

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: DG
DEPUTY RECORDER
9999 PE5



DOCKET: 12791
PAGE: 5279
NO. OF PAGES: 79
SEQUENCE: 20060801067
04/26/2006
ARSTR 16:48
PICKUP
AMOUNT PAID \$ 104.00

W
A1 PROCESS
PICK UP

Amended and Restated Declaration of
Covenants, Conditions, and Restrictions
For Sabino Springs

10/01/05

79

TABLE OF CONTENTS

Article 1, Definitions	
Section 1.1 through Section 1.40	3
Article 2, Property Rights	
Property Rights	9
Article 3, The Association	
Section 3.1, Membership in the Association	9
Section 3.2, Voting Rights	10
Section 3.3, Suspension of Voting Rights	10
Section 3.4, Purpose of Association	10
Section 3.5, Rights and Responsibilities of Association	11
Section 3.6, Members' Rights	11
Article 4, Maintenance	
Section 4.1, Association's General Responsibilities	11
Subsections 4.1.1 through 4.1.4	
Section 4.2, Owners' Maintenance Responsibilities	12
Section 4.3, No Discrimination	13
Section 4.4, Ad Valorem Taxes on Common Area	13
Section 4.5, Additional Maintenance	13
Article 5, Insurance and Fidelity Bonds; Casualty Losses	
Section 5.1, Insurance to be Obtained by the Association	14
Subsections 5.1.1 through 5.1.8	
Section 5.2, Insurance to be Obtained by the Owners	16
Subsection 5.2.1	
Section 5.3, Casualty Losses	17
Subsections 5.3.1 through 5.3.3	
Article 6, Annexation of Additional Property; De-annexation	
Section 6.1, Reservation of Certain Annexation Rights	19
Section 6.2, Limitations on Other Annexations	20

Section 10.14, Sanitation	45
Section 10.15, Walls, Fences, Interferences, and Obstructions	46
Section 10.16, Nuisance	46
Section 10.17, Drainage Alteration; Easements	47
Section 10.18, Clothes-Drying Facilities	47
Section 10.19, Pets	47
Section 10.20, Leasing; Obligations of Tenants and Other Occupants	48
Subsections 10.20.1 through 10.20.4	
Section 10.21, Storage and Tool Sheds or Structures	49
Section 10.22, Landscaping and Maintenance	50
Section 10.23, Miscellaneous	51
Article 11, Golf Course	
Section 11.1, Disclaimers Regarding Golf Course	51
Section 11.2, Rights of Access	52
Section 11.3, Limitations on Amendments	52
Section 11.4, Golf Cart Path Easement	53
Section 11.5, Golf Balls, Disturbances, and Nuisances	53
Section 11.6, Operation of the Golf Course	54
Section 11.7, Covenant to Help Fund Association's Conservation Functions	54
Article 12, Association's Conservation Functions	
Section 12.1, Association's Intent	54
Section 12.2, Open Space Protection Plan	54
Subsections 12.2.1 through 12.2.6	
Section 12.3, Permitted Encroachments	55
Section 12.4, NOS Shall Remain Unimproved	56
Section 12.5, Land Protection	56
Section 12.6, Effectuation	56
Section 12.7, Notice and Opportunity to Cure	56
Section 12.8, Amendment of Conservation Functions	56
Section 12.9, Pima County Interest	57

Article 13, Enforcement

Section 13.1, Right to Enforce	57
Subsections 13.1.1 through 13.1.2	
Section 13.2, Notice of Violation	58
Section 13.3, No Obligation to Enforce	59
Section 13.4, Cumulative Rights and Remedies	59
Section 13.5, Violation of Law	59

Article 14, General Provisions

Section 14.1, Term	59
Section 14.2, Amendment or Revocation of Declaration	60
Section 14.3, Indemnification	60
Section 14.4, Easements for Utilities	61
Section 14.5, Bulk Service Agreements	62
Subsections 14.5.1 through 14.5.7	
Section 14.6, No Partition	64
Section 14.7, Severability; Interpretation; Exhibits; Gender	64
Section 14.8, Perpetuities	65
Section 14.9, Property Held in Trust	65
Section 14.10, Number of Days	65
Section 14.11, Amendments to Articles and Bylaws	66
Section 14.12, Fire Management Policies	66
Section 14.13, Counterparts	66

Exhibits

- "A" – Limited Common Areas and External Roadways
- "B" – Casitas Legal Description

1 1.3 “Architectural Committee” shall mean the committee established
2 pursuant to Article 9.

