

**AMENDED AND RESTATED**

**DECLARATION of**

**COVENANTS, CONDITIONS, RESTRICTIONS AND**  
**EASEMENTS**

**FOR ROADHAVEN RESORTS, INC.**

**(KNOWN AND MARKETED AS "THE SPRINGS AT**  
**SANTA RITA")**

**(Age Restricted: a 55+ community)**

CONTENTS

ARTICLE 1.  
DEFINITIONS ..... 2

ARTICLE 2.  
AGE RESTRICTIONS, COVENANTS AND CONDITIONS ..... 5

    2.1 Age Restrictions ..... 5

    2.2 Subsequent Transfers ..... 5

    2.3 Owners' Obligations ..... 5

    2.4 Minors ..... 6

    2.5 Occupants ..... 6

    2.6 Compliance ..... 6

    2.7 Amending Age Restrictions ..... 6

ARTICLE 3.  
EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREA ..... 6

    3.1 Easements and Rights of Enjoyment ..... 6

    3.2 Recorded Easements ..... 7

    3.3 Easements for Encroachments ..... 7

    3.4 Easements for Sidewalks and Roads ..... 7

    3.5 Reservation of Easements, Exceptions and Exclusions ..... 8

    3.6 Emergency Easement ..... 8

    3.7 Maintenance Easement ..... 8

    3.8 Drainage Easement ..... 8

    3.9 Easements for Utilities ..... 8

    3.10 Easements for Golf Balls and Certain Golf Activities ..... 9

ARTICLE 4.  
ARCHITECTURAL REVIEW AND LANDSCAPING  
RESTRICTIONS AND CONTROL ..... 10

    4.1 General Obligation to Obtain Approval ..... 10

    4.2 Originally Approved Improvements and Interior Improvements ..... 10

    4.3 Architectural Review ..... 11

    4.4 Architectural Review Committee ..... 11

    4.5 Appeal of ARC Decision ..... 11

    4.6 Architectural Design Guidelines ..... 11

    4.7 Procedures ..... 12

    4.8 No Waiver of Future Approvals ..... 12

    4.9 Variance ..... 12

    4.10 Limitation of Liability ..... 12

    4.11 Enforcement ..... 13

ARTICLE 5.

ASSOCIATION AND ASSOCIATION OBLIGATIONS ..... 14

5.1 Association ..... 14

5.2 Non-Liability of Officials and Indemnification ..... 14

5.3 Records and Accounting ..... 14

5.4 Conflict Among Community Documents ..... 14

5.5 Rules and Regulations of the Association ..... 15

5.6 Association Responsibility for Common Areas ..... 15

5.7 Association's Responsibility for  
Compliance with Fair Housing Act ..... 15

5.8 Implied Rights; Board Authority ..... 16

5.9 Mergers and Consolidations ..... 16

5.10 Management Agreement ..... 16

5.11 Master Association ..... 16

ARTICLE 6.

MEMBERSHIPS AND VOTING ..... 17

6.1 Membership in the Association ..... 17

6.2 Voting Rights ..... 17

6.3 Suspension of Voting Rights ..... 17

6.4 Members' Rights ..... 17

ARTICLE 7.

ASSESSMENTS AND ESTABLISHMENT OF LIEN ..... 17

7.1 Creation of the Lien and Personal Obligation to Pay Assessments .... 17

7.2 Purpose for Assessments ..... 18

7.3 Annual Assessment ..... 18

7.4 Special Assessments ..... 19

7.5 Reimbursement Assessments ..... 19

7.6 Uniform Rate of Assessment ..... 20

7.7 Statement of Payment ..... 20

7.8 Effect of Non-Payment of Assessments;  
Remedies of the Association ..... 20

7.9 No Offsets and No Exemption of Owner ..... 21

7.10 Billing and Collection Procedures ..... 21

7.11 Reserve Fund ..... 22

7.12 Subordination of the Lien to First Mortgages;  
Sale or Transfer of Lots ..... 22

7.13 Mortgage Protection and Additional Assessment  
As Common Expense ..... 23

7.14 Exempt property ..... 24

ARTICLE 8.  
RIGHTS AND POWERS OF THE ASSOCIATION ..... 24

8.1 Rights, Powers and Duties of the Association ..... 24

8.2 Borrowing Power ..... 25

8.3 Procedure for Change of Use of Common Areas ..... 25

8.4 Procedure for Transfers of Common Areas ..... 25

8.5 License to Use Common Area ..... 25

8.6 Common Area Use Fees ..... 25

8.7 Shared Structures ..... 26

ARTICLE 9.  
MAINTENANCE OBLIGATIONS OF OWNERS/COMMUNITY-WIDE  
STANDARD/PARTY WALLS AND OTHER SHARED STRUCTURES ..... 26

9.1 Owners' Maintenance Responsibility ..... 26

9.2 Standard of Performance ..... 26

9.3 Shared Structures ..... 26

9.4 Improper Maintenance and Use of Lots ..... 27

ARTICLE 10.  
USE AND OCCUPANCY RESTRICTIONS ..... 27

10.1 Private Residential Purposes ..... 27

10.2 Aerials ..... 27

10.3 Animals ..... 27

10.4 Backboards ..... 28

10.5 Business Activities ..... 28

10.6 Clotheslines ..... 29

10.7 Derricks, Boring, Etc. .... 29

10.8 Plant Diseases and Insects ..... 29

10.9 Drainage ..... 29

10.10 Equipment ..... 30

10.11 Garages ..... 30

10.12 Hazardous Activities Prohibited ..... 30

10.13 Heating, Cooling and Solar Devices ..... 30

10.14 Insurance Rates ..... 30

10.15 Combining or Subdividing Lots ..... 30

10.16 Nuisances ..... 30

10.17 Renting ..... 31

10.18 Right of Inspection ..... 32

10.19 Security ..... 33

10.20 Signs ..... 33

10.21 Storage ..... 34

10.22 Tanks ..... 34

10.23 Temporary Structures ..... 34

10.24	Timeshares .....	34
10.25	Trash Containers and Collection .....	34
10.26	Vehicle Use, Parking and Storage .....	34
10.27	Water Usage .....	36
10.28	Window Coverings and Reflective Materials .....	36
10.29	Modification .....	36
ARTICLE 11.		
INSURANCE PROVISIONS .....		36
11.1	Required Coverages .....	36
11.2	Policy Requirements .....	37
11.3	Additional Requirements .....	37
11.4	Optional Requirements .....	38
11.5	Restoring Damaged Improvements .....	39
ARTICLE 12.		
ENFORCEMENT .....		40
12.1	Right of Association to Enforce .....	40
12.2	Fines and Penalties .....	40
12.3	Enforcement Procedures .....	40
12.4	Notice of Violation .....	42
12.5	No Obligation to Enforce .....	42
12.6	Cumulative Rights and Remedies .....	42
12.7	Violation of Law .....	42
12.8	Joint and Several Liability .....	42
ARTICLE 13.		
GENERAL PROVISIONS .....		42
13.1	Binding Effect .....	42
13.2	Mortgagee Protection .....	43
13.3	Severability .....	43
13.4	Term .....	43
13.5	Amendment .....	43
13.6	Captions and Titles .....	43
13.7	Gender and Number .....	43
13.8	Taxes .....	44
13.9	Interpretation of the Covenants .....	44
13.10	Change of Circumstances .....	44

1  
2  
3 **AMENDED AND RESTATED DECLARATION OF**  
4 **COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**  
5 **FOR ROADHAVEN RESORTS, INC.**  
6 **(KNOWN AND MARKETED AS "THE SPRINGS AT SANTA RITA")**  
7

8 THIS AMENDED AND RESTATED DECLARATION (this "Declaration") is  
9 made this 6th day of January, 2009, by the owners (the "Owners") of the real  
10 property described on Exhibit "A," which is attached hereto and incorporated herein by  
11 this reference (the "Property").  
12

13 **INTRODUCTION:**  
14

15 **WHEREAS**, the Declarant executed the *Declaration of Covenants, Conditions,*  
16 *Restrictions and Easements for Roadhaven Resorts, Inc. (known and marketed as "The Springs*  
17 *at Santa Rita,"* recorded on September 28, 1995, in Docket 10138, Page 1853 *et seq.*, office  
18 of the Pima County Recorder, and re-recorded to include the legal description on  
19 October 16, 1995, in Docket 10149, Page 481 *et seq.*, office of the Pima County, Recorder  
20 (the "Original Declaration"); and  
21

22 **WHEREAS**, the Declarant executed the *Certificate of Amendment for Declaration of*  
23 *Covenants, Conditions and Restrictions for Roadhaven Resorts, Inc.*, recorded on December  
24 9, 1997, in Docket 10688, Page 1189 *et seq.*, office of the Pima County Recorder, which  
25 defined additional property (The Springs II at Santa Rita) covered by and subject to the  
26 Original Declaration; and  
27

28 **WHEREAS**, the Declarant executed the *Addendum to Covenants, Conditions and*  
29 *Restrictions*, recorded on September 3, 1999, in Docket 11125, Page 1747 *et seq.*, office of  
30 the Pima County Recorder, which defined additional property (The Springs II  
31 Resubdivision, Lots 1-51 and Common Areas "A "and "B") covered by and subject to  
32 the Original Declaration; and  
33

34 **WHEREAS**, the Declarant executed the *Declaration of Withdrawal and Reservation*  
35 *of Easements*, recorded on February 21, 2002, in Docket 11741, Page 4649 *et seq.*, office of  
36 the Pima County Recorder, which withdrew Lot 425, Roadhaven Resorts, from the  
37 Property; and  
38

39 **WHEREAS**, Owners holding at least 51% of all votes in the Association have  
40 voted to approve the adoption of this Declaration.  
41

42 **NOW THEREFORE**, the Owners hereby declare that the Property shall be held,  
43 sold and conveyed subject to the following easements, restrictions, covenants,

1 assessments, liens, reservations and conditions, which are for the purpose of  
2 establishing a general plan of development and of protecting the value and desirability  
3 of the Property, and which shall run with the Property, shall be binding upon all  
4 persons having or acquiring any right, title or interest therein, and shall inure to the  
5 benefit of, be binding upon and enforceable by all Owners, the Association and their  
6 successors and assigns in interest. This Declaration amends in its entirety and  
7 supersedes the Original Declaration.

8  
9 **ARTICLE 1**  
10 **DEFINITIONS**

11  
12 The terms used in this Declaration and the Community Documents shall be  
13 generally given their ordinary, commonly-accepted definitions unless otherwise  
14 specified. Capitalized terms shall be defined as set forth below:

15  
16 1.1 "Architectural Review Committee" or "ARC" means the committee  
17 established pursuant to Article 4 of this Declaration.

18  
19 1.2 "Architectural Design Guidelines" or "Guidelines" means the rules and  
20 regulations adopted by the Architectural Review Committee, as such rules may be  
21 amended and supplemented from time to time.

22  
23 1.3 "Articles" means the Articles of Incorporation of the Association which  
24 have been filed in the office of the Arizona Corporation Commission as such Articles  
25 may be amended from time to time.

26  
27 1.4 "Assessments" means Annual Assessments, Special Assessments, and  
28 Reimbursement Assessments.

29  
30 1.5 "Association" means The Springs at Santa Rita Homeowners Association,  
31 Inc., an Arizona non-profit corporation, its successors and assigns.

32  
33 1.6 "Board" means the board of Directors of the Association.

34  
35 1.7 "Bylaws" means the Bylaws of the Association; as such Bylaws may be  
36 amended or restated from time to time.

37  
38 1.8 "Common Area" or "Common Areas" means all property owned by the  
39 Association for the common use and enjoyment of the Owners.

40  
41 1.9 "Community Documents" means this Declaration, the Bylaws, the Articles,  
42 the Architectural Design Guidelines, and the Association Rules that may be adopted by  
43 the Board, as they may be amended

1  
2 1.10 "Community-Wide Standard" means the standard of conduct, or  
3 maintenance generally prevailing throughout the Property or all of Santa Rita Springs.  
4 Such standard shall be that which has been established by the Declarant and the  
5 Architectural Review Committee, and may be more specifically determined by the  
6 Board.

7  
8 1.11 "Declarant" means Title Guaranty Agency of Arizona, Inc., an Arizona  
9 corporation, as Trustee under Trust No. T-1280, its successors and assigns, or The  
10 Springs at Santa Rita, L.L.C., an Arizona Limited Liability Company.

11  
12 1.12 "Declaration" means the covenants, conditions; restrictions and easements  
13 herein set forth in this entire document, as such Declaration may be amended or  
14 restated from time to time.

15  
16 1.13 "Dwelling Unit" means any building, or part thereof, situated upon a Lot.

17  
18 1.14 "Exempt Property" means portions of the Property not subject to  
19 Assessments, which shall be the following areas now or hereafter located within The  
20 Springs at Santa Rita:

21  
22 1.14.1 all Government property, but only if and to the extent designated  
23 as Exempt Property in the applicable Supplemental Declaration;

24  
25 1.14.2 property owned by a public or private utility company (or leased  
26 by such company) which is utilized in the provision of utility services to all or portions  
27 of the Property and the Owners thereof, but only if and to the extent designated as  
28 Exempt Property in the applicable Supplemental Declaration; and

29  
30 1.14.3 all Common Areas and areas upon which the Association  
31 possesses easement rights, for so long as the Association is the owner thereof.

32  
33 1.15 "First Mortgage" means any mortgage under which the interests of any  
34 Owner of a Lot is encumbered and which mortgage has first and paramount priority,  
35 subject only to the lien or general or *ad valorem* taxes and assessments and such other  
36 matters as are recognized in such First Mortgage as permitted title exceptions. "First  
37 Mortgagee" means the holder of a First Mortgage.

38  
39 1.16 "Government Property" means all land and Improvements owned or  
40 dedicated to a public or governmental agency, political subdivision, quasi-municipality,  
41 or district for so long as the public or governmental authority is the owner or  
42 beneficiary thereof, except for land or Improvements, or both, owned and/or operated  
43 by a public or governmental agency acting in a proprietary capacity.



