, and Declarant, shall have each and all of the rights and remedies that may be provided for in this Declaration, any applicable Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or that may be available at law or equity or any combination of remedies or any other relief, all without notice and without regard to the value of the Lot or the solvency of the Owner, unless specific remedies or notice requirements are set forth with respect to particular provisions of this Declaration.

17.2 Expenses of Enforcement. All expenses of the Association and Declarant in connection with any action or proceeding described or permitted by this Section 17, including reasonable attorneys' fees, witness fees (including expert witness fees), costs and other litigation-related 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 the defaulting Owner and shall be a Special Assessment against such Owner, and the Association shall have a lien as provided in Section 7.1 therefor. In the event of any such default by any Owner, the Association and Declarant, and the manager or managing agent of the Association, if so authorized by the Board, shall have the authority to do whatever may be necessary to correct the default, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner as a Special Assessment, which shall constitute a lien against the defaulting Owner's Lot as provided in Section 7.1. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association and Declarant.

17.3 Effect on Mortgage. Notwithstanding anything to the contrary herein, any breach of any of the covenants, restrictions, reservations, conditions 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, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

17.4 Limitation on Declarant's Liability. Notwithstanding anything to the contrary in

this Declaration, each Owner, by accepting title to any portion of the Property and becoming an Owner, and each other Person acquiring an interest in the Property (including, but not limited to, any Mortgagee), acknowledges and agrees that neither Declarant nor any Related Party shall have any personal liability to the Association, or any Owner, Member, Mortgagee or other Person, arising under, in connection with, or resulting from (including, but not limited to, resulting from action or failure to act with respect to) this Declaration, any Supplemental Declaration, the Association Rules, the Design Guidelines, the Association, or the Design Review Committee, except to the extent of that Person's interest in the Property, and, in the case of a Related Party that Person's interest in Declarant, and, in the event of a judgment against any of the foregoing Persons, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon the other assets, of the judgment debtor.

18. AMENDMENT.

18.1 Amendment to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration", or a similarly entitled instrument, 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 the Members (excluding Declarant) or without any meeting if all Members have been duly notified and if two-thirds of the Members (excluding Declarant) consent in writing to such amendment. Amendments once properly adopted shall be effective upon recording in the Apache County Recorder's office.

18.2 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 contained herein which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the Section being amended or the amendment itself.

18.3 Required Approvals. Notwithstanding the provisions of the foregoing sections of this Section 18:

(a) 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 the action shall be approved by all of the Members and/or all Owners and/or all lienholders and trustees and/or beneficiaries under trust deeds, or the specified percentage thereof, as required by this Declaration or by law.

(b) Until the Transition Date, this Declaration may not be amended by the Members pursuant to Section 18.1 without the prior written consent of Declarant, which may be withheld for any reason.

(c) The following provisions of this Declaration may not be amended at any time without the prior written consent of Declarant: Sections I.I, 1.15, 3.11, 3.12, 4.6, 12.1, 15.3, 16, 17.4, this 18.3(c), 18.4, 21, 23 and 24.

18.4 Declarant's Right to Amend. Notwithstanding any other provision of this Section 18, until the Transition Date, Declarant reserves the right to amend this Declaration without the approval of the Board or the Members, except as specifically set forth in this Section 18.4. After

the conveyance of the first Lot to an Owner, Declarant may not amend the following provisions of this Declaration without the approval of the Members as provided in Section 18.I: Sections 3.2 (to change the number of Memberships attributable to each Lot or to change the number of votes for each Lot or Membership), Section 7.3.4 (to increase the cap on increases in Regular Assessments), the second sentence of Section 7.4.3 (to increase the amount of a Special Assessment that may be collected for capital improvements without a vote of a Majority of a Quorum of Members), and this Section 18.4 (to delete any references to Sections that require the approval of the Members to amend).