3 1.4 “Articles” shall mean the Articles of Incorporation of the Association, as
4 the same may be amended from time to time in accordance with the provisions thereof
5 and with the applicable provisions of this Declaration, the Bylaws and the statutes and
6 regulations of the State of Arizona.

7 1.5 “Assessments” shall mean the Annual Assessments and the Special
8 Assessments (as well as any other amounts declared by this Declaration to be a part of
9 the Assessments or declared by this Declaration to be secured by the lien created under
10 Section 8.3).

11 1.6 “Association” shall mean the Sabino Springs Homeowners Association, an
12 Arizona nonprofit corporation, and its successors and assigns.

13 1.7 “Association Rules” shall mean the reasonable rules and regulations
14 adopted by the Association pursuant to Section 7.3.

15 1.8 “Block” shall mean the sections of the Property numbered 1-19 as shown
16 on the Plat, but shall not include Common Areas A and B shown thereon or the Off-Site
17 Roadway Parcels.

18 1.9 “Board” shall mean the Board of Directors of the Association elected in
19 accordance with the provisions of the Articles, the Bylaws, and the statutes and
20 regulations of the State of Arizona.

21 1.10 “Bylaws” shall mean the Bylaws of the Association, as the same may be
22 amended from time to time in accordance with the provisions thereof and with the
23 applicable provisions of this Declaration, the Articles, and the Statutes and regulations
24 of the State of Arizona.

25 1.11 “Casita” shall mean one of the six casitas constructed on the land adjacent
26 to the Recreation Center (as described on Exhibit B), which may be rented on a short-
27 term basis per the Sabino Springs Development Plan. For the purposes of this

1 Declaration, each Casita shall be considered a Dwelling Unit on a Lot, even though the
2 Block on which the Casitas are located has not been resubdivided

3 1.12 "Common Area" shall mean all real property (including the
4 Improvements thereon), all easements and licenses, and all personal property and
5 facilities owned from time to time by the Association for the common use and
6 enjoyment of the Owners, but shall not include any Natural Open Space over which the
7 Association holds a conservation easement or similar interest. Common Area includes
8 (but is not limited to) the Additional Common Area annexed as part of the Property on
9 August 4, 1993 (as described in the Second Amendment of Declaration of Covenants,
10 Condition and Restrictions for Sabino Springs, dated August 4, 1993, and Recorded
11 August 11, 1993, in Docket 9603, page 1829 *et seq.*, office of the Pima County Recorder,
12 which is incorporated herein by this reference). "Limited Common Areas" shall be
13 included as Common Areas under this Declaration although Limited Common Areas
14 may be subject to different standards and responsibilities, as provided herein.

15 1.13 "Common Expenses" shall mean the actual and estimated expenses of
16 operating the Association (including any reasonable reserves), of exercise by the
17 Association of its rights hereunder, and of fulfillment by the Association of its duties
18 and obligations imposed hereby, all as may be found to be necessary and appropriate
19 by the Board pursuant to this Declaration, the Articles, or the Bylaws; provided that,
20 notwithstanding the foregoing, Common Expenses shall not include the expenses of the
21 Association in carrying out its Conservation Functions.

22 1.14 "Conservation Functions" shall mean the obligations of the Association
23 with regard to the protection of the Natural Open Space over which the Association is
24 granted conservation easements or other similar interests, as more particularly
25 described in Article 12.

26 1.15 "Declaration" shall mean this Amended and Restated Declaration of
27 Covenants, Conditions, and Restrictions, as the same may be amended from time to
28 time.

1 1.16 "Dwelling Unit" shall mean any building intended for use and occupancy
2 as a residence by a Single Family.

3 1.17 "Estate Natural Area" shall mean the area within each estate lot described
4 in the Specific Plan that is designated as natural open space in accordance with the
5 Specific Plan.

6 1.18 "First Mortgage" shall mean a Mortgage Recorded against a Lot or the
7 Golf Course, which has priority over all other Mortgages Recorded against that Lot or
8 the Golf Course.

9 1.19 "Golf Course" shall mean the area denoted as a golf course and depicted
10 on the Plat as such, being Blocks 16, 17, 18, and 19, less any portions thereof that have
11 been subsequently conveyed to the Association as Common Area, or over which the
12 Association is granted a conservation easement or similar interest. "Golf Course" also
13 shall include Block 5, which is reserved for construction and operation of a clubhouse,
14 pro shop, bar, food service facility, parking, cart storage and all related uses customarily
15 associated with the operation of a golf course.