1  
2 1.17 "Improvements" shall include any and all construction or alterations made  
3 to any Lot, including but not limited to all buildings and structures, driveways, parking  
4 areas, fences, walls, landscaping, lakes, ponds, recreational facilities, signs, excavation  
5 or site work, including without limitation, grading, road construction, utilities,  
6 alterations or modifications thereto.

7  
8 1.18 "Lot" means an area of real property designated as a "Lot" on the Plat.

9  
10 1.19 "Member" means every Person who holds membership in the Association.

11  
12 1.20 "Occupant" means any Person, other than an Owner, occupying a Lot, or  
13 any portion thereof, or building or structure thereon, as a Resident, tenant, licensee or  
14 otherwise, other than on a merely transient basis.

15  
16 1.21 "Owner" means the Record holder of legal title to the fee simple interest in  
17 any Lot, or in the case of a Recorded "contract" (as that term is defined in A.R.S. Section  
18 33-714(2)), the holder of Record of the purchaser's or vendee's interest under said  
19 contract, but excluding others who hold such title merely as security. If fee simple title  
20 to a Lot is vested of Record in a trustee pursuant to A.R.S. Section 33-801 et seq. for  
21 purposes of this Declaration, legal title shall be deemed to be held by the trustor (or the  
22 trustor's successor of Record), and not by the trustee. An Owner shall include any  
23 Person who holds Record title to a Lot in joint ownership or as an undivided fee  
24 interest.

25  
26 1.22 "Person" means a natural person, a corporation, a partnership, a trustee or  
27 any other legal entity.

28  
29 1.23 "Plat" means the plat of the Property recorded in the office of the Pima  
30 County Recorder, in Book 37, Page 4, and Book 50, Page 68, of Maps and Plats.

31  
32 1.24 "Property" or "The Springs at Santa Rita" means the real property  
33 described on the Plat.

34  
35 1.25 "Record," "Recording," and "Recorded" means placing or having placed a  
36 document of public record in the Official Records of Pima County, Arizona.

37  
38 1.26 "Resident" means:

39  
40 1.26.1 Each Tenant or Lessee and any member of their immediate  
41 family who resides on the Property;

1 1.26.2 Each Owner and any member of their immediate family who  
2 resides on the property; and  
3

4 1.26.3 Such persons as the Board, in its absolute discretion, may  
5 authorize, including without limitation, guests of an Owner or a Tenant.  
6

7 1.27 "Tenant" means any person who occupies property located within the  
8 Property under any type of leasing or rental arrangement.  
9

10 1.28 "Visible From Neighboring Property" means, with respect to any given  
11 object, that such object would be visible to an individual whose eyes are six feet above  
12 the ground and who is standing at natural grade level on the property within the  
13 Property.  
14

15 **ARTICLE 2**  
16 **AGE RESTRICTIONS, COVENANTS AND CONDITIONS**  
17

18 2.1 Age Restrictions. Declarant intends that all Dwelling Units located within  
19 the Property and described in this Declaration shall have an opportunity to comply  
20 with the provisions of the Fair Housing Act and the age restriction exemptions created  
21 therein (the "Exemption"). The Exemption is based, generally, upon a standard that at  
22 least one Person per Dwelling Unit must be fifty-five (55) years of age or older. Certain  
23 exceptions are made to the Fair Housing Act in cases in which at least eighty percent  
24 (80%) of the Dwelling Units in a community are so occupied. Accordingly, except as  
25 provided below, all Dwelling Units located in the Property shall be occupied by at least  
26 one person per household who is fifty-five (55) years of age or older.  
27

28 2.2 Subsequent Transfers. Subsequent to the initial sale of residential Lots by  
29 the Declarant to any Owner (other than to a Developer Owner) or a sale by a Developer  
30 Owner to an Owner, all resales of such Lots by Non-Developer Owners shall be subject  
31 to the fifty-five (55) years of age requirements, and it shall be a violation of the terms  
32 and conditions of this Declaration should any residential Lot subsequently be sold or  
33 resold and then not occupied by at least one person fifty-five (55) years of age or older  
34 per Dwelling Unit. Notwithstanding the foregoing, should an Occupant who is fifty-  
35 five (55) years of age or older die and leave the Dwelling Unit to a surviving spouse or  
36 other companion previously residing with the deceased Occupant, then provided that  
37 such surviving spouse or other co-habitant is at least forty-five (45) years of age, and  
38 provided that at least eighty percent (80%) of the Dwelling Units shall continue to be  
39 occupied by at least one person fifty-five (55) years of age or older, the Association may  
40 elect to allow the surviving spouse or co-habitant to remain in the occupancy of the  
41 Dwelling Unit without violation of this Declaration.  
42

43 2.3 Owners' Obligations. It shall be the duty and obligation of each Record

1 Owner of a residential Lot, prior to reselling, reconveying or leasing the Lot, to ascertain  
2 that after the purchase or the lease, at least one Occupant will be fifty-five (55) years of  
3 age or older, and shall further confirm this fact to the Association.  
4

5 2.4 Minors. Nothing in this Declaration shall be construed as to permit  
6 occupancy of any Lot by any person less than eighteen (18) years of age (a "Minor"). No  
7 Minor shall reside in any Dwelling Unit for more than three (3) months during any  
8 twelve (12) month period.  
9

10 2.5 Occupants. The occupancy restrictions of this Declaration dealing with  
11 both minimum age restrictions and the prohibition of Minors applies to all Occupants,  
12 whether Owners, Residents, Lessees or Tenants, and to all leases as well as sales.  
13

14 2.6 Compliance. On an annual basis, Owner and Occupants shall provide  
15 written verification to the Association that a Dwelling Unit is occupied by least one  
16 person over the age of fifty-five (55), subject to the reserved rights of the Declarant.  
17 Each Owner acknowledges that the leasing of Dwelling Units and the pattern of resales  
18 of Dwelling Units can be difficult to control or predict, and that compliance with the  
19 Fair Housing Act and with the Exemption depends upon the cooperation of the Owners  
20 and Occupants.  
21

22 2.7 Amending Age Restrictions. This Article may be amended by an  
23 affirmative vote of the Owners of ninety percent (90%) of the Lots.  
24

25 **ARTICLE 3**  
26 **EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREA**  
27

28 3.1 Easements and Rights of Enjoyment. Each Owner shall have a non-  
29 exclusive easement for the use and enjoyment in and to the Common Areas, which non-  
30 exclusive easement shall be appurtenant to and shall pass with the title to each Owner's  
31 Lot. All Occupants shall have a non-exclusive, non-transferable temporary license to  
32 use and enjoy the Common Areas so long as they remain Occupants. The foregoing  
33 grants and rights are subject, among other things, to the following limitations:  
34

35 3.1.1 The Community Documents.  
36

37 3.1.2 The right of the Association to suspend the voting rights and the  
38 rights to recreational use and enjoyment of the Common Areas of any Owner or  
39 Occupant, as the case may be:  
40

41 3.1.2.1 for any period during which an Assessment remains  
42 delinquent;  
43

1                   3.1.2.2     for a period not to exceed 60 days for any infraction of  
2 the Community Documents or any rules and regulations adopted by the Association  
3 thereunder; or  
4

5                   3.1.2.3     for successive 60-day periods if any such delinquency  
6 or infraction is not corrected during any preceding suspension period.  
7

8                   3.1.3     Any Owner or Occupant, in accordance with the rules and  
9 regulations of the Association, may delegate his or her rights of use and enjoyment in  
10 the Common Areas to the members of his or her family or his or her Occupants or  
11 guests, subject to the limitations set forth in this Declaration and the rules and  
12 regulations of the Association.  
13

14                  3.1.4     The right of the Association to limit the number of guests of an  
15 Owner or Occupant who may use the Common Areas.  
16

17                  3.1.5     The right of the Association to charge reasonable admission,  
18 member use and other fees for the use of facilities located upon the Common Areas.  
19

20                  3.1.6     The right of the Association to regulate the use and operation of  
21 the Common Areas.  
22

23                  3.2     Recorded Easements. The property, and all portions thereof, shall be  
24 subject to all easements shown on the Plat, and to any other easements of record or of  
25 use as of the date of Recordation of the Original Declaration.  
26

27                  3.3     Easements for Encroachments. The property, and all portions thereof,  
28 shall be subject to an easement of up to ten feet from the Lot lines or Common Area  
29 boundaries for the actual extent of incidental encroachments created by construction as  
30 designed or constructed by the Declarant or any Owner and for settling, shifting, and  
31 movement of any portion of the property. Such encroachments shall not be considered  
32 to be encumbrances upon any part of the Property. Encroachments referred to include,  
33 but are not limited to, encroachments caused by error in the original construction of  
34 Improvements on any Lot or by settling, rising or shifting of the earth, or by changes in  
35 position caused by repair or reconstruction of any Improvements on the Property. The  
36 Board has the right to grant an additional easement for encroachment or license to a Lot  
37 Owner whose perimeter wall encloses Common Area that exceeds ten feet, if such wall  
38 was constructed as part of the original construction on the Lot or is replacing such a  
39 wall in the same location as an original wall.  
40

41                  3.4     Easements for Sidewalks and Roads. The Association has an easement on  
42 the Property (and all portions thereof), and over and across each Lot for a distance of  
43 nine feet parallel and adjacent to all private roads shown on the Plat, as needed, for the

1 construction, maintenance and repair of roads and sidewalks and for the installation,  
2 maintenance and use of fire hydrants.

3  
4 3.5 Reservation of Easements, Exceptions and Exclusions. The Association,  
5 through its Board, has the right to establish from time to time, by declaration or  
6 otherwise, utility and other easements, permits or licenses over the Common Area, for  
7 purposes including but not limited to streets, paths, walkways, drainage, recreation  
8 areas, parking areas, ducts, shafts, flues, conduit installation areas, landscaping, and to  
9 create other reservations, exceptions and exclusions for the best interest of all the  
10 Owners and the Association, in order to serve all the Owners within The Springs at  
11 Santa Rita as initially built and expanded

12  
13 3.6 Emergency Easement. A general easement is hereby granted to all police,  
14 sheriff, fire protection, ambulance, and all other similar emergency agencies or persons  
15 to enter upon all streets and upon the Property in the proper performance of their  
16 duties.

17  
18 3.7 Maintenance Easement. An easement is hereby granted to the  
19 Association, and any member of the Board of Directors, and their respective officers,  
20 agents, employees, and assigns, upon, across, over, in and under the Lots and a right to  
21 make such use of the Lots as may be necessary or appropriate to make emergency  
22 repairs or to perform the duties and functions which the Association is obligated or  
23 permitted to perform pursuant to the Community Documents. Included within the  
24 foregoing grant of easement is the right to enter upon any Lot for the purpose of  
25 performing maintenance to the landscaping or the exterior of Improvements to such Lot  
26 as required by the Community Documents and by such entry shall not be guilty of  
27 trespass.

28  
29 3.8 Drainage Easement. An easement is hereby granted to the Association, its  
30 officers, agents, employees, successors and assigns, to enter upon, across, over, in and  
31 under any portion of the Property for the purpose of changing, correcting or otherwise  
32 modifying the grade or drainage channels of the Property so as to improve the drainage  
33 of water. Best efforts shall be made to use this easement so as not to disturb the uses of  
34 the Owners and the Association, as applicable, to the greatest extent possible, to  
35 prosecute such drainage work promptly and expeditiously, and to restore any areas  
36 affected by such work to a sightly and usable condition as soon as reasonably possible  
37 following such work.

38  
39 3.9 Easements for Utilities.

40  
41 3.9.1 The Association and all utility providers have perpetual non-  
42 exclusive easements throughout all of the Property (but not through a structure) to the  
43 extent reasonably necessary for the purpose of:

1  
2 3.9.1.1 installing above-ground and subsurface utilities and  
3 infrastructure (including transformers) to serve the Property or within public rights-of-  
4 way or easements reserved for such purpose on recorded Plats;

5  
6 3.9.1.2 inspecting, maintaining, repairing and replacing utilities  
7 and infrastructure to serve the Property; cable and other systems for sending and  
8 receiving data and/or other electronic signals; security and similar systems, walkways,  
9 pathways and trails; drainage systems, street lights and signage; and

10  
11 3.9.1.3 access to read utility meters.  
12

13 3.9.2 All work associated with the exercise of the easements described  
14 in Sections 3.9.1 shall be performed in such a manner as to minimize interference with  
15 the use and enjoyment of the property burdened by the easement. Upon completion of  
16 the work, the Person exercising the easement shall restore the property, to the extent  
17 reasonably possible, to its condition prior to the commencement of the work. The  
18 exercise of these easements shall not extend to permitting entry into the Dwelling Units,  
19 nor shall it unreasonably interfere with the use of any Dwelling Unit and, except in an  
20 emergency, entry onto any Lot shall be made only after reasonable notice to the Owner  
21 or Occupant.  
22

23 3.10 Easements for Golf Balls and Certain Golf Activities.  
24

25 3.10.1 All of the Lots and the Common Area are burdened with an  
26 easement permitting golf balls unintentionally to come upon such areas, and for golfers  
27 at reasonable times and in a reasonable manner to come upon the Lots or Common  
28 Areas to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the  
29 golfer must seek the Owner's permission before entry. The existence of this easement  
30 shall not relieve golfers of liability for damage caused by errant golf balls. Under no  
31 circumstances shall any of the following Persons or entities be held liable for any  
32 damage or injury resulting from errant golf balls or the exercise of this easement: The  
33 Declarant, the Association and its manager (in their capacity as such), Santa Rita  
34 Springs, LLC, its successors or any officer, director, officer or agent of the foregoing.  
35

36 3.10.2 The owner of any golf course adjacent to any portion of the  
37 Property, its agents, successors and assigns, shall at all times have a right and non-  
38 exclusive easement of ingress and egress over those portions of the Common Areas  
39 reasonably necessary to the operation, maintenance, repair and replacement of the golf  
40 course.  
41

42 3.10.3 Any portion of the Property immediately adjacent to any golf  
43 course is hereby burdened with a non-exclusive easement in favor of the adjacent golf

1 course for overspray of water from the irrigation system serving such golf course.  
2 Under no circumstances shall the Association, the Declarant or the owner of such golf  
3 course be held liable for any damage or injury resulting from such overspray or the  
4 exercise of this easement.