19. TERM; TERMINATION.

19.1 Term. This Declaration shall be effective upon the date of its recordation and, as amended from time to time, shall continue in full force and effect until January 1, 2075. Thereafter, this Declaration shall continue (as amended from time to time) for consecutive periods of 25 years each, unless there is an affirmative vote, not more than 360 days prior to the date otherwise scheduled for commencement of the next extension of the term of this Declaration, to terminate this Declaration by a vote of at least 90% of the Members at a duly held meeting of the Members, or without any meeting if all Members have been duly notified and if at least 90% of the Members consent in writing to the termination within the 360-day period.

19.2 Withdrawal by Declarant. This Declaration may be terminated by Declarant without the approval or consent of any other Person if the action is taken before any sale to a Retail Purchaser. Any Plat may be withdrawn by Declarant, without the approval or consent of any other Person, if the action is taken before the sale of any real property shown on that Plat to a Retail Purchaser.

19.3 Termination. After the first sale to a Retail Purchaser, this Declaration may be terminated at any time upon a vote in favor of termination by 90% of the Members and with the consent of Declarant (so long as Declarant or a Related Party owns any portion of the Property). Declarant may, but shall not be obligated to, release its consent rights by recorded instrument. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the Apache County Recorder's office a Certificate of Termination. Thereupon, this Declaration, as of the date of recordation of the Certificate of Termination (or such later date as may be specified in the Certificate of Termination), shall have no further force and effect, and the Association shall be dissolved.

20. GENERAL PROVISIONS.

20.1 Notices. Notices provided for in this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, 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 change of address to all Owners. All notices to Owners shall be to their respective Lots or to the last address shown on the records of the Association. Notices addressed as above shall be deemed delivered when mailed by United States mail, or when delivered in person with written acknowledgment of the receipt thereof.

20.2 Captions; 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 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.

20.3 Severability. If any provision of this Declaration, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, 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, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, 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, any Supplemental Declaration, the Articles, Bylaws, Association Rules or Design Guidelines shall be construed as if such invalid part were never included therein.

20.4 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then the provision shall continue until 21 years after the death of the survivor of the now living descendants of President George W. Bush, United States Senator John McCain and United States Senator Jon Kyl.

21. DECLARANT'S DISCLAIMER OF REPRESENTATIONS;
NO COVENANTS OR RESTRICTIONS.

21.1 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by Declarant or any Related Party is or will be subjected to this Declaration, or that any land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if any land is once used for a particular use, the use will continue in effect.

21.2 No Express or Implied Covenants or Restrictions. Nothing in this Declaration shall create, or be deemed to create, any express or implied covenants or restrictions with respect to any real property that has not been subjected to this Declaration.

22. RIGHTS AND OBLIGATIONS.

Each grantee of Declarant, by the acceptance of a deed of conveyance, and each purchaser under any contract for a deed of conveyance, and each purchaser under any agreement of sale, and the heirs, successors and assigns of the foregoing Persons, accepts the grant, conveyance or agreement subject to all restrictions, conditions, covenants, reservations, liens and charges, 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. Further, all impositions and obligations imposed by this Declaration 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 the Property, 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 an interest.

23. FRACTIONAL INTEREST OWNERSHIP.

Section 23 regarding Fractional Ownership is stricken in its entirety. No fractional

ownership development will be permitted.

24. DISPUTE RESOLUTION.

24.1 Approval of Litigation.

24.1.1 Required Procedures. The Association shall not initiate or voluntarily participate in any litigation, arbitration, claim to regulatory authorities, or any other binding legal proceeding with respect to any matter affecting or arising from the Property ("Property Litigation") except upon compliance with the requirements of this Section 24.

(a) Before the Association incurs expenses or potential liabilities in connection with Property Litigation including, but not limited to, attorneys' fees, court filing fees and exposure for costs and fees of an adverse party, the Association must hold a meeting of the Owners and obtain the approval of Owners holding more than 75% of the total votes entitled to be cast by all Owners, excluding the vote of any Owner who would be a defendant in the proceedings.