16 1.20 "Green Fees" shall mean only the fees charged by, and actually paid to,
17 the Owner of the Golf Course or the operator thereof by users of the Golf Course for the
18 privilege of playing golf on the Golf Course. For the purpose of calculating the
19 Conservation Fee that is paid by the Golf Course to the Association, Green Fees shall
20 not include any membership fees, driving range fees, clubhouse dues or charges for
21 food or beverages, golf lessons, cart or golf club rentals, driving range golf ball usage,
22 golf equipment repair, pro shop sales or any similar fees or charges. For purposes
23 hereof, the fee charged by, and actually paid to the Owner of the Golf Course or the
24 Operator thereof by a single user of the Golf Course for the privilege of playing golf on
25 the Golf Course on any particular day shall constitute one (1) Green Fee, no matter how
26 many holes or rounds of golf that single user plays on that particular day.

1 1.21 "Improvement" shall mean buildings, roads, driveways, parking areas,
2 fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures
3 or landscaping improvements of every type and kind.

4 1.22 "Limited Common Area" shall mean that portion of the Common Area
5 of Sabino Springs, legally described on Exhibit A, and any Improvements thereon.

6 1.23 "Lot" shall mean and refer to Lots numbered 1 through 516 inclusive,
7 shown on the Plat, and any Improvements thereon. Lot also shall include each Casita.

8 1.24 "Member" shall mean any Person entitled to membership in the
9 Association, as provided in this Declaration.

10 1.25 "Mortgage" shall mean a deed of trust, as well as a mortgage, which, in
11 either case, is Recorded against a Lot or the Golf Course.

12 1.26 "Mortgagee" shall mean a beneficiary under a deed of trust, as well as a
13 mortgagee under a mortgage, which, in either case, is Recorded against a Lot or the
14 Golf Course.

15 1.27 "Natural Open Space" and "NOS" shall mean: (a) the areas generally
16 depicted on Exhibit A; (b) the Estate Natural Area; (c) slopes of twenty percent (20%) or
17 greater; and (d) whatever additional undisturbed open space is eventually designated
18 to meet the natural open space requirements of the Specific Plan.

19 1.28 "Occupant" shall mean any Person other than an Owner who occupies or
20 is in possession of a Lot and/or the Golf Course, whether as a lessee under a lease or
21 otherwise.

22 1.29 "Open Space Protection Plan" shall mean the plan approved by Pima
23 County to provide for the protection of the NOS.

24 1.30 "Off-Site Roadway Parcels" shall mean that portion of the Property legally
25 described on Exhibit A.

26 1.31 "Owner" shall mean the Person or Persons who individually or
27 collectively own fee title to a Lot and/or the Golf Course (as evidenced by a Recorded
28 instrument), The term "Owner" shall not include (a) any Person who holds an interest

1 in a Lot and/or the Golf Course merely as security for the performance of an obligation;
2 or (b) a lessee, tenant or other Occupant of a Lot and/or the Golf Course.
3 Notwithstanding the foregoing, a Person who holds fee title to a Lot and/or the golf
4 course solely as a trustee under a deed of trust pursuant to chapter 6.1 of Title 22 of the
5 Arizona Revised Statutes shall not be deemed to be the "Owner" of such Lot and/or the
6 golf Course; instead, for purposes of determining the "Owner" of such Lot and/or the
7 Golf Course in accordance with this Section, the trustor under such deed of trust shall
8 be deemed to hold fee title to such Lot and/or the Golf Course.

9 1.32 "Permitted Encroachments" shall mean the infrastructure Improvements
10 (including roadways, utility lines and drainage improvements), golf course crossings
11 and limited development areas permitted by the Specific Plan to encroach into the NOS.

12 1.33 "Person" shall mean a natural person, corporation, partnership, trust,
13 trustee or other legal entity.

14 1.34 "Plat" shall mean that certain plat of Sabino Springs, Blocks 1-19 and
15 Common Area A, Recorded April 16th, 1993 at Book 44 of Maps and Plats, Page 78,
16 records of Pima County, Arizona, and all resubdivision plats referred to in the Plat.

17 1.35 "Property" shall mean all real property within Blocks 1-19 and Common
18 Area A as shown on the Plat and the Off-Site Roadway Parcels, and shall further
19 include such additional property, if any, as may hereafter be annexed thereto pursuant
20 to Article 6 or as is now or may hereafter be owned in fee simple by the Association, but
21 shall not include real property, if any, which is deleted and removed from the Property
22 pursuant to Section 6.6.