5  
6 **ARTICLE 4**  
7 **ARCHITECTURAL REVIEW AND LANDSCAPING**  
8 **RESTRICTIONS AND CONTROL**  
9

10 4.1 General Obligation to Obtain Approval. Except as otherwise provided in  
11 this Declaration or the Architectural Design Guidelines, without the prior written  
12 approval of the Architectural Review Committee (hereinafter the "ARC") of plans and  
13 specifications prepared and submitted to the ARC in accordance with the provisions of  
14 this Declaration and the Architectural Design Guidelines:

15  
16 4.1.1 no improvement, structure or thing shall be placed, erected,  
17 installed or posted on the Property, and no improvement or other work (including  
18 staking, clearing, excavation, grading and other site work, exterior alterations of  
19 existing Improvement or planting or removal of landscaping) shall take place within the  
20 Property;

21  
22 4.1.2 no building, fence, exterior wall, pool, roadway, driveway or  
23 other structure, improvement or thing shall be commenced, erected, maintained,  
24 altered, changed or made (permanently or temporarily) on the exterior of any Lot at any  
25 time.

26  
27 4.1.3 no exterior trees, bushes, shrubs, plants or other landscaping  
28 shall be planted or placed upon the Property; and

29  
30 4.1.4 no material changes or deviations in or from the plans and  
31 specifications for any work to be done on the Property, once approved by the ARC,  
32 shall be permitted without the prior written consent of the ARC to such change or  
33 deviation.

34  
35 4.2 Originally Approved Improvements and Interior Improvements. No  
36 approval shall be required to repaint the exterior of a structure in accordance with the  
37 originally approved color scheme or to rebuild in accordance with originally approved  
38 plans and specifications. Any Owner may remodel, paint or redecorate the interior of  
39 the improvements constructed on their Lot without the approval of the ARC. However,  
40 modifications to the interior of screened porches, patios and similar portions of  
41 improvements Visible from Neighboring Property shall be subject to the prior approval  
42 of the ARC.

1           4.3 Architectural Review. Responsibility for the administration of the  
2 Architectural Design Guidelines and review of all applications for construction and  
3 modifications under this Article shall be handled by the ARC. The members of the ARC  
4 need not be Members of the Association or representatives of Members. The ARC may  
5 establish and charge reasonable fees for review of applications hereunder, and may  
6 establish fees that are to be paid in full prior to review of any applications, plans and  
7 specifications.  
8

9           4.4 Architectural Review Committee. The ARC shall consist of at least three,  
10 but not more than five, persons and shall review and approve plans and specifications  
11 for all original construction on the Property and all modifications, additions or  
12 alterations made on or to existing structures located on the Property. The Board shall  
13 appoint the members of the ARC, who shall thereafter serve and may be removed in the  
14 Board's discretion. The ARC shall keep and maintain a written record of all actions  
15 taken by it. Consultants hired by the ARC may be entitled to compensation from any  
16 fees collected by the ARC.  
17

18           4.5 Appeal of ARC Decision. Any aggrieved Lot Owner may appeal the  
19 ARC's denial of plan approval, to the Board of Directors, in accordance with the  
20 procedures in the Architectural Design Guidelines.  
21

22           4.6 Architectural Design Guidelines.  
23

24           4.6.1 The Architectural Design Guidelines for the Property (the  
25 "Guidelines") contain general provisions applicable to all of the Property, and specific  
26 provisions which vary according to land use and from one portion of the Property to  
27 another, depending upon the location, unique characteristic, and intended use of the  
28 pertinent portion of the Property. The Guidelines are intended to provide guidance to  
29 Owners regarding matters of particular concern to the ARC in considering applications  
30 thereunder. The Guidelines are not the exclusive basis for decisions of the ARC, and  
31 compliance with the Guidelines does not guarantee approval of any application.  
32

33           4.6.2 The ARC shall amend and revise the Guidelines, as needed,  
34 subject to the review and approval of the Board. Any amendments to the Guidelines  
35 shall be prospective only and shall not apply to require modifications to or removal of  
36 structures previously approved by the ARC or Board, once the approved construction  
37 or modification has been completed. There shall be no limitation on the scope of  
38 amendments to the Guidelines; the ARC (subject to review and approval by the Board)  
39 is expressly authorized to amend the Guidelines to remove requirements previously  
40 imposed or otherwise to make the Guidelines less restrictive.  
41

42           4.6.3 The ARC shall make the Guidelines available to Owners who  
43 seek to engage in development or construction or modifications within the Property.



1  
2           4.7    Procedures.  
3

4           4.7.1    In addition to the submission to the ARC of the fee established by  
5 the ARC for the review of plans and specifications, plans and specifications showing the  
6 nature, kind, shape, color, size, materials and location of all proposed structures and  
7 improvements shall be submitted to the ARC for review and approval (or disapproval).  
8 In addition, information concerning irrigation systems, drainage, lighting, landscaping  
9 and other features of proposed construction shall be submitted to the ARC as  
10 applicable. In reviewing each submission, the ARC may consider the quality of  
11 workmanship and design, harmony of exterior design with existing structures, and  
12 location in relation to surrounding topography, and finish grade elevation, among other  
13 things. Decisions of the ARC may be based on purely aesthetic considerations. Each  
14 Owner acknowledges that opinions on aesthetic matters are subjective and may vary as  
15 members of the ARC change over time.  
16

17           4.7.2    In the event that the ARC fails to approve or disapprove any  
18 application within 45 days after submission of all fees and information and materials  
19 reasonably requested, the application shall be deemed approved. However, no  
20 approval, whether expressly granted or deemed granted pursuant to the foregoing,  
21 shall be inconsistent with the Guidelines unless a variance has been granted, in writing,  
22 by the ARC pursuant to Section 4.9 hereof.  
23

24           4.8    No Waiver of Future Approvals. Approval by the ARC or Board of  
25 proposals, plans and specifications, or drawings for any work done or proposed, or in  
26 connection with any other matter requiring approval, shall not be deemed to constitute  
27 a waiver of the Association's right to withhold approval as to any similar proposals,  
28 plans and specifications, drawings or other matters subsequently or additionally  
29 submitted to the ARC for approval.  
30

31           4.9    Variance. The ARC or the Board may authorize variances from  
32 compliance with the Guidelines or any procedures when circumstances such as  
33 topography, natural obstructions, hardship or aesthetic or environmental  
34 considerations require. Such variances may only be granted, however, when the ARC  
35 or the Board determines that unique circumstances dictate, and no variance shall: (A)  
36 be effective unless in writing; (B) be contrary to this Declaration; or (C) estop the ARC  
37 from denying a variance in other circumstances. For purposes of this Section, the  
38 inability to obtain approval of any governmental agency, the issuance of any permit, or  
39 the terms of any financing shall not be considered a hardship warranting a variance  
40 from the Guidelines.  
41

42           4.10   Limitation of Liability. Review and approval of any application and plans  
43 and specifications pursuant to this Article are made on the basis of aesthetic

1 considerations only, and neither the ARC nor the Board shall bear any responsibility for  
2 ensuring the structural integrity or soundness of approved construction or  
3 modifications, nor for ensuring compliance with building codes and other  
4 governmental requirements. Neither the Association, the Board, the ARC or any  
5 member, director or officer of any of the foregoing shall be held liable for any injury,  
6 damages or loss arising out of the manner or quality of approved construction on or  
7 modifications to any Lot. In all matters, the ARC, the Board and their respective  
8 members shall be defended and shall be indemnified by the Association to the fullest  
9 extent permitted by law.

10  
11 4.11 Enforcement.  
12

13 4.11.1 Any structure, improvement or other thing placed on the  
14 property or made in violation of this Article shall be deemed to be "non-conforming  
15 work." Upon written request from the Board, Owner shall, at his/her own cost and  
16 expense, remove such structure or improvement and restore the property to  
17 substantially the same condition as existed prior to the non-conforming work. Should  
18 an Owner fail to remove and restore the property to substantially the same condition as  
19 existed prior to the non-conforming work, the Board or its designees shall have the  
20 right to enter the property, remove the violation, and restore the property to  
21 substantially the same condition as previously existed. All costs, together with interest  
22 at the maximum rate allowed by law, shall become a Reimbursement Assessment.  
23

24 4.11.2 Unless otherwise specified in writing by the ARC or the Board,  
25 all approvals granted hereunder shall be deemed conditioned upon completion of all  
26 elements of the approved work and all work previously approved with respect to the  
27 same Lot, unless approval to modify any application has been obtained. In the event  
28 that any person fails to commence and diligently pursue to completion all approved  
29 work, the Association shall be authorized, but not obligated, after notice to Owner of  
30 the Lot, enter upon the Lot and remove or complete any incomplete work and to  
31 impose a Reimbursement Assessment against the Lot and Owner thereof.  
32

33 4.11.3 Any contractor, subcontractor, agent, employee or other invitee  
34 of an Owner who fails to comply with the terms and conditions of this Article and the  
35 Guidelines may be excluded by the Board from the Property. In such event, neither the  
36 Association, the ARC, the Board nor their respective members shall be held liable to any  
37 person for exercising the rights granted by this Section.  
38

39 4.11.4 In addition to the foregoing, the Association shall have the  
40 authority and standing to pursue all legal and equitable remedies available to enforce  
41 the provisions of this Article and the decisions of the ARC and the Board.  
42  
43

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

**ARTICLE 5**  
**ASSOCIATION AND ASSOCIATION OBLIGATIONS**

5.1 Association. The affairs of the Association shall be conducted by The Springs at Santa Rita Homeowners Association, Inc., an Arizona non-profit corporation. The Association serves as the governing body for all Members for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Common Areas, the levy of Assessments, payment of losses, and other matters as provided in the Community Documents.

5.2 Non-Liability of Officials and Indemnification. To the fullest extent permitted under Arizona law, the Association shall indemnify any Officers, Directors and Committee members against all expenses incurred by them, including but not limited to legal fees, judgments and penalties which may be incurred, rendered or levied in any legal action brought against any of them arising from any action or omission alleged to have been committed while acting within the scope of authority as an Officer, Director or Committee member of the Association. Whenever any Officer, Director or Committee Member seeks indemnification from the Association, the Board of Directors shall, at its next regular or at any special meeting held within a reasonable time after the request is made, determine in good faith whether that person acted, failed to act, or acted willfully, with gross negligence or with fraudulent or criminal intent. If the Board of Directors determines in good faith that the person did not act willfully or with gross negligence or with fraudulent or criminal intent, then it shall indemnify that person; provided, however, that the Association has the right to refuse to indemnify any person to whom indemnification would otherwise be provided if that person unreasonably refuses to permit the Association, at its own expense and through counsel of its own choosing, to defend him/her in the action or unreasonably refuses to agree to a reasonable settlement of the dispute. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to reasonably fund this obligation.

5.3 Records and Accounting. The Association shall keep or cause to be kept, true and correct books and records of account, at the sole cost and expense of the Association, in accordance with generally-accepted accounting principles. Such books and records, together with current copies of the Community Documents shall be available for inspection by all Owners and First Mortgagees of record at reasonable times during regular business hours, in accordance with the Bylaws and applicable law.

5.4 Conflict Among Community Documents. In the event of any dispute or disagreement between any Owners 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 and any of the other Community Documents, this Declaration shall control. In the event of any conflict between the Articles and the

1 Bylaws of the Association, the Articles shall control. In the event of any conflict  
2 between any provision of the Guidelines or Rules and any provisions of the other  
3 Community Documents, the provisions of the Guidelines or Rules shall be deemed to  
4 be superseded by the provisions of any other Community Document, to the extent of  
5 any such conflict.  
6

7       5.5 Rules and Regulations of the Association. The Board is empowered to  
8 adopt, amend, or repeal such rules and regulations as it deems reasonable and  
9 appropriate (collectively, the "Rules"), which shall be binding upon all persons subject  
10 to this Declaration and shall govern the use or occupancy of the Property. The Rules  
11 shall govern such matters as the Board deems to be in furtherance of the purposes of the  
12 Association, including, without limitation, the use of the Common Areas. The Rules  
13 may be adopted, amended, or repealed at any special or regular meeting of the Board  
14 upon a vote of a majority of all the Directors, and shall take effect after 30 days' written  
15 notice to the Owners, unless the rule(s) being adopted, amended or repealed has a  
16 compelling health or safety purpose, in which case seven days' notice to the Owners is  
17 required.  
18

19       The Rules and Guidelines are deemed incorporated herein by this  
20 reference, and shall have the same force and effect as if they were set forth in and were  
21 part of this Declaration, and shall be binding upon all persons having any interest in, or  
22 making any use of, any part of the Property, whether or not copies of the Rules or  
23 Guidelines are actually received by such persons. References to the covenants and  
24 restrictions contained herein shall be deemed to refer also to the Rules and Guidelines  
25 (except to the extent the Rules or Guidelines are in conflict herewith). The Rules and  
26 Guidelines, as adopted, amended or repealed, shall be available for review by each  
27 person reasonably entitled thereto, upon written request to the Board. It shall be the  
28 responsibility of each person subject to the Rules and Guidelines to review and keep  
29 abreast of any changes in the provisions thereof.  
30

31       5.6 Association Responsibility for Common Areas. Subject to the rights of the  
32 Owners set forth in this Declaration, the Association shall be responsible for the  
33 management and control of the Common Areas dedicated under this Declaration and  
34 all improvements of the Common Areas (including the furnishings and equipment  
35 related thereto).  
36

37       5.7 Association's Responsibility for Compliance With Fair Housing Act.  
38 Subject to Article 2 above, the Association shall be responsible for monitoring the age of  
39 Occupants of Dwelling Units to ensure that Owners are in compliance with the age  
40 restriction covenants contained herein and in the Federal and State Fair Housing Acts.  
41 This shall include, but not be limited to, annually conducting a survey by providing a  
42 questionnaire to all Owners of Dwelling Units.  
43

1           5.8    Implied Rights; Board Authority. The Association may exercise any right  
2 or privilege given to it expressly by the Community Documents, or reasonably implied  
3 from or reasonably necessary to effectuate any such right or privilege. Except as  
4 otherwise specifically provided in the Community Documents or by law, all rights and  
5 powers of the Association may be exercised by the Board without a vote of the  
6 membership. The officers of the Association and members of the Board of Directors  
7 shall not be liable to the Association or an Owner for any mistake of judgment,  
8 negligence or otherwise, except for their own individual willful misconduct or bad  
9 faith.