(i) If the Property Litigation arises from an alleged "Defect" (as defined in Section 24.2.1), the Association shall provide all Owners with at least the following information about the proposed Property Litigation not later than the time the vote of Owners is taken:

(ii) a reasonably detailed description of the alleged Defect; a good faith description of any attempts to correct the alleged Defect by the Person alleged to be responsible for it, and the opportunities provided to that Person to correct the alleged Defect;

(iii) a certification from an architect or engineer licensed in the State of Arizona that the alleged Defect exists, along with a description of the scope of work necessary to cure the alleged Defect and a resume of the architect or engineer;

(iv) a good faith estimate of the cost to cure the alleged Defect;

(v) the name and professional background of any attorney retained (or proposed to be retained) by the Association to pursue the claim against arising from the alleged Defect, and a description of the relationship between the attorney and member(s) of the Board or the Association's management company (if any);

(vi) a description of the fee arrangement between the attorney

(vii) and the Association;

(viii) a good faith estimate of the attorneys' fees and expert fees

(ix) and costs necessary to pursue the claim;

(x) a good faith estimate of the time necessary to conclude the action (including possible appeals);

(xi) a good faith estimate of the fees and costs the Association may be required to pay to the other party in the event that the Association's claim is unsuccessful; and

(xii) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Association and the Owners.

(b) The costs of any Property Litigation shall be paid by the Association only with monies that are collected for that purpose by Special Assessment. The Association shall not borrow money, use reserve funds, or use monies collected for other Association obligations.

(c) Each Owner shall notify prospective purchasers of any Property Litigation initiated by the Board.

(d) In the event that Property Litigation arising from an alleged Defect is successfully pursued, any recovery shall be applied (after payment of applicable attorneys' fees and other litigation-related costs) to curing the alleged Defect or repaying the Association for costs previously incurred in curing the alleged Defect. Any excess funds remaining after curing the alleged Defect shall be retained in the Association's reserve funds.

24.1.2 Exempt Actions. The procedural requirements set forth in Section 24.1.1 shall not apply to any proceedings initiated by the Association to (i) collect unpaid Assessments; or (ii) enforce a contract entered into by the Association with vendors providing services or materials to the Association. Property Litigation shall not be construed to mean litigation, arbitration, or other proceedings in which the Association is participating by reason of having been named a defendant.

24.1.3 Non-Litigation Advice. Nothing in this Section 24.1 shall preclude the Board from incurring expenses for legal advice in the normal course of operating the Association to (a) enforce this Declaration and related documents; (b) comply with the statutes or regulations related to the operation of the Association; (c) amend this Declaration and related documents, in accordance with their terms; (d) grant easements or convey Common Area as provided in this Declaration; or (e) perform the obligations of the Association as provided in this Declaration.

24.2 Right to Cure Alleged Defect. If the Association, the Board or any Owner or other Person ("Claimant") claims, contends, or alleges that a "Defect" exists in any improvements within the Property including, but not limited to, the residential structures constructed on the Lots, the Person that constructed the improvement shall have the right to inspect, repair and/or replace the alleged Defect as set forth herein.

24.2.1 Defect Defined. As used in this Declaration, Defect shall mean failure to construct or install improvements in accordance with approved plans and specifications, in accordance with applicable governmental requirements, in accordance with contractual obligations, in accordance with applicable covenants or aesthetic requirements, in accordance with standards of good practice in the applicable industry, using acceptable materials or procedures, in breach of applicable governmental, legal or contractual obligations, or otherwise contrary to the expectations of the Claimant.

24.2.2 Notice of Alleged Defect. Within 15 days after discovering any condition that will be alleged to be a Defect, a Claimant shall give written notice of the alleged Defect ("Notice of Alleged Defect") to the Person or Persons believed by the Claimant to be responsible for the alleged Defect. The Notice of Alleged Defect shall include a reasonably detailed description of the alleged Defect and any action the Claimant believes to be necessary to cure the alleged Defect.