23 1.36 "Record," "Recording," "Recorded," and "Recordation" shall mean
24 placing or having placed an instrument of public record in the official records of Pima
25 County, Arizona, or of such other governmental authority, office of official with which
26 or whom the applicable laws of the state of Arizona prescribe that documents affecting
27 title to real property in the area including the Property are to be placed of public record.

28 1.37 "Retail Purchaser" shall mean any purchaser of a Lot.

1 1.38 “Single Family” shall mean a group of persons related by blood, marriage
2 or legal adoption, or a group of unrelated persons maintaining a common household.

3 1.39 “Special Assessments” shall mean those Assessments levied in accordance
4 with Section 8.11.

5 1.40 “Specific Plan” shall mean the Sabino Springs Specific Plan, as originally
6 adopted by the passage of Ordinance No. 1990-58 by the Pima county Board of
7 Supervisors on June 5th, 1990 and as subsequently amended by the passage of
8 Ordinance No. 1992-61 by the Pima County Board of Supervisors on July 21st, 1992.

9 **ARTICLE 2**

10 **PROPERTY RIGHTS**

11 Every Owner of a Lot shall have a non-exclusive right and easement of
12 enjoyment in, to and over the Common Area, subject to any restrictions or limitations
13 contained in this Declaration or in any Recorded instrument conveying to the
14 Association or subjecting to this Declaration such Common Area, and subject further to
15 the Association Rules and to any Recorded instrument granting rights with respect to
16 the Common Area to any other Person. Any such Owner may assign his, her or its right
17 of enjoyment to (and share the same with) the members of his or her household and
18 assign the same to and share the same with his, her or its tenants and invitees, subject to
19 the provisions of this Declaration and to reasonable regulation by the Board and
20 otherwise in accordance with such procedures as the Board may adopt. An Owner who
21 leases his, her or its Lot shall be deemed to have delegated such Owner’s rights and
22 easements under this Article 2 to the lessee of such Lot for the term of such lease.

23 **ARTICLE 3**

24 **THE ASSOCIATION**

25 3.1 Membership in the Association. Each Owner of a Lot, by virtue of being
26 an Owner, shall automatically be a Member of the Association. Membership in the
27 Association shall be appurtenant to each Lot owned and shall not be transferred,
28 pledged, or alienated in any way, except upon the transfer of ownership to a Lot, and

1 then only to the transferee thereof. Any transfer of ownership of a Lot shall operate
2 automatically to transfer said membership to the new Lot Owner. Any attempted
3 transfer of membership separate from the appurtenant Lot or Lots shall be void.

4 3.2 Voting Rights. Each Member shall be entitled to one (1) vote for each Lot
5 owned. No change in the ownership of a Lot shall be effective for voting purposes until
6 the Association receives written notice of such change together with satisfactory
7 evidence of the transfer. When more than one (1) Person holds an interest in any Lot,
8 all such Persons shall be Members. The vote for such Lot shall be exercised as the
9 Owners may determine, but in no event shall more than one (1) vote be cast with
10 respect to any Lot owned. Fractional votes are not allowed. In the event a Lot is owned
11 by more than one (1) Person and such Owners are unable to agree on how their vote(s)
12 shall be cast, they shall not be entitled to vote on the matter in question. If any Owner
13 exercises his/her vote on any matter, it will be conclusively presumed that the Owner is
14 acting with the authority and consent of all the other Owners of the Lot unless an
15 objection is made to the Board, in writing, at or prior to the time the vote is cast. If more
16 than one Person votes or attempts to exercise the vote for a particular Lot all of those
17 votes shall be void.

18 3.3 Suspension of Voting Rights. The Association may suspend the voting
19 rights of any Member for any period during which any Assessment against his/her Lot
20 remains unpaid and delinquent.

21 3.4 Purpose of Association. The Association is a non-profit corporation which
22 serves as the governing body for all Members for the protection, improvement,
23 alteration, maintenance, repair, replacement, administration and operation of the
24 Common Areas, the assessment of expenses, payment of losses, and other matters as
25 provided in this Declaration, the Articles, the Bylaws, the Association Rules, and the
26 statutes and regulations of the State of Arizona.