10  
11           5.9    Mergers and Consolidations. The Association shall have the right, power  
12 and authority to participate in mergers or consolidations with any other non-profit  
13 corporation whose objectives, methods and taxable status and format of operation are  
14 similar to those of the Association ("Merger Candidate"). A merger or consolidation of  
15 the Association with a Merger Candidate must be approved in advance by Members  
16 holding 50% of the votes in the Association, whether in person or by absentee ballot, at  
17 a meeting duly called for such purpose, or by mail vote. The Association's properties,  
18 rights and obligations shall be transferred to and assumed by the surviving or  
19 consolidated corporation by operation of law or, alternatively, the properties, rights and  
20 obligations of the Merger Candidate shall be transferred by operation of law to the  
21 Association as the surviving corporation. The surviving or consolidated corporation, at  
22 a minimum, shall have the same administrative responsibilities and enforcement rights  
23 established by this Declaration in regard to the Property.

24  
25           5.10 Management Agreement. Any agreement providing professional  
26 management services or other services to the Association shall not exceed three years.  
27 Any agreements must provide for termination by either party, without cause and  
28 without payment of a termination fee, upon 90 days' or less written notice.

29  
30           5.11 Master Association. The Property is a part of a master planned  
31 community known as Santa Rita Springs. The Property shall be subject to the terms and  
32 conditions of the Declaration of Covenants, Conditions and Restrictions for Santa Rita  
33 Springs recorded in Docket 9955, pages 1005 through 1061, and then re-recorded  
34 February 28, 1995 in Docket 9989, Page 1320 and then Amended and Restated in Docket  
35 10110 at page 949 and re-recorded at Docket 10122 at page 439 with the First  
36 Amendment and Notice of Termination in Docket 10122 at page 433 records of Pima  
37 County, Arizona (the "Master Declaration") and the Articles of Incorporation, Bylaws,  
38 Architectural Committee Rules (collectively the "Master Association Documents") of the  
39 Santa Rita Springs Homeowners Association (the "Master Association"), including all  
40 amendments to the Master Declaration or the Master Association Documents. All  
41 restrictions, regulations, approvals and consents, submittals and all other provisions of  
42 the Master Declaration shall be in addition to any consents required under the terms of  
43 this Declaration.

1  
2  
3 **ARTICLE 6**  
4 **MEMBERSHIPS AND VOTING**

5 6.1 Membership in the Association. Each Owner of a Lot, by virtue of being  
6 an Owner, shall automatically be a Member of the Association. Membership in the  
7 Association shall be appurtenant to each Lot owned and shall not be transferred,  
8 pledged, or alienated in any way, except upon the transfer of ownership to a Lot, and  
9 then only to the transferee thereof. Any transfer of ownership of a Lot shall operate  
10 automatically to transfer said membership to the new Lot Owner. Any attempted  
11 transfer of membership separate from the appurtenant Lot or Lots shall be void.  
12

13 6.2 Voting Rights. Each Member shall be entitled to one vote for each Lot  
14 owned. No change in the ownership of a Lot shall be effective for voting purposes until  
15 the Association receives written notice of such change together with satisfactory  
16 evidence of the transfer. When more than one Person holds an interest in any Lot, all  
17 such Persons shall be Members. The vote for such Lot shall be exercised as the Owners  
18 may determine, but in no event shall more than one vote be cast with respect to any Lot  
19 owned. Fractional votes are not allowed. In the event a Lot is owned by more than one  
20 Person and such Owners are unable to agree on how their vote(s) shall be cast, they  
21 shall not be entitled to vote on the matter in question. If any Owner exercises his/her  
22 vote on any matter, it will be conclusively presumed that the Owner is acting with the  
23 authority and consent of all the other Owners of the Lot unless an objection is made to  
24 the Board, in writing, at or prior to the time the vote is cast.  
25

26 6.3 Suspension of Voting Rights. The Association may suspend the voting  
27 rights of any Member for any period during which any Assessment against his/her Lot  
28 by the Association remains unpaid and delinquent.  
29

30 6.4 Members' Rights. Each member shall have the rights, duties and  
31 obligations set forth in the Community Documents and the Architectural Design  
32 guidelines as the same may be amended from time to time.  
33

34 **ARTICLE 7**  
35 **ASSESSMENTS AND ESTABLISHMENT OF LIEN**  
36

37 7.1 Creation of the Lien and Personal Obligation to Pay Assessments. Each  
38 Lot Owner, upon the recordation of a deed to any Lot, whether or not it shall be so  
39 stated in such deed, agrees and covenants to pay to the Association: (A) Annual  
40 Assessments or charges, (B) Special Assessments, and (C) Reimbursement Assessments.  
41 These Assessments shall be established and collected as provided in this Article. All  
42 Assessments levied against a Lot, together with interest from the date of delinquency

1 until paid, late fees, lien filing fees, collection costs and reasonable attorney's fees, shall  
2 be charged against the Lot and shall be a continuing lien upon the Lot.

3  
4 Delinquent assessments, together with interest, late fees, lien filing fees,  
5 collection costs, and reasonable attorney's fees, also shall be the personal obligation of  
6 the Person who was the Owner of such Lot at the time when the Assessment was  
7 levied, and shall bind his/her heirs, devisees, personal representatives and assigns.  
8 Except as otherwise provided in this Declaration, the personal obligation for delinquent  
9 Assessments shall not pass to successors in title unless expressly assumed by them. For  
10 all sales of property, a reasonable transfer fee, established by the Board of Directors,  
11 shall be paid to the Association for each property transferred. Payment shall be due and  
12 owing at the closing of the sale of the Lot, and the Association shall be entitled to  
13 enforce this obligation as though it was an assessment.

14  
15 7.2 Purpose for Assessments. The Association shall apply all funds and  
16 property collected and received by it, including Assessments, fees, loan proceeds,  
17 surplus funds and all funds and property received by it from any other source, for the  
18 common good and benefit of the Association and its Members by devoting said funds  
19 and property, among other things, to the acquisition, construction, alteration,  
20 maintenance, provision and operation, by any manner or method whatsoever, of any  
21 and all land, properties, improvements, facilities, monuments, monument walls, water  
22 features, lighting features, trail systems, services, projects, programs, studies and  
23 systems, within or without The Springs at Santa Rita, which may be necessary, desirable  
24 or beneficial to the general interests of The Springs at Santa Rita and the Members. The  
25 Association also may expend its funds for any purpose which any municipality may  
26 expend its funds under the laws of the State of Arizona or such municipality's charter.

27  
28 7.3 Annual Assessment.

29  
30 7.3.1 Amount of Assessment. The Board of Directors shall determine  
31 the amount of the Annual Assessment for each Lot on an annual basis, based upon the  
32 operating budget of the Association, including adequate reserves. The amount of the  
33 Annual Assessment may not be increased more than 20% of the previous year's Annual  
34 Assessment without the approval of a majority of the Owners. Subject to the provisions  
35 of this Section 7.3.1, the Board may, during any fiscal year, revise the amount of the  
36 Annual Assessment in order to meet expenses which exceed the amounts previously  
37 budgeted by the Association and collect such increased Annual Assessment.

38  
39 7.3.2 Budgeting. Each fiscal year the Board shall prepare and approve  
40 an annual budget, and make a copy available to each Owner. The total amount needed  
41 to fund the annual budget shall be charged equally against all Lots as Annual  
42 Assessments, subject to any limitations set forth in the Community Documents. If the

1 Annual Assessment will be increased from the prior year and the Owners' approval is  
2 required, a vote will be held as set forth in this Declaration.

3  
4 7.3.3 Due Date for Payment of Annual Assessments. Assessments  
5 shall be collected on a periodic basis as the Board may determine from time to time, but  
6 until the Board determines otherwise, Annual Assessments shall be payable on the first  
7 day of January each year.

8  
9 7.3.4 Notification to Owners of Annual Assessments. The Board shall  
10 provide notice to the Owners of any change to the amount of the Annual Assessment at  
11 least 30 days before the effective date of the change.

12  
13 7.3.5 Excessive Annual Assessment. If the estimated total Annual  
14 Assessment for the current year proves to be excessive in light of the actual expenses,  
15 the Association may, at the discretion of the Board, retain such excess as additional  
16 working capital or reserves, reduce the amount of the Annual Assessment for the  
17 succeeding year, or abate collection of the Annual Assessment for such period as it  
18 deems appropriate. No reduction or abatement of the Annual Assessment because of  
19 any such anticipated surplus may diminish the quantity or quality of services.

20  
21 7.3.6 Non-Waiver of Assessments. If before the expiration of any  
22 fiscal year, the Association fails to fix Annual Assessments for the next fiscal year, the  
23 Annual Assessment established for the preceding year shall continue until a new  
24 Annual Assessment is fixed.

25  
26 7.4 Special Assessments. Special Assessments may be levied by the Board of  
27 Directors in addition to the Annual Assessment for (A) constructing capital  
28 improvements; (B) correcting an inadequacy in the current operating account;  
29 (C) defraying, in whole or in part, the cost of any construction, reconstruction,  
30 unexpected repair or replacement of Improvements in the Common Areas; or  
31 (D) paying for such other matters as the Board may deem appropriate for the Property,  
32 or for operation of the Association. Special Assessments need to be approved by a vote  
33 of 67% of the Owners who are voting at a meeting or by mail ballot (i.e., 67% of the  
34 votes cast, not majority of all Owners). Monies collected as a Special Assessment shall  
35 be used only for the purpose(s) stated to the Owners during the approval process.

36  
37 7.5 Reimbursement Assessments. The Association shall levy a  
38 Reimbursement Assessment against any Owner if a failure to comply with the  
39 Association's Community Documents has (A) necessitated an expenditure of money by  
40 the Association to bring the Owner or his/her Lot into compliance; or (B) caused  
41 damage to any Common Area or other Association property. A Reimbursement  
42 Assessment shall not be levied by the Association until notice and an opportunity for a  
43 hearing has been given to the Owner.



1  
2           7.6   Uniform Rate of Assessment. Except as otherwise provided in this  
3 Declaration, all Assessments must be fixed at a uniform rate for all Lots.

4  
5           7.7   Statement of Payment. Upon receipt of a written request therefore from  
6 any Owner or resident, the Board, within a reasonable time thereafter, shall issue to the  
7 requesting party a written statement stating that as of the date of such statement:  
8

9                   7.7.1   all Assessments (including collection fees, if any, in regard  
10 thereto) have been paid with respect to such Owner's Lot; or

11  
12                   7.7.2   if such Assessments have not been paid, the amount(s) then due  
13 and payable.  
14

15           The Association may make a reasonable charge for the issuance of such  
16 statement. Any such statement shall be conclusive and binding with respect to any  
17 matter set forth therein.  
18

19           7.8   Effect of Non-Payment of Assessments; Remedies of the Association. If  
20 any Assessment or other charge is not paid within 30 days of its due date, a late fee and  
21 interest may be charged, in an amount to be determined from time to time by the Board  
22 of Directors. In addition to all other remedies provided by law, the Association, or its  
23 authorized representative, may enforce the obligations of any Owner to pay  
24 Assessments and other charges in any manner provided by law or in equity, or without  
25 any limitation to the foregoing, by either or both of the following procedures:  
26

27                   7.8.1   By Suit. The Board may cause a suit at law to be commenced and  
28 maintained in the name of the Association against any Owner who is personally  
29 obligated to pay delinquent Assessments, penalties or other charges. Any judgment  
30 obtained in the Association's favor shall include the amount of the delinquent charges,  
31 interest and late fees; any additional amounts incurred by the Association, including  
32 reasonable attorney fees and court costs; and any other amounts the court may award.  
33 A proceeding to recover a judgment for unpaid Assessments may be maintained  
34 without the necessity of foreclosing or waiving the Association's lien.  
35

36                   7.8.2   Enforcement & Priority of Lien. As provided in Section 7.1 above,  
37 and except as limited by applicable law, all Assessments, plus late fees, interest and  
38 costs connected therewith, shall be a continuing lien upon the Lot assessed. Such lien  
39 shall be senior to all matters other than (A) tax liens for real property taxes on the Lot,  
40 (B) assessments on the Lot in favor of any municipal or other governmental assessing  
41 unit, (C) reservations in patents, and (D) the lien of any First Mortgage.  
42

1                   7.8.2.1    Notice and Perfection of Lien. As more fully provided in  
2 A.R.S. §33-1807, the recording of the Original Declaration and all amendments and  
3 restatement thereto, constitutes record notice and perfection of the Association’s lien.  
4 The Association is not required to record a notice of lien, but may do so to provide  
5 notice to third parties of its interest in a Lot. Except for the transfer of a Lot pursuant to  
6 a foreclosure of a First Mortgage, the sale or transfer of a Lot does not affect the  
7 Association’s lien.