24.2.3 Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt of a Notice of Alleged Defect, the Person who received the Notice of Alleged Defect shall have the right, upon reasonable notice to the Claimant and during normal business hours, to enter the affected portion of the Property for the purposes of inspecting and/or conducting testing and, if the Person so chooses in its sole discretion, repairing and/or replacing the alleged Defect. Any agreement made in writing for repair, replacement or other curative action shall be enforceable against both parties to the agreement without requiring either

party to again go through the notice and other procedures provided for in this Section 24.2 or to go through the negotiation and mediation procedures set forth in Section 24.3.1 and Section 24.3.2.

24.2.4 Scope of Work; Indemnity. In conducting such an inspection, testing, repair and/or replacement, the Person receiving the Notice of Alleged Defect shall be entitled to take any actions it deems reasonable and necessary under the circumstances. Any Person entering the property of a Claimant, or performing testing, repair and/or replacement pursuant to this Section 24.2, shall defend, indemnify and hold the Claimant harmless for, from and against all claims, demands, costs, losses, and liabilities of every kind and nature arising from exercise of the entry and curative rights provided for in this Section.

24.2.5 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section 24.2 shall be construed to impose any obligation on any Person to inspect, test, repair, or replace any item or alleged Defect for which the Person is not otherwise obligated under applicable law or other binding legal obligation. The right to enter, inspect, test, repair and/or replace an alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to any Person except by a written document executed by that person.

24.3 Alternative Dispute Resolution. Any dispute, controversy, disagreement or claim of any kind or nature arising in any way from the Property, including, but not limited to, the physical condition, use, appearance, or operation of the Property or any portion of it, or agreements or other legally binding instruments or obligations pertaining to the Property or any portion of it (each, a "Dispute") shall be processed progressively by negotiation, mediation and arbitration in accordance with this Section 24.3, unless specifically exempted, if the Dispute is between or among (i) the Declarant or any builder (or the officers, directors, employees, brokers, agents, consultants, contractors, or subcontractors of either of them) and any Owner or the Association; or (ii) the Association and any Owner. This Section will apply to any such Dispute regardless of whether it involves theories based upon contract, tort, statute or other legal theory. No Person bound by this Section 24.3 may commence legal proceedings of any kind including, but not limited to judicial and regulatory complaints, in lieu of complying with the procedures and requirements set forth herein. The procedures shall not apply to Disputes relating to the payment of any type of Assessment or to claims by any of the foregoing Persons against third parties not listed above (unless the third party has agreed to comply with the procedures set forth in this Section 24.3).

24.3.1 Negotiation. Any Person wishing to pursue resolution of, or a remedy for, a Dispute (the "Claimant"), must give written notice of the Dispute to the Person or Persons believed to be responsible for the circumstances causing the Dispute, or believed to be responsible for remedying those circumstances (in either case, the "Respondent"). The notice must set forth in reasonable detail the circumstances alleged to give rise to the Dispute and the remedy or other action sought by the Claimant. The Claimant must thereafter follow the procedures set forth in this Section 24.3.1.

(a) Opportunity to Meet. Following delivery of such a notice, the Respondent shall be afforded a reasonable opportunity to meet with or otherwise communicate with the Claimant for a discussion of the circumstances giving rise to the Dispute and possible resolution of the Dispute and an examination of any physical conditions or written instruments giving rise to the Dispute.

(b) Deadline for Resolution. If the Dispute is not resolved to the satisfaction of the Claimant and the Respondent by negotiation within 30 days following delivery of the original notice by the Claimant and the Claimant wishes to pursue the Dispute further, the Claimant shall give notice to the Respondent that mediation pursuant to Section

24.3.2 is required.

(c) Defect Disputes. If the Dispute involves an alleged Defect and the procedures set forth in Section 24.2 have been followed, this Section 24.3.1 shall be deemed satisfied and Section 24.3.2 shall become applicable.

(d) Enforcement of Agreements. Any written agreement by the Respondent and the Claimant entered into for the purposes of resolving the Dispute shall be enforceable against either party in accordance with the provisions of Section 24.4.