27 3.5 Rights and Responsibilities of Association. The Association, through the
28 Board of Directors unless specifically provided otherwise, shall have the right of

1 enforcement of all provisions of this Declaration, the Articles, the Bylaws, the
2 Association Rules, and the statutes and regulations of the State of Arizona. Without
3 limiting the foregoing, the Association shall be responsible for the proper and efficient
4 management and operation of the Common Areas and any other areas for which it is
5 responsible under the terms of this Declaration or for which it has assumed
6 responsibility

7 3.6 Members' Rights. Each Member shall have the rights, duties and
8 obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules
9 and any other rules and regulations adopted pursuant to any of the foregoing.

10 **ARTICLE 4**

11 **MAINTENANCE**

12 4.1 Association's General Responsibilities. In addition to the Association's
13 Conservation Functions under Article 12, the Association shall maintain and keep in
14 good repair the Common Area (and certain other areas, as more expressly provided in
15 this Section 4.1), and the costs of such maintenance shall be Common Expenses of the
16 Association (subject to any insurance then in effect). This maintenance shall include,
17 but not be limited to:

18 4.1.1 Maintenance, repair and replacement of all landscaping materials,
19 plants, structures and Improvements situated upon the Common Area;

20 4.1.2 Maintenance, repair and replacement of landscaping materials,
21 plants, perimeter or boundary walls surrounding the exterior boundaries of the
22 Property and Property identification signs located in or upon public rights-of-way
23 immediately adjacent to the exterior boundaries of the Property (if the Board obtains, at
24 its discretion, the legal right for the Association to maintain, repair and replace such
25 items in the public right-of-way); and

26 4.1.3 Maintenance, repair and replacement of landscaping materials,
27 plants, walls, signs and other Improvements within areas (other than the Natural Open
28 Space) designated on one or more subdivision plats or other instruments Recorded by,

1 or bearing the written approval of the Association with respect to all or portions of the
2 Property, as "landscape easements," "landscape and wall easements" or "landscape and
3 sign easements" (or similar designations) to be maintained by the Association.

4 4.1.4 The Association shall have no obligation or responsibility for the
5 maintenance, repair or replacement of Limited Common Areas, although maintenance
6 activities may be undertaken by the Association on and with respect to Limited
7 Common Areas in the sole and absolute discretion of the Board , and without any
8 obligation to do so or to continue doing so. Absent emergency or exigent
9 circumstances, any maintenance activities which the Board elects to undertake upon a
10 Limited Common Area shall be undertaken after the expiration of fourteen (14) days'
11 written notice to the owner(s) of such Limited Common Area, provided such owner(s)
12 are not diligently then undertaking such maintenance activities.

13 4.2 Owners' Maintenance Responsibilities. Each Owner shall be responsible
14 for the maintenance, cleaning, painting, repair and general care of his or her Lot and all
15 Improvements thereon. In particular, each Owner shall cause the exterior of the
16 Dwelling Unit on the Lot to be maintained in good condition and repair and in an
17 attractive state, consistent with general community standards within the Property. In
18 the event that the Board shall determine, after providing reasonable notice and an
19 opportunity to be heard, that an Owner is in breach of such Owner's obligations under
20 the preceding sentence, the Board shall promptly give such Owner written notice of
21 such determination, including a reasonably detailed list or description of the repairs,
22 maintenance or other work required to cure such Owner's breach. In the event the
23 Owner shall not have cured such breach within thirty (30) days after the date of said
24 written notice, the Association may, in the discretion of the Board, cause the repairs,
25 maintenance or other work to be performed so as to cure such Owner's breach. The
26 costs of doing so shall be the personal obligation of such Owner and shall constitute a
27 lien on such Owner's Lot, which lien shall have the priority and may be enforced in the
28 manner described in Section 8.3. The Association also shall have standing and authority

1 to request that a court of competent jurisdiction compel such Owner to cure such
2 breach, and to the extent not inconsistent with an order of such court, the Association
3 may pursue either or both of the courses of action described in this Section. The
4 Association shall have an easement on, over, across and through each Lot to permit it to
5 carry out its duties and obligations under this Article 4.

6 4.3 No Discrimination. The provision of services in accordance with this
7 Article shall not be deemed to be discrimination in favor of or against any Owner.

8 4.4 Ad Valorem Taxes on Common Area. The Association shall be
9 responsible for the timely payment of all *ad valorem* taxes validly assessed against the
10 Common Area.

11 4.5 Additional Maintenance. In addition to the general maintenance
12 activities of the Association with respect to the Common Areas and the discretionary
13 maintenance power of the Board with respect to Limited Common Areas, each as set
14 forth in Section 4.1 hereof, the Association shall be entitled to provide additional
15 maintenance, repair, replacement and similar activities even if such activities
16 exclusively or disproportionately benefit all