8  
9                   7.8.2.2    Foreclosure of Lien. The Association’s lien may be  
10 foreclosed by appropriate action in court or in the manner provided by law for the  
11 foreclosure of a realty mortgage, as set forth by the laws of the State of Arizona, as the  
12 same may be changed or amended. No Assessment lien shall be foreclosed or  
13 otherwise enforced until the Owner has been given not less than thirty (30) days written  
14 notice thereof prior to the commencement of such foreclosure or enforcement. The  
15 notice shall be addressed to the Owner at the address of the Owner on the records of the  
16 Association. It shall be the responsibility of the Owner to inform the Association, in  
17 writing, of a change of address. The lien provided for in this Declaration shall be in  
18 favor of the Association and shall be for the benefit of all other Owners. The Association  
19 shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease,  
20 mortgage, and convey any Lot. In the event such foreclosure is by action in court,  
21 reasonable attorney's fees, court costs, title search fees, interest and all other costs and  
22 expenses shall be allowed to the extent permitted by law. Each Owner hereby  
23 expressly waives any objection to the enforcement and foreclosure of this lien.

24  
25               7.9    No Offsets and No Exemption of Owner. No offset against any  
26 Assessment shall be permitted for any reason, including, without limitation, any claim  
27 that the Association is not properly discharging its duties. No Owner is exempt from  
28 liability for payment of Assessments because he/she does not use or enjoy the Common  
29 Area, or has abandoned his/her Lot, or for any other reason, including (but not limited  
30 to) any allegation that the Board of Directors is not performing its obligations under the  
31 Association's Community Documents. Payment of Association Assessments shall not  
32 be contingent on the performance by the Association of any obligations under the  
33 Community Documents.

34  
35               7.10   Billing and Collection Procedures. The Board shall have the right to adopt  
36 procedures for the purpose of making, billing and collecting the Assessments. The  
37 failure of the Association to send a bill to an Owner shall not relieve such Owner of the  
38 Owner's liability for Assessments. The Association shall be under no duty to refund  
39 any payments received by the Association, even if the ownership of a Lot changes  
40 during a fiscal year. Any successor Owner shall be given credit for any unrefunded  
41 prepayments made by a prior Owner. In case the Owner of a Lot having a right to pay  
42 a reduced payment amount as provided herein fails to notify the Board at such time as  
43 the payment amount should be increased, such Owner shall nonetheless be liable for

1 the full amount of the Assessment, and such Owner's failure to notify the Board shall  
2 not relieve such Owner of the liability for such full Assessment.

3  
4 7.11 Reserve Fund.

5  
6 7.11.1 Requirement for Reserve Fund. The Association shall maintain a  
7 reserve account with the funds therein being used for new construction or for the  
8 periodic maintenance, repair and replacement of the Common Areas and other  
9 property, as required hereunder.

10  
11 7.11.2 Funding the Reserves. This reserve fund shall be funded by a  
12 portion of the Annual Assessments rather than by Special Assessments; provided  
13 however, that this provision shall not be deemed to limit the power of the Association  
14 to levy any Assessment or charge authorized by this Declaration.

15  
16 7.11.3 Management of Reserves. Amounts allocated to reserves shall  
17 be deposited by the Association in a separate bank account to be held in trust for the  
18 purpose(s) for which they are collected. Such reserves shall be deemed a contribution  
19 to the capital account of the Association by the Owners and, once paid, no Owner shall  
20 be entitled to any reimbursement of those funds. The Board is only responsible for  
21 providing for such reserves as the Board, in good faith, deems reasonable, and no  
22 Member of the Board is liable to any Owner or to the Association if the amount in the  
23 reserve account proves to be inadequate.

24  
25 7.12 Subordination of the Lien to First Mortgages; Sale or Transfer of Lots. The  
26 lien for Assessments provided for in this Declaration, including without limitation any  
27 fees, costs, lien charges, late charges, or interest which may be levied by the Association  
28 in connection with unpaid Assessments, shall be subordinate to the lien of any First  
29 Mortgage. Sale or transfer of any Lot pursuant to foreclosure of any such First  
30 Mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure, or  
31 cancellation or forfeiture of an executory land sales contract, shall extinguish the lien for  
32 Assessments or charges which became due prior to any such sale, transfer, or  
33 foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or  
34 cancellation or forfeiture of an executory land sales contract; provided, however, that  
35 any such delinquent Assessments or charges, including interest, late charges, costs, and  
36 reasonable attorneys' fees, which are extinguished as provided in this Declaration, may  
37 be reallocated and assessed to all Lots as a common expense or may be expressly  
38 assumed by a Successor Owner. No such sale, transfer, foreclosure, or any proceeding  
39 in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture of an  
40 executory land sales contract, shall relieve any Owner of a Lot from liability for any  
41 Assessments or charges thereafter becoming due, nor from the lien thereof. In the event  
42 of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First

1 Mortgagee shall not be liable for unpaid Assessments or other charges which accrued  
2 prior to the acquisition of title to the Lot in question by such First Mortgagee.  
3

4       7.13 Mortgage Protection and Additional Assessment as Common Expense.  
5 Notwithstanding and prevailing over any other provisions of this Declaration, or the  
6 Association's Articles or Bylaws, or the Rules, the following provisions shall apply to  
7 and benefit each First Mortgagee of a Lot:  
8

9           7.13.1 First Mortgagees shall not be personally liable for the payment of  
10 any Assessment or charge, nor for the observance or performance of any covenant,  
11 restriction, regulation, Rule, Article or By-Law, except for those matters which are  
12 enforceable by injunctive or other equitable actions, not requiring the payment of  
13 money, nor shall a First Mortgagee be liable for any violation of the Restrictions that  
14 occurred prior to such First Mortgagee acquiring title.  
15

16           7.13.2 During the pendency of any proceeding to foreclose the First  
17 Mortgage, including any period of redemption, the mortgagee (or receiver appointed in  
18 such action) may, but is not required to, exercise any or all of the rights and privileges  
19 of the Owner of the mortgaged Lot, including (but not limited to) the exclusion of the  
20 Owner's exercise of such rights and privileges.  
21

22           7.13.3 At such time as the First Mortgagee becomes the record Owner of  
23 a Lot, he, she or it shall be subject to all of the terms and conditions of this Declaration,  
24 including but not limited to, the obligation to pay for all Assessments and charges  
25 accruing thereafter, in the same manner as any Owner.  
26

27           7.13.4 The First Mortgagee, or any other party acquiring title to a  
28 mortgaged Lot through foreclosure suit or through any equivalent proceeding arising  
29 from said first mortgage, such as, but not limited to, the taking of a deed in lieu of  
30 foreclosure, shall acquire title to the mortgaged Lot free and clear of any lien authorized  
31 by or arising out of any of the provisions of this Declaration or Bylaws which secured  
32 the payment of any Assessment for charges accrued prior to the final conclusion of any  
33 such foreclosure suit or equivalent proceeding, including the expiration date of any  
34 period of redemption.  
35

36           7.13.5 First Mortgagees are entitled to pay taxes or other charges which  
37 are in default and which may or have become a charge against any Common Area  
38 owned by the Association, and such first mortgagees may pay overdue premiums on  
39 hazard insurance policies, or secure new hazard insurance coverage on the lapse of a  
40 policy, for such Common Area, and any first mortgagees making such payment may be  
41 owed immediate reimbursement from the Association.  
42



1           8.2    Borrowing Power. The Association may borrow money in such amounts,  
2 at such rates, upon such terms and security, and for such periods of time as the Board  
3 deems necessary or appropriate.  
4

5           8.3    Procedure for Change of Use of Common Areas. Upon adoption of a  
6 resolution by the Board stating that the then-current use of a specified part of the  
7 Common Area is no longer in the best interests of the Owners and Occupants, and the  
8 approval of such resolution by 67% of the votes cast in person or by absentee ballot at a  
9 meeting duly called for such purpose, or by mail vote, the Board shall have the power  
10 and right to change the use thereof (and in connection therewith to take whatever  
11 actions are required to accommodate the new use), provided such new use also shall be  
12 for the common benefit of the Owners and Occupants.  
13

14           8.4    Procedure for Transfers of Common Areas. The Association shall have  
15 the right to dedicate or transfer all or any part of the Common Areas to any public  
16 agency, authority or utility, provided that:  
17

18                 8.4.1    such a transfer or dedication does not have substantial, adverse  
19 effect on the enjoyment of the common Areas by the Owners and Occupants or on the  
20 easements and licenses with respect to the Common Areas granted by this Declaration  
21 to the Owners and Occupants; and  
22

23                 8.4.2    it is required by a recorded subdivision plat, a zoning stipulation  
24 or an agreement with the County.  
25

26           Except as authorized above, the Association shall not make any such  
27 dedication or transfer or change the size, shape or location of the Common Areas,  
28 exchange the Common Areas for other property or interests which become Common  
29 Areas, or abandon or otherwise transfer common Areas to a non-public authority except  
30 upon: (A) the adoption of a resolution by the Board stating that the ownership and/or  
31 use of the relevant Common Area is no longer in the best interests of the Owners and  
32 Occupants, and that the change desired shall be for their benefit and shall not  
33 substantially, adversely affect them; and (B) the approval of such resolution by not less  
34 than 67% of the votes cast in person or by absentee ballot at a duly-held Association  
35 meeting called for such purpose, or by mail vote.  
36

37           8.5    License to Use Common Area. The Board, in its sole discretion, may (but  
38 is not obligated to) grant a license for use of a specified part of Common Area to an  
39 Owner, under such terms as it deems appropriate.  
40

41           8.6    Common Area Use Fees. The Association shall have the right to grant  
42 non-Members the temporary right to use and enjoy, on a specific and limited basis, one

1 or more of the Common Areas in exchange for such consideration as the Board may  
2 deem appropriate.

3  
4 8.7 Agreements With Adjoining Landowners for Common Areas. The  
5 Association shall have the right to enter into agreements with Persons, who are not  
6 Members and who own land adjacent to the Property, pursuant to which the adjoining  
7 landowner pays for all costs associated with any resultant installation and maintenance  
8 of enhanced landscaping on Common Areas located within the Property.

9  
10 **ARTICLE 9**  
11 **MAINTENANCE OBLIGATIONS OF OWNERS/COMMUNITY-WIDE**  
12 **STANDARD/PARTY WALLS AND OTHER SHARED STRUCTURES**  
13

14 9.1 Owners' Maintenance Responsibility. Each Owner shall maintain his or  
15 her Lot and all structures, parking areas, and other Improvements comprising the Lot in  
16 a manner consistent with the Community-Wide Standard and applicable covenants. If  
17 any portion of Common Area constitutes an Owner's easement for encroachment, that  
18 Owner is responsible to maintain the encroached-upon area.

19  
20 9.2 Standard of Performance. Unless otherwise specifically provided herein,  
21 maintenance responsibility shall include responsibility for repair and replacement, as  
22 necessary. All maintenance shall be performed in a manner consistent with the  
23 Community-Wide Standard and the Community Documents.

24  
25 9.3 Shared Structures. A "Shared Structure" means each wall, fence, driveway  
26 or similar structure built as part of the original construction of improvements on  
27 contiguous Lots, and which serves any two Lots. To the extent not inconsistent with the  
28 provisions of this Section, the general rules of law regarding party walls and liability for  
29 property damage due to negligence or willful acts or omissions shall apply to a Shared  
30 Structure. The cost of reasonable repair and maintenance of a Shared Structure shall be  
31 shared equally by the Owners who make use of the Shared Structure. If one of the  
32 Owners is responsible for damage to a Shared Structure, then he/she is responsible for  
33 the entire cost of repair or replacement. If a Shared Structure is destroyed or damaged  
34 by fire or other casualty, then to the extent that such damage is not covered by  
35 insurance and repaired out of the proceeds of insurance, any Owner who has used the  
36 Shared Structure may restore it. If other Owners use the Shared Structure, they shall  
37 contribute to the restoration cost in equal proportions. However, such contribution will  
38 not prejudice the right to call for a larger contribution from the other users under any  
39 rule of law regarding liability for negligent or willful acts or omissions. The right of any  
40 Owner to contribution from any other Owner under this Section shall be appurtenant to  
41 the land and shall pass to such Owner's successors-in-title. All disputes regarding a  
42 Shared Structure shall be submitted to the Board of Directors, whose decision on the  
43 matter shall be final and binding.

1  
2 9.4 Improper Maintenance and Use of Lots. In the event any portion of any  
3 Lot is maintained so as to present a nuisance, or substantially detracts from or affects  
4 the appearance or quality of any neighboring Lot or other area, or is used in a manner  
5 which violates this Declaration, or in the event the Owner or Occupant of any Lot fails  
6 to perform such Owner's obligations under the Community Documents, the  
7 Association, by Board resolution, may make a finding to such effect, specifying the  
8 particular conditions that exist, and thereafter give notice to the Owner of such Lot that  
9 unless specified corrective action is taken within a specified time period, the  
10 Association, at such Owner's cost, may take whatever action is appropriate to compel  
11 compliance, including without limitations, appropriate legal action. If, at the expiration  
12 of the specified time period the requisite corrective action has not been taken by the  
13 Owner, the Association is hereby authorized and empowered, at its sole discretion, to  
14 impose a daily fine, to cause corrective action to be taken (including but not limited to  
15 the right to enter upon the Lot without being guilty of trespass and maintain  
16 landscaping, remove any weeds, rubbish or debris) and/or to commence appropriate  
17 legal action, and the cost thereof, including court costs and attorney fees, shall be a  
18 Reimbursement Assessment to which the offending Owner and the Owner's Lot is  
19 subject. The Association shall afford the Owner notice of at least 10 days to cure the  
20 problem prior to entry, except when entry is required due to an emergency situation.