24.3.2 Mediation. The Claimant shall initiate mediation by submitting the Dispute to mediation by the American Arbitration Association (or any successor thereto or any other independent entity providing similar services mutually accepted by the parties) pursuant to the commercial mediation procedures then in effect, as modified by this Section 24.3.2 (unless the parties otherwise agree). No Person shall serve as a mediator in any Dispute in which the Person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(a) Position Memoranda: Pre-Mediation Conference. Within 10 days after the selection of the mediator, each party to the Dispute shall be entitled to submit a brief memorandum setting forth its position with regard to the issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference, and all parties to the Dispute shall attend unless otherwise agreed. The mediation shall commence within 10 days following the deadline for submittal of memoranda to the mediator and shall conclude within 15 days from the commencement of the mediation unless the parties to the Dispute mutually agree to extend the mediation period. The mediation shall be held in Scottsdale, Arizona or such other place as may be mutually acceptable to the parties to the Dispute.

(b) Conduct of Mediation. The mediator may conduct the mediation in the manner the mediator believes to be appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties to the Dispute agree to obtain (and assume the expenses of obtaining) the expert advice as provided below. The mediator does not have authority to impose a settlement on any party to the Dispute. Upon termination of the mediation, the mediator shall notify the parties to the Dispute in writing of the date on which the mediation terminated.

(c) Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

(d) Parties Permitted at Sessions. Persons other than the parties to the Dispute may attend mediation sessions only with the permission of all parties to the Dispute and the consent of the mediator; provided, however, that consent shall not be required for attendance by representatives of any party's insurer to the extent that participation is required by applicable policies of insurance. There shall be no stenographic record of the mediation process.

(e) Expenses of Mediation. The expenses of witnesses for either side shall be paid by the party producing the witnesses. All other expenses of the mediation, including,

but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless the parties to the Dispute otherwise agree. Each party to the Dispute shall bear its own attorneys' fees and costs in connection with the mediation.

(f) Enforcement of Agreements. Any written agreement by the Respondent and the Claimant entered into through mediation for the purposes of resolving the Dispute shall be enforceable against either party in accordance with Section 24.4.

24.3.3 Final and Binding Arbitration. If the parties cannot resolve their Dispute pursuant to the procedures described in Section 24.3.1 and Section 24.3.2, the Claimant shall have 30 days following termination of mediation proceedings (as determined by the mediator in writing) to submit the Dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified or as otherwise provided in this Section 24.3.3. If the Claimant does not submit the Dispute to arbitration within 30 days after termination of mediation proceedings, the Claimant shall be deemed to have waived any claims related to the Dispute, and all other parties to the Dispute shall be released and discharged from any and all liability to the Claimant on account of the Dispute; provided, nothing herein shall release or discharge any party from any liability to persons who are not a party to the proceedings. Arbitration pursuant to this Section 24.3.3 shall not be combined with any other arbitration without the consent of all parties to this arbitration.

(a) Necessary Parties. The parties to the Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. No Person shall be required to participate in the arbitration proceeding if (i) all parties against whom the Person would have necessary or permissive cross-claims or counterclaims (a "Necessary Party") are not or cannot be joined in the arbitration proceedings, or (ii) the enforcement of this Section 24.3.3 would materially impair insurance coverage for the Person that would have otherwise provided the Person protection with respect to the Dispute.

(b) Opt Out. If any party to an arbitration determines in good faith that it cannot join a Necessary Party in the arbitration or that its insurance coverage applicable to the Dispute would be materially impaired, the party may elect not to participate in the arbitration and allow any claims against it to be determined by other legal proceedings. If a party makes such an election, it must give written notice of its election to all other parties in the arbitration. Within 10 days following receipt of such a notice, any other party to the arbitration that would (or reasonably might) be adversely affected by the absence of the party that elected not to participate may likewise elect not to participate in the arbitration by giving written notice to all other remaining parties. If any party wishes to contest whether a party electing not to participate in the arbitration is entitled to make that election, it shall commence a legal action seeking a judicial determination of the validity of the election and arbitration proceedings will be stayed until that issue is finally determined judicially. Any such judicial proceeding to determine the validity of an election not to participate in arbitration shall deal only with that issue and shall not be used for a determination of the issues being decided in the arbitration.

(c) Place. The arbitration proceedings shall be held in Scottsdale, Arizona, unless otherwise agreed by the parties and the arbitrator.

(d) Arbitrator. A single arbitrator shall be selected. The arbitrator shall have served as a judge of the Arizona Superior Court, the Arizona Court of Appeals, or the Arizona Supreme Court, by appointment of the Governor. The arbitrator shall be neutral

and impartial and shall not have any relationship to the parties or interest in the Property. The arbitrator shall not have served as mediator in the Dispute. The parties to the Dispute shall meet to select the arbitrator within 10 days after the Dispute is submitted to final and binding arbitration pursuant to Section 24.3.3. If an arbitrator resigns or becomes unwilling or unable to continue to serve as an arbitrator in the subject Dispute, a replacement shall be selected in accordance with this Section 24.3.3.

(e) Commencement and Timing of Proceeding. The arbitrator shall promptly commence the arbitration proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

(f) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(g) Discovery. The parties to the Dispute shall be entitled to limited discovery only, consisting of the exchange between the parties of the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of any property subject to the Dispute, including, but not limited to, destructive or invasive testing; and (vi) trial briefs. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties to the Dispute. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(h) Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings, and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summary issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(i) Final Award THE DECISION AND AWARD WILL BE MADE BY THE ARBITRATOR WITHOUT A COURT TRIAL AND WITHOUT A JURY. Each party to the arbitration WAIVES THE RIGHT TO HAVE THE DISPUTE RESOLVED BY A JURY OR BY A COURT and agrees to accept the award of the arbitrator as final. The arbitrator shall decide all issues in the Dispute by strictly applying Arizona law, and this Section 24.3.3. Subject to the limitations imposed in this Section 24.3.3, the arbitrator shall have the authority to try all issues, whether of fact or law. The arbitrator shall render a final decision in writing no later than 60 days following the conclusion of the arbitration proceedings, or such longer period as the parties to the Dispute mutually agree in writing. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, A.R.S. §12-1501, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held if not Arizona.

(j) Limitation on Remedies/Prohibition on the Award of Punitive Damages. Notwithstanding contrary provisions of the commercial arbitration rules or any other provision of this Section 24.3.3, the arbitrator in any proceeding shall not have the power to award punitive or consequential damages; however, the arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages.

(k) Expenses of Arbitration. Each party to the Dispute shall bear all of its own' costs incurred prior to and during the arbitration proceedings, including the fees and costs of

its attorneys or other representatives, discovery costs, and expenses of witnesses produced by the party. Each party to the Dispute shall share equally all charges of the arbitrator unless otherwise agreed to by the parties.

24.4 Enforcement of Resolution. If the parties to a Dispute resolve the Dispute through negotiation in accordance with Section 24.3.1, or by mediation in accordance with Section 24.3.2, and any party thereafter fails to abide by the terms of the agreed resolution, or if an arbitration award is made in accordance with Section and any party to the Dispute thereafter fails to comply with award, then the other party to the Dispute may file suit or initiate administrative proceedings to enforce the agreed or awarded terms without the need to again comply with the procedures set forth in Section 24.3. In that event, the party taking action to enforce the terms of the mediation or the award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata), all expenses reasonably incurred to enforce the agreed or awarded terms including, but not limited to, attorneys' fees, witness fees, costs and all litigation-related expenses.

24.5 Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all mediation resolutions and arbitration decisions shall be confidential and not disclosed to anyone other than the mediator, arbitrator, the parties to the Dispute, the attorneys of the parties to the Dispute and expert witness (where applicable to their testimony), except, with the prior written consent of all parties to the Dispute, confidential information may be disclosed to third parties. Prior to disclosure, all third parties must agree in writing to keep such information confidential.