21  
22 **ARTICLE 10**  
23 **USE AND OCCUPANCY RESTRICTIONS**  
24

25 10.1 Private Residential Purposes. Except as provided in Section 10.5 below,  
26 Dwelling Units and Lots shall be occupied and used by the respective Owners solely for  
27 private single family residential use of the Owner, his/her family, tenants and social  
28 guests and for no other purpose. "Single family" shall mean individuals related by  
29 blood or marriage, or no more than three individuals who are not related by blood or  
30 marriage.  
31

32 10.2 Aerials. Subject to the Federal Telecommunications Act of 1996 and any  
33 other applicable law or regulation, no aerial, antenna or satellite dish for use of TV,  
34 radio or other form of communication reception, of a temporary or permanent  
35 character, shall be erected on any Lot or attached to the principal residence located  
36 upon any Lot unless reasonably screened from view and approved in writing by the  
37 Architectural Review Committee or as otherwise provided in accordance with the  
38 Architectural Design Guidelines.  
39

40 10.3 Animals. Nothing contained in this provision shall be construed to  
41 prohibit assistive animals.  
42  
43



1           10.3.1 Each Owner or Occupant of a Lot may keep a reasonable number  
2 of dogs, cats and other usual and common household pets on a Lot, provided that they  
3 are not kept, bred or maintained for any commercial purpose.  
4

5           10.3.2 No animal shall be allowed to become a nuisance.  
6

7           10.3.3 The Board of Directors has the right to determine, in its sole and  
8 absolute discretion, whether a particular animal is a common household pet or a  
9 nuisance, or whether the number of animals kept on a Lot is reasonable. In addition,  
10 the Board may adopt rules (in accordance with Section 5.5), pertaining to restrictions on  
11 household pets within the Property.  
12

13           10.3.4 All animals must be kept under leash or controlled at all times so  
14 that they will not interfere with any Owner's or Occupant's use and enjoyment of the  
15 Common Areas, and it shall be the responsibility of all pet owners to clean up after their  
16 pets. All dogs shall be restrained when not confined on a Lot. In any event, no Owner  
17 or Occupant shall permit any pet in his/her control or ownership to deposit waste on  
18 another Owner's Lot.  
19

20           10.3.5 Pets shall be licensed, registered and inoculated as required by  
21 law.  
22

23           10.3.6 There shall be no dog runs or animal pens or enclosures on any  
24 Lot that are Visible from Neighboring Property.  
25

26           10.3.7 There shall be no feeding, capturing, trapping or killing of  
27 wildlife within the Property, except in circumstances posing an imminent threat to the  
28 safety of persons using the Property. "Wildlife" does not include rodents, ants, termites  
29 and other common pests.  
30

31           10.4 Backboards. No basketball backboards of any kind shall be erected or  
32 used on any Lot or attached, by either a permanent or temporary method, to any  
33 Dwelling Unit.  
34

35           10.5 Business Activities. No trade or business may be conducted in or from  
36 the Property, except:  
37

38           10.5.1 Estate or moving sales may be held on a Lot for no more than  
39 two week-ends in a calendar year, with the prior written approval of the Board of  
40 Directors;  
41

42           10.5.2 The lease of a Dwelling Unit shall not be considered a business.  
43

1                   10.5.3     Owners or Occupants may conduct business activities on a Lot  
2 so long as:

3  
4                   10.5.3.1   the existence or operation of the business activity is not  
5 apparent or detectable by sight, sound or smell from outside the Dwelling Unit;

6  
7                   10.5.3.2   the business activity conforms to all zoning  
8 requirements for the Property;

9  
10                  10.5.3.3   the business activity does not involve any person  
11 conducting such business who does not reside on the Property or door-to-door  
12 solicitation of Owners or Occupants of the Property;

13  
14                  10.5.3.4   the existence or operation of the business does not  
15 increase that Dwelling Unit's use of Common Area facilities over the standard for single  
16 family dwelling;

17  
18                  10.5.3.5   the existence or operation of the business does not  
19 require customers or delivery trucks to visit the residence; and

20  
21                  10.5.3.6   the business activity does not constitute a nuisance, or a  
22 hazardous or offensive use, or cause the pertinent Lot Owners to violate any other  
23 provisions of this Declaration, or threaten the security or safety of other Owners or  
24 Occupants of the Property, as may be determined in the sole discretion of the Board.

25  
26                  10.6     Clotheslines. All drying wash must be hung in a private area not visible  
27 from the street.

28  
29                  10.7     Derricks, Boring, Etc. No derrick or other structure designed for use in  
30 boring for oil or natural gas shall be erected, placed or permitted upon any part of the  
31 Property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products  
32 or minerals of any kind be produced or extracted therefrom.

33  
34                  10.8     Plant Diseases and Insects. No Owner or Occupant shall permit any  
35 thing or condition to exist upon any area of the Property which shall induce, breed or  
36 harbor infectious plant diseases or noxious insects.

37  
38                  10.9     Drainage. There shall be no obstruction or rechanneling of drainage  
39 flows after location and installation of drainage swales or channels, storm sewers or  
40 storm drains, except that the Association shall have such right, provided that the  
41 exercise of such right shall not materially diminish the value of or unreasonably  
42 interfere with the use of any Lot without the Owner's consent

43

1           10.10 Equipment. Except for emergencies, no equipment which gives off  
2 disturbing sounds or loud noises, including but not limited to radios, stereos, TV's,  
3 phonographs, lawn mowers, power hedge clippers, power chainsaws and other similar  
4 noisy equipment, shall be operated on any part of the Property except in a reasonable  
5 and non-offensive manner, and in accordance with applicable Pima County Ordinances.  
6 All equipment, service yards, woodpiles or storage piles shall be kept screened by  
7 adequate planting or fencing so as to conceal them from the view of neighboring Lots  
8 and streets. All mechanical, electrical equipment and utility meters to be installed by an  
9 Owner or Developer Owner shall be concealed so as to not be Visible from Neighboring  
10 Property.

11  
12           10.11 Garages. There shall be no conversion of any garage into finished space  
13 for use as living area in any Dwelling Unit without the prior written approval of the  
14 ARC of all plans and specifications associated therewith. Garage doors shall remain  
15 closed at all times, except when entering and exiting the garage.

16  
17           10.12 Hazardous Activities Prohibited. No activities shall be conducted on the  
18 Property which are or might be unsafe or hazardous to any person or property. No  
19 outside burning of trash, leaves, debris or other materials. Without limiting the  
20 generality of the foregoing, no firearms shall be discharged upon the Property and no  
21 open fires shall be lighted or permitted on the Property, except in a contained barbecue  
22 unit while attended and in use for cooking purposes or within a safe and well-designed  
23 fireplace, firepit, or chimenea.

24  
25           10.13 Heating, Cooling and Solar Devices. No heating, cooling or solar devices,  
26 of any type, shall be placed, erected or installed on any Lot without the approval of the  
27 Board of Directors. No such equipment shall be permitted to be roof-mounted unless  
28 concealed by planting, fence or wall as approved by the ARC.

29  
30           10.14 Insurance Rates. Nothing shall be done or kept on any Lot or Common  
31 Areas which will increase the rate of insurance on such property nor shall anything be  
32 done or kept on or in any Dwelling Unit or Common Area which will result in the  
33 cancellation of insurance on any such property or which would be in violation of any  
34 law, unless expressly approved by the Board of Directors.

35  
36           10.15 Combining or Subdividing Lots. No Lot shall be subdivided or  
37 resubdivided, nor shall the boundary lines of any Lot be changed.

38  
39           10.16 Nuisances. The Board shall have the sole discretion in determining if any  
40 activity by an Owner, his/her family, invitees or lessees is in violation of this Section.

41  
42           10.16.1 No rubbish, debris, or other items of any kind shall be placed or  
43 permitted on any Lot so as to render any such property or any portion thereof

1 unsanitary, unsightly, offensive or detrimental to any other property in the vicinity  
2 thereof, or to its Occupants.

3  
4 10.16.2 No loud or offensive noise, excessively glaring or bright lights,  
5 foul odors or any other use or practice which is the source of annoyance to Occupants  
6 or which interferes with the peaceful enjoyment or possession and proper use of the  
7 Property, or any portion thereof, by its Occupants, shall be permitted to exist or operate  
8 upon the Property. Without limiting the generality of any of the foregoing provisions,  
9 no exterior speakers, horns, whistles, bells or other sound devices, except security  
10 devices used exclusively for security purposes, shall be located, used or placed on any  
11 such property without the prior written approval of the Board of Directors.  
12 Unreasonable noises penetrating beyond the private property of an Owner shall not be  
13 permitted between the hours of 10:00 p.m. and 8:00 a.m.

14  
15 10.16.3 No activity shall be permitted which emits foul or obnoxious  
16 odors outside the Dwelling Unit or creates other conditions which tend to disturb the  
17 peace or threaten the safety of other Occupants;

18  
19 10.16.4 No pursuit of hobbies or other activities shall be permitted which  
20 tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed  
21 structures on Lots;

22  
23 10.16.5 No noxious or offensive activity shall be permitted which, in the  
24 reasonable determination of the Board, tends to cause embarrassment, discomfort,  
25 annoyance or nuisance to persons using the Common Areas, recreational facility or to  
26 the Owners or Occupants in The Springs at Santa Rita;

27  
28 10.16.6 No dumping of grass clippings, leaves or other debris, petroleum  
29 products, fertilizers or other potentially hazardous or toxic substances shall be  
30 permitted anywhere in The Springs at Santa Rita.

31  
32 10.16.7 No accumulation of rubbish, trash, or other garbage shall be  
33 permitted except between regular garbage pickups, and then only in approved garbage  
34 containers (which garbage containers have been approved by the ARC), which  
35 approved containers shall not be Visible from Neighboring Property except on the dates  
36 of regular garbage pickups.

37  
38 10.16.8 The homeowner shall require any contractor to remove all  
39 construction materials and debris from the HOA property

40  
41 10.17 Renting. An Owner is responsible for all violations of the Community  
42 Documents by his/her Tenants and other Occupants. Only an entire Lot may be rented.

1 At least one Tenant in any rented Dwelling Unit must be 55 years of age or older, in  
2 compliance with Article 2 hereof.

3  
4 10.17.1 Obligations of Tenants. All provisions of the Community  
5 Documents which govern the conduct of Owners and Occupants, and which provide  
6 for sanctions against Owners for non-compliance, shall also apply to Tenants. The  
7 Owner shall provide his/her tenant with copies of the Declaration, Architectural Design  
8 Guidelines, and Rules. In the event the Owner fails to do so, the Association shall  
9 provide copies to the tenant and charge the Owner the cost of doing so.

10  
11 10.17.2 Requirements for Leases. All leases shall be in writing and shall  
12 specifically provide:

13  
14 10.17.2.1 The lease is subject in all respects to the provisions of  
15 the Declaration, Architectural Design Guidelines and Rules, and the lease shall  
16 incorporate, by reference, the Community Documents.

17  
18 10.17.2.2 The failure of the Tenant to comply with the terms  
19 and conditions of the Declaration, Architectural Design Guidelines, and Rules  
20 constitutes a material default of the lease, and the Owner shall be entitled to reenter and  
21 retake possession of the premises pursuant to the provisions of the Arizona Landlord  
22 Tenant Act, A.R.S. Section 33-1301 et seq.

23  
24 10.17.2.3 All leases shall be for a minimum of 30 days.

25  
26 10.17.3 Notification to Association. Within 15 days of lease inception, an  
27 Owner leasing his/her Unit, shall give the Association, in writing, the name of the  
28 Tenant of the Unit and such other information as the Association may reasonably  
29 require.

30  
31 10.17.4 Enforcement of Leasing Restrictions. An Owner shall provide a  
32 copy of an operative lease within ten days of the Association's written request therefor.  
33 An Owner shall be responsible for any violation of the Declaration, Architectural  
34 Design Guidelines and Rules by his/her Lessee or Tenant or any other persons residing  
35 in the Dwelling Unit, and their guests or invitees. In the event of any violation, the  
36 Owner, upon demand of the Association, shall immediately take all necessary actions to  
37 correct any such violations.

38  
39 10.18 Right of Inspection. During reasonable hours, any member of the Board,  
40 or any authorized representative of the Board shall have the right, upon reasonable  
41 notice to the Owner of a Dwelling Unit, indicating the reason for said inspection, to  
42 enter upon and inspect the Lot (except the interior of Dwelling Unit), for the purpose of  
43 ascertaining whether or not the provisions of this Declaration have been or are being

1 complied with, and such persons shall not be deemed guilty of trespass by reason of  
2 such entry.

3  
4 10.19 Security. The Association may, but shall not be obligated to, maintain or  
5 support certain activities within the Property designed to make the Property safer than  
6 it might otherwise be. Neither the Association nor the Declarant shall in any way be  
7 considered insurers or guarantors of security within the property, nor shall any of them  
8 be held liable for any loss or damage by reason of failure to provide adequate security  
9 or ineffectiveness of security measures undertaken. No representation or warranty is  
10 made that any fire protection system, burglar system or other security system or  
11 measures, including any mechanism or system for limiting access to the property,  
12 cannot be compromised or circumvented, nor that any such systems or security  
13 measures undertaken will in all cases prevent loss or provide the detection or protection  
14 for which the system is designed or intended. The obligation to provide for his or her  
15 security lies solely with each Lot Owner individually.

16  
17 10.20 Signs. Signs permitted by this Section may be displayed in a window  
18 and/or affixed to the Dwelling Unit. Unless otherwise permitted by applicable statute,  
19 no signs shall be permitted on free-standing posts in the yards, except on unimproved  
20 Lots. No sign may be larger than 30" x 30." No sign of any kind shall be erected,  
21 placed or permitted to remain on a Lot or Common Area, unless the sign has been  
22 approved by the Board, except:

23  
24 10.20.1 Home For Sale signs;

25  
26 10.20.2 "Open House signs," which may be: (A) on a free-standing  
27 frame; (B) for an open house at a Lot for sale, one weekend per month, from 8 a.m. to 5  
28 p.m.; and (C) located only on the Lot that is for sale.

29  
30 10.20.3 Signs or other postings which may be required by legal  
31 proceedings;

32  
33 10.20.4 A reasonable number of signs on a Lot indicating protection of  
34 the property by a security company.

35  
36 10.20.5 Signs in support of a political candidates for public office or  
37 referenda that meet the requirements of the Arizona Revised Statutes and Pima County  
38 Code.<sup>1</sup> Such signs may be in place no more than 45 days before nor 15 days after the

---

1

As of the date of this Declaration, the Pima County Sign Code provides that political signs may not cover more than a total of 16 sq. ft. of space on a Lot and must be set back at least 10 ft. from the front and side lot lines.

1 applicable election day, or any other time period specified in a statute that overrides  
2 this Declaration.

3  
4 10.20.6 Estate or Moving Sale signs, in accordance with Section 10.5.1.

5  
6 10.21 Storage. There shall be no storage of furniture, appliances, machinery,  
7 equipment or other goods and chattels on the Common Area or any portion of a Lot  
8 that is Visible from a Neighboring Property.

9  
10 10.22 Tanks. No tanks of any kind, either elevated or buried, shall be erected,  
11 placed, or permitted upon any Lot.

12  
13 10.23 Temporary Structures. There shall be no tents, shacks or other structures  
14 of a temporary nature on any Lot.

15  
16 10.24 Timeshares. There shall be no use of any Lot for the operation of a time  
17 sharing program, whereby the right to exclusive use of the Lot or Dwelling Unit rotates  
18 among participants in the program on a fixed or floating time schedule over a period of  
19 years.

20  
21 10.25 Trash Containers and Collection. No garbage or trash shall be placed or  
22 kept on any Lot or Common Area, except garbage and trash resulting from use of the  
23 Property for residential purposes. All garbage and trash shall at all times be placed and  
24 kept in suitable plastic bags or in receptacles approved by the Board. In no event shall  
25 plastic trash bags or trash receptacles be maintained so as to be Visible from  
26 Neighboring Property or the street, except on trash collection days. No trash, rubbish,  
27 or garbage shall be allowed to accumulate on any Lot.

28  
29 10.26 Vehicle Use, Parking and Storage.

30  
31 10.26.1 General Rule. Vehicles may park in garages or driveways of a  
32 Lot only and, not on public or private streets. When parked, vehicles shall not extend  
33 over the curb into the street. There shall be no operation of motorized vehicles of any  
34 type or nature on pathways or trails in Common Areas. The Board may adopt rules to  
35 amend, revise, add or delete the use, parking and storage restrictions in this Section.

36  
37 10.26.2 Prohibited Vehicles. No boats, campers, commercial trucks,  
38 trailers, motor homes, recreational, motor cycles, mopeds and other vehicles, other than  
39 passenger cars and pick-up trucks (collectively, "Prohibited Vehicles"), shall be parked  
40 or placed permanently or temporarily on the streets, Lots, or driveways in the Property.  
41 Prohibited Vehicles that are owned, leased or in the care of an Owner or Occupant or  
42 his/her guests or invitees MUST be stored within an enclosed garage. Delivery vehicles  
43 shall be exempt from the pertinent provisions of this Section 10.26 during the daylight

1 hours for such period of time as is reasonably necessary to make a delivery to a Lot or  
2 to the Common Area.

3  
4 10.26.3 Temporary Street Parking of Prohibited Vehicles.

5 Notwithstanding any other provisions of this Declaration, a Recreational Vehicle ("RV")  
6 may be parked on the street or driveway of a Lot for loading or unloading, or for guest  
7 parking for a maximum of 72 hours in any 30-day period. An absence of at least 48  
8 hours is required between 72-hour parking periods, or the parking will be considered as  
9 consecutive time. In no event may RV generators be operated within the Property at  
10 any time, nor can there be electric or water "hook-ups."

11  
12 10.26.4 Stored Vehicles. All vehicles, including Prohibited Vehicles,

13 parked on a Lot shall bear current registration tags and be driveable. No vehicle,  
14 including Prohibited Vehicles, shall be stored on the Property except in a garage or  
15 carport or otherwise concealed from view of the street and neighboring Lots. No  
16 vehicles, including Prohibited Vehicles, shall be permitted on the Property in a junk  
17 condition. Vehicles with flat tires and vehicles resting on jacks, supports, or wheel rims  
18 shall be considered to be in a "junk condition." Interpretation of the provisions  
19 contained in this Section shall be at the sole discretion of the Board of Directors.

20  
21 10.26.5 Inoperable Vehicles. No abandoned, inoperable, junked or

22 wrecked vehicles shall be parked on any portion of the Property. This includes any  
23 vehicle that has not been driven under its own propulsion for two weeks or longer,  
24 which does not have an operable propulsion system installed therein, or which is not  
25 licensed and registered in accordance with applicable laws; provided, however, that  
26 otherwise permitted vehicles parked by Owners or Occupants while on vacation or  
27 during a period of illness shall be excepted. In the event that the Board shall determine  
28 that a vehicle falls within the prohibition in this Section, a written notice describing said  
29 vehicle shall be personally delivered to the owner thereof (if such owner can be  
30 reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner  
31 thereof cannot be reasonably ascertained), and if said vehicle is not removed within 72  
32 hours thereafter, the Association shall have the right to remove the vehicle at the sole  
33 expense of the owner thereof.

34  
35 10.26.6 Vehicle Repair. No activity such as, but not limited to major

36 repair, rebuilding, dismantling, or repainting of any kind of vehicles, trailers or boats,  
37 may be performed on any Lot. At no time shall there be any outside storage of vehicles  
38 in stages of construction, reconstruction, modification or rebuilding of parts of vehicles  
39 such as frames, bodies, engines or other parts or accessories.

40  
41 10.26.7 Use of Recreational Vehicle as Living Quarters. The use or

42 occupancy of a recreational vehicle, motorhome, van, camper, trailer, or boat as living



1 quarters on either a temporary or permanent basis is strictly prohibited on any portion  
2 of the Property.

3  
4 10.27 Water Usage. There shall be no sprinkler or irrigation systems or wells,  
5 reservoirs of any type which draw water from ground or surface waters within the  
6 Property, except that the Association shall have the right to draw water from such  
7 sources.

8  
9 10.28 Window Coverings and Reflective Materials. No reflective materials,  
10 including but not limited to aluminum foil, reflective screens or glass, mirrors or similar  
11 type items, shall be permitted on any window or anywhere else on a Lot or Dwelling  
12 Unit so as to be visible from outside the Dwelling Unit.

13  
14 10.29 Modification. The Board may modify or increase the foregoing  
15 restrictions or otherwise restrict and regulate the use and occupancy of the Property  
16 and the Lots by the Association Rules, adopted by the Board from time to time in  
17 accordance with Section 5.5.

18  
19 **ARTICLE 11**  
20 **INSURANCE PROVISIONS**

21  
22 11.1 Required Coverages. The Association, acting through its Board or its duly  
23 authorized agent, shall obtain and continue in effect the following types of insurance, if  
24 reasonably available, or if not reasonably available, the most nearly equivalent  
25 coverages as are reasonably available:

26  
27 11.1.1 Blanket property insurance covering "risks of direct physical  
28 loss" on a "special form" basis (or comparable coverage by whatever name  
29 denominated) for all insurable improvements on the Common Area. If such coverage is  
30 not generally available at reasonable cost, then "broad form" coverage may be  
31 substituted. All property insurance policies obtained by the Association shall have  
32 policy limits sufficient to cover the full replacement cost of the insured improvements  
33 under current building ordinances and codes;

34  
35 11.1.2 Commercial general liability insurance on the Common Areas,  
36 insuring the Association and its members for damage or injury caused by the  
37 negligence of the Association or any of its members, employees, agents or contractors  
38 while acting on its behalf. If generally available at reasonable cost, such coverage  
39 (including primary and any umbrella coverage) shall have a limit of at least one million  
40 dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and  
41 property damage; provided, however, that should additional coverage and higher  
42 limits be available at reasonable cost which a reasonably prudent person would obtain,  
43 the Association shall obtain such additional coverages or limits;

1  
2 11.1.3 Workers compensation insurance and employers liability  
3 insurance, if and to the extent required by law;

4  
5 11.1.4 Directors and officers liability coverage;

6  
7 11.1.5 Commercial crime insurance, including fidelity insurance  
8 covering all persons responsible for handling Association funds in an amount to be  
9 determined in the Boards best business judgment, but not less than an amount equal to  
10 1/6th of the Annual Assessments on all Dwelling Units plus reserves on hand. Fidelity  
11 insurance policies shall contain a waiver of all defenses based upon the exclusion of  
12 persons serving without compensation; and

13  
14 11.1.6 Such additional insurance as the Board, in its best business  
15 judgment, determines advisable.

16  
17 11.2 Policy Requirements.

18  
19 11.2.1 The Association shall arrange for an annual review of the  
20 sufficiency of its insurance coverage by one or more qualified persons, at least one of  
21 whom must be familiar with insurable replacement costs in the Pima County, Arizona  
22 area. All Association policies shall provide for a certificate of insurance to be furnished  
23 to the Association and, upon request, to each member insured.

24  
25 11.2.2 The policies may contain a reasonable deductible and the amount  
26 thereof shall not be subtracted from the face amount of the policy in determining  
27 whether the policy limits satisfy the requirements of Section 11.1. In the event of an  
28 insured loss, the deductible shall be treated as an expense of the Association in the same  
29 manner as the premiums for the applicable insurance coverage. However, if the Board  
30 reasonably determines that the loss is the result of the negligence or willful misconduct  
31 of one or more Owners, their guests, invitees or lessees, then the Board may assess the  
32 full amount of such deductible against such Owner(s) and their Dwelling Units as a  
33 Special Assessment.

34  
35 11.3 Additional Requirements. All insurance coverage obtained by the Board  
36 shall:

37  
38 11.3.1 be written with a company authorized to do business in the State  
39 of Arizona which satisfies the requirements of the Federal National Mortgage  
40 Association, or such other secondary mortgage market agencies or federal agencies as  
41 the Board deems appropriate;

1           11.3.2 be written in the name of the Association as trustee for the  
2 benefited parties. Policies on the Common Areas shall be for the benefit of the  
3 Association and its Members;

4  
5           11.3.3 not be brought into contribution with insurance purchased by  
6 Owners, occupants or their mortgagees individually;

7  
8           11.3.4 contain an inflation guard endorsement;

9  
10          11.3.5 include an agreed amount endorsement, if the policy contains a  
11 co-insurance clause;

12  
13          11.3.6 provide that each Owner is an insured person under the policy  
14 with respect to liability arising out of such Owner's interest in the Common Area or  
15 membership in the Association;

16  
17          11.3.7 provide a waiver of subrogation under the policy against any  
18 Owner or household member of an Owner;

19  
20          11.3.8 include an endorsement precluding cancellation, invalidation,  
21 suspension or non-renewal by the insurer on account of any one or more individual  
22 Owners, or on account of any curable defect or violation without prior written demand  
23 to the Association to cure the defect or violation and allowance of a reasonable time to  
24 cure; and

25  
26          11.3.9 include an endorsement precluding cancellation, invalidation or  
27 condition to recovery under the policy on account of any act or omission of any one or  
28 more individual Owners, unless such Owner is acting within the scope of his or her  
29 authority on behalf of the Association.

30  
31          11.4 Optional Requirements. In addition, the Board shall use reasonable efforts  
32 to secure insurance policies which list the Owners as additional insureds and provide:

33  
34          11.4.1 a waiver of subrogation as to any claims against the Association's  
35 Board, officers, employees and its manager, the Owners and their tenants, servants,  
36 agents and guests;

37  
38          11.4.2 a waiver of the insurer's rights to repair and reconstruct instead  
39 of paying cash;

40  
41          11.4.3 an endorsement excluding Owners' individual policies from  
42 consideration under any "other insurance" clause;

43

1           11.4.4    an endorsement requiring at least thirty (30) days' prior written  
2 notice to the Association of any cancellation, substantial modification or non-renewal;

3  
4           11.4.5    a cross liability provision; and

5  
6           11.4.6    a provision vesting in the Board exclusive authority to adjust  
7 losses; provided, however, no mortgagee having an interest in such losses may be  
8 prohibited from participating in the settlement negotiations, if any, related to the loss.  
9

10           11.5    Restoring Damaged Improvements.

11  
12           11.5.1    In the event of damage to or destruction of Common Area or  
13 other property which the Association is obligated to insure, the Board or its duly  
14 authorized agent shall file and adjust all insurance claims and obtain reliable and  
15 detailed estimates of the cost of repairing or restoring the property to substantially the  
16 condition in which it existed prior to the damage, allowing for changes or  
17 improvements necessitated by changes in applicable building codes.  
18

19           11.5.2    Damaged improvements on the Common Area shall be repaired  
20 or reconstructed unless Members representing at least 75% of the total votes in the  
21 Association decide within 60 days after the loss not to repair or reconstruct. If either the  
22 insurance proceeds or estimates of the loss, or both, are not available to the Association  
23 within such 60-day period, then the period shall be extended until such funds or  
24 information are available. However, such extension shall not exceed 60 additional days.  
25 No first mortgagee shall have the right to participate in the determination of whether  
26 the damage or destruction to the Common Area shall be repaired or reconstructed.  
27

28           11.5.3    If a decision is made not to restore the damaged improvements,  
29 and no alternative improvements are authorized, the affected property shall be cleared  
30 of all debris and ruins and thereafter shall be maintained by the Association in a neat  
31 and attractive, landscaped condition consistent with the community-wide standard.  
32

33           11.5.4    Any insurance proceeds remaining after paying the costs of  
34 repair or reconstruction, or after such settlement as is necessary and appropriate, shall  
35 be retained by the Association for the benefit of its members and placed in a capital  
36 improvements account. This is a covenant for the benefit of mortgagees and may be  
37 enforced by the first mortgagee of any affected Lot.  
38

39           11.5.5    If insurance proceeds are insufficient to cover the costs of repair  
40 or reconstruction, the Board may, without a vote of the members, levy Special  
41 Assessments to cover the shortfall against those Owners responsible for the premiums  
42 for the applicable insurance coverage under Section 11.1.  
43

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

**ARTICLE 12**  
**ENFORCEMENT**

12.1. Right of Association to Enforce. The Association or any Owner has the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. This shall include enforcement of the Rules and Architectural Design Guidelines adopted the Board of Directors to carry out the Association's purposes and duties under the Community Documents.

12.1.1 Attorney Fees. In the event of a dispute between the Association and an Owner or between Owners, the prevailing party in any Court action or administrative proceeding shall be awarded its reasonable attorney's fees and costs. If no Court action or administrative proceeding is brought, the Association shall be reimbursed by the pertinent Owner(s), all reasonable attorneys' fees and costs it incurs in enforcing the Community Documents.

12.1.2 Waiver. No delay or omission on the part of the Association in exercising its right to enforcement of this Declaration shall be construed as a waiver of or acquiescence in any breach of any of the restrictions and covenants, and no right of action shall accrue against the Board of Directors, the Association or any Owner for their neglect or refusal to exercise such right of enforcement.

12.1.3 Protection of Mortgagee. No breach of the foregoing provisions, conditions, restrictions or covenants shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of the Property. Such provisions, conditions, restrictions and covenants shall be enforceable against any portion of the Property acquired by any person through foreclosure for any breach occurring after such acquisition.

12.2 Fines and Penalties. If any Owner, his/her family, or any guest, licensee, invitee, or tenant violates the Community Documents, the Board may levy a fine/penalty upon the Owner of the Lot for each violation and/or may suspend the right of such person to use the recreational facilities of the Common Area, under such conditions as the Board may specify. Each day a violation continues after written notice to cease has been mailed shall be considered a separate violation and shall be subject to the imposition of a fine. Any fines which remain unpaid for a period of 10 days after notice to pay, including the imposition of late fees and interest, shall be deemed delinquent and subject to collection by the Association by any lawful means.

12.3 Enforcement Procedures. The following enforcement procedure will be followed:

1           12.3.1 Notice. Written notice to cease and desist from an alleged  
2 violation shall be served upon the Owner who is the alleged violator specifying: (A) the  
3 provision of the Community Documents that has been violated; (B) the date of the  
4 violation or the date the violation was observed; (C) the action required to abate the  
5 violation; (D) the process the Owner must follow to contest the notice; and (E) if the  
6 violation is a continuing one, a time period of not less than 10 days in which to cure the  
7 violation, unless the violation constitutes a safety or health hazard, or if the violation is  
8 not a continuing one, a statement that any further violation of the same provision of the  
9 Community Documents may result in the imposition of a fine or penalty after notice  
10 and hearing.

11  
12           12.3.2 Owner's Right to Respond. An Owner receiving notice of a  
13 violation may provide the Board of Directors with a written response by certified mail  
14 within 10 business days after the date of the notice. The Owner's response must be sent  
15 to the Association's address of record. Within 10 business days after receipt of the  
16 Owner's response, the Association shall respond to the Owner's questions or assertions,  
17 which may include the first and last name of the person(s) who observed the violation.  
18 Except as otherwise provided by applicable law, the Association may not proceed with  
19 any action to enforce the Community Documents against the violator, including the  
20 collection of attorney fees, before or during the time limits prescribed for the exchange  
21 of information between Board and the Owner.

22  
23           12.3.3 Notice of Hearing. If the violation continues past the period  
24 allowed in the Association's notice for abatement without penalty, or if the same  
25 provision of the Community Documents is subsequently violated, and the Board  
26 intends to levy a fine/penalty, the Board shall serve the violator with written notice of a  
27 hearing to be held by the Board in executive session. Service may be made personally  
28 or by first class mail to the violator's address of record. The notice shall contain: (A)  
29 the nature of the alleged violation; (B) the time and place of the hearing, which time  
30 shall be not less than ten days from the giving of notice; (C) an invitation to attend the  
31 hearing and produce any statement, evidence and witnesses on his/her behalf; and (D)  
32 the proposed sanctions to be imposed, which may include the imposition of a fine.

33  
34           12.3.4 Hearing. The hearing shall be held in executive session of the  
35 Board of Directors, pursuant to the aforesaid Notice, thereby affording the Owner a  
36 reasonable opportunity to be heard. Protocol of the hearing will be set by the Board of  
37 Directors. Prior to the effectiveness of any sanction hereunder, proof of notice and the  
38 invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be  
39 deemed adequate if a copy of the notice together with a statement of the date and  
40 manner of delivery is entered into the minutes by the officer or director who delivered  
41 such notice. If the Owner does not appear at the hearing, the Board will presume the  
42 validity of the Notice of Violation and may levy a fine or penalty.



1 Declaration and amendments thereof. In addition, each such person by so doing  
2 thereby acknowledges that this Declaration sets forth a general scheme to the  
3 development of the Property and hereby evidences his intent that all restrictions,  
4 conditions, covenants, rules and regulations contained herein shall run with the land  
5 and be binding on all subsequent and future owners, grantees, purchasers, assignees  
6 and transferees thereof.

7  
8 13.2 Mortgagee Protection. No breach of the provisions, conditions,  
9 restrictions or covenants contained within this Declaration shall defeat or render invalid  
10 the lien of any Mortgage made in good faith for value as to any portion of the Property.  
11 Such provisions, conditions, restrictions and covenants shall be enforceable against any  
12 portion of the Property acquired by any person through foreclosure or by deed in lieu  
13 of foreclosure or any breach occurring after such acquisition.

14  
15 13.3 Severability. Invalidation of any covenant, restriction, provision or term  
16 of this Declaration by judgment or court order shall not affect any other covenant,  
17 restriction, provision or term hereof which shall remain in full force and effect.

18  
19 13.4 Term. The aforesaid provisions, conditions, restrictions and covenants,  
20 and each and all thereof, as they are from time to time amended in accordance with the  
21 provisions of Section 13.5 hereof, shall run with the land and continue and remain in  
22 full force and effect at all times and against all persons, unless at least 90% of the Lot  
23 Owners shall agree in writing to terminate them.

24  
25 13.5 Amendment. This Declaration may be amended, at any time, by the  
26 affirmative vote (at a meeting or by mail vote) of 51% of the Owners (casting one vote  
27 per Lot). Amendments or revocations to this Declaration need not uniformly affect all  
28 portions of the Property. Any amendment to this Declaration by the Owners shall be  
29 evidenced by a written document signed by the President and Secretary of the  
30 Association, attesting that the Owners consented to such amendment. The amendment  
31 shall become effective when filed in the records of the Pima County Recorder's office.

32  
33 13.6 Captions and Titles. All captions and titles used in this Declaration are  
34 intended solely for convenience or reference purposes only and in no way define, limit  
35 or describe the true intent and meaning of the provisions hereof.

36  
37 13.7 Gender and Number. Whenever the context of this Declaration so  
38 requires, the words used in the masculine gender shall include the feminine and neuter  
39 genders. Words used in the neuter gender shall include the masculine and feminine  
40 genders. Words in the singular shall include the plural, and words in the plural shall  
41 include the singular.





1 STATE OF ARIZONA )  
2 : ss.  
3 County of Pima )  
4

5 ACKNOWLEDGED BEFORE ME this 21st day of January, 2009, by  
6 Kaye Gray, as President of THE SPRINGS AT SANTA RITA  
7 HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation.  
8  
9

10 /s/ Cynthia M. King  
11 Notary Public  
12  
13

14 STATE OF ARIZONA )  
15 : ss.  
16 County of Pima )  
17

18 ACKNOWLEDGED BEFORE ME this 21st day of January, 2009, by  
19 Constance M. Fish, as Secretary of THE SPRINGS AT SANTA RITA  
20 HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation.  
21  
22

23 /s/ Cynthia M. King  
24 Notary Public  
25  
26  
27  
28  
29  
30  
31  
32

## EXHIBIT A

### Roadhaven Resorts

Lots 1 thru 424 and Common Areas A and B, of ROADHAVEN RESORTS OF GREEN VALLEY, per map recorded in Book 37, Page 4 of Maps and Plats, in the office of the Pima County Recorder, Pima County, Arizona.

Excepting the following from Common Area B:

Recreation Common Area "B"

That certain parcel of land situated in the San Ignacio de la Canoa Private Land Grant, according to the survey of said land grant made by the United States Surveyor General on March 10, 1901, and which said survey is now on file in the United States Surveyor General's office in Phoenix, in the State of Arizona, and to which reference is being made, within Pima County, Arizona, more particularly described as follows:

Commencing at a point on the South line of the North half of said land grant, said point being on the East right-of-way line of I-19, Tucson-Nogales Highway;

Thence North 22 degrees 27' 31" East along the East right-of-way line of I-19, said line also being the West line of Roadhaven Resorts, Inc. of Green Valley, a subdivision of Pima County, Arizona, according to the Map or Plat thereof of record in the office of the County Recorder of Pima County, Arizona, in Book 37 of Maps and Plats at Page 4, a distance of 1305.00 feet to a point, said point being the intersection of the West line of Roadhaven Resorts, Inc. and the centerline of Via Rio Fuerte, a private drive;

Thence departing said West line South 67 degrees 32' 29" East a distance of 234.14 feet along the centerline of Via Rio Fuerte, to the beginning of a tangent curve concave to the Northwest having a radius of 185.00 feet;

Thence Northeasterly 127.06 feet along the arc of said curve, through a central angle of 39 degrees 21' 02" to a point of tangency;

Thence North 73 degrees 06' 29" East a distance of 22.86 feet;

Thence departing said centerline of Via Rio Fuerte South 16 degrees 53' 31" East a distance of 17.00 feet to a point, said point being the True Point of Beginning;

Thence North 73 degrees 06' 29" East a distance of 188.66 feet to the beginning of a tangent curve concave to the Southeast having a radius of 168.00 feet;

Thence Southeasterly 115.38 feet along the arc of said curve, through a central angle of 39 degrees 21' 02" to a point of tangency;

Thence South 67 degrees 32' 29" East a distance of 170.00 feet to the beginning of a tangent curve concave to the Southeast having a radius of 308.00 feet;

Thence Southeasterly 144.84 feet along the arc of said curve, through a central angle of 26 degrees 56' 41" to a point of tangency;

Thence South 40 degrees 35' 48" East a distance of 92.36 feet to the beginning of a tangent curve to the southwest having a radius of 25.00 feet;

Thence Southeasterly 39.27 feet along the arc of said curve, through a central angle of 90 degrees 00' 00" to a point of tangency;

Thence South 49 degrees 24' 12" West a distance of 140.94 feet;

Thence South 52 degrees 27' 31" West, a distance of 305.17 feet to the beginning of a tangent curve concave to the North having a radius of 25.00 feet;

Thence Southwesterly 39.27 feet along the arc of said curve, through a central angle of 90 degrees 00' 00" to a point of tangency;

Thence North 37 degrees 32' 29" West a distance of 329.00 feet to the beginning of a tangent curve concave to the Northeast having a radius of 168.00 feet;

Thence Northerly 74.80 feet along the arc of said curve, through a central angle of 25 degrees 30' 32" to a point of tangency;

Thence North 12 degrees 01' 57" West, a distance of 123.66 feet to the beginning of a tangent curve concave to the Southeast having a radius of 25.00 feet;

Thence Northeasterly 37.15 feet along the arc of said curve, through a central angle of 85 degrees 08' 27" to a point; said point being the True Point of Beginning.

### **The Springs II at Santa Rita**

THE SPRINGS II AT SANTA RITA, Lots 1-114 and Common Areas "A" and "B," according to the plat recorded in Book 50 of Maps and Plats at Page 68, records of Pima County, Arizona,

**The Springs II Resubdivision, Lots 1 thru 51 and Common Areas "A" and "B":**

The Springs II Resubdivision, Lots 1 thru 51 and Common Areas "A" and "B," according to the plat recorded in Book 51 of Maps and Plats at Page 68, records of Pima County, Arizona, being a resubdivision of THE SPRINGS II AT SANTA RITA, Lots 1-52 and 109 thru 114 of the Springs II at Santa Rita, Lots 1 thru 114 and Common Areas "A" and "B," according to the plat recorded in Book 50 of Maps and Plats at Page 68, records of Pima County, Arizona, and described as follows:

COMMENCING at the Southwesterly corner of said THE SPRINGS II AT SANTA RITA, Lots 1 thru 114 and Common Areas "A" and "B;"

THENCE South  $59^{\circ} 12' 41''$  East along the Southerly line of said THE SPRINGS II AT SANTA RITA, Lots 1 thru 114 and Common Areas "A" and "B," a distance of 1071.98 feet;

THENCE leaving said Southerly line North  $62^{\circ} 16' 13''$  East a distance of 68.63 feet to a point on the arc of a non-tangent curve concave Northeasterly, said point being on the Westerly right-of-way line of Golden Lynx Road according to said plat of THE SPRINGS II AT SANTA RITA, Lots 1 thru 114 and Common Areas "A" and "B;"

THENCE along said Westerly right-of-way the following courses and distances;

Northerly the arc of said curve to the right having a radius of 50.00 feet and a central angle of  $77^{\circ} 45' 35''$  for an arc distance of 67.86 feet to a point of reverse curvature of a tangent curve concave Northwesterly;

Northerly along the arc of said curve to the left having a radius of 50.00 feet and a central angle of  $38^{\circ} 42' 22''$  for an arc distance of 33.81 feet;

North  $11^{\circ} 17' 26''$  East a distance of 316.66 feet to a point of curvature of a tangent curve concave Easterly;

Northerly along the arc of said curve to the right having a radius of 196.00 feet and a central angle of  $29^{\circ} 16' 55''$  for an arc distance of 100.17 feet;

North  $40^{\circ} 34' 21''$  East a distance of 234.35 feet;

THENCE leaving said westerly right-of-way, North  $49^{\circ} 27' 05''$  West a distance of 349.28 feet to a point on the Westerly boundary of said THE SPRINGS II AT SANTA RITA, Lots 1 thru 114 and Common Areas "A" and "B;"

THENCE along said boundary the following courses and distances;

South 52° 27' 31" West a distance of 320.49 feet;

North 67° 32' 29" West a distance of 622.30 feet;

South 22° 27' 31" West a distance of 455.00 feet to the POINT OF BEGINNING.