24.6 Statutes of Limitations. Nothing in Section 24.3 shall be considered to toll, stay, reduce, or extend any applicable statute of limitations. All statutes of limitation applicable to claims that are subject to mediation and arbitration pursuant to the alternative dispute resolution provisions of Section 24.3 shall apply to the commencement of proceedings pursuant to Section 24.3 and nothing herein shall be construed to mean that any mediator or arbitrator shall have authority to consider Disputes that would otherwise be barred by applicable statutes of limitation

24.7 Disputes between Owners. In the event of a Dispute between two or more Owners, not covered by the dispute resolution provisions of Section 24.3, the Owners are hereby strongly encouraged (but not required) to employ the dispute resolution procedures set forth above for resolution of the Dispute. The Board of the Association shall offer such mediation, conciliation and other services as may be desired by the affected Owners to assist with resolution of the Dispute but shall have no power or authority to make binding decisions regarding the matter in issue between the Owners. The preceding sentence shall in no way be construed as limiting power or authority the Board might otherwise have to enforce and construe the provisions of this Declaration for the Association's own purposes.

[END]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed as of the date first set forth above.

Baba Inv., LLC,
an Arizona limited liability company

By: [Signature]

Walther Schulze

Its: Manager

Dated: 5/17/23

By: [Signature]

Alex Dorst

Its: Manager

Dated: 5/17/23

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this 17th day of May, 2023 by Walther Schulze and Alex Dorst in their capacity as Managers of Baba Inv., LLC, an Arizona limited liability company, Declarant.

[Signature]
Notary Public

My Commission Expires: 11.30.2024



EXHIBIT "A"

Legal Description of Parcel

That certain real property in Apache County, Arizona subdivided pursuant to the Amended Replat of The Club at Hidden Meadow Ranch, recorded in the official records of Apache County, Arizona on April 9, 2007, in Book 16 of Land Surveys, at page 186.

And

That certain real property in Apache County, Arizona subdivided pursuant to the Final Plat - The Lodge at Hidden Meadow Ranch - Amended, recorded in the official records of Apache County, Arizona on December 19, 2005, in Book 9 TM, at page 18.

EXHIBIT "B"

Legal Description of Property Excepted from Well Restrictions

That certain real property in Apache County, Arizona shown as Lot 32 according to the Final Plat The Club at Hidden Meadow Ranch, recorded in the official records of Apache County, Arizona on May 15, 2002, in Book 9 of Maps, at page 12.

COURTESY RECORDING INSTRUCTIONS

Pioneer Title Agency, Inc. is hereby handed the following document(s):

Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Club at Hidden Meadow Ranch

You are hereby authorized and instructed as a courtesy to deliver for recording to the Apache County Recorder's Office said document(s), with these instructions to be attached to and recorded as a part of the first mentioned document.

The undersigned understands and acknowledges that Pioneer Title Agency, Inc. is acting in the capacity of messenger only, without consideration, and is not responsible for the correctness of the form, content or execution of any of the document(s) and that Pioneer Title Agency, Inc. is hereby released of any and all liability in connection with the same. Further, the undersigned understands and acknowledges that Pioneer Title Agency, Inc. assumes no responsibility or liability due to any delay in recordation of said document(s).

The undersigned states that the real property affected by the document(s) is not involved in an open escrow, title insurance or other transaction pending with any office of Pioneer Title Agency, Inc. or any other title company.

The undersigned understands and acknowledges that at the time of recordation, the documents will not be insured by Pioneer Title Agency, Inc. Pioneer Title Agency, Inc. is hereby instructed not to do any title search in conjunction with this courtesy recording.

It is further understood and acknowledged that there shall be no liability and/or responsibility for a payment of any consideration by Pioneer Title Agency, Inc. to any party as this service is performed as a courtesy only.

Dated: May 10, 2023

SIGNATURES (All parties to document(s) must sign):



Alex Dorst - Party Making Delivery

Address: P.O. Box 300-620 CRN 1325, Greer, AZ85927



Alex Dorst - Party to Document



Walther Schulze - Party to Document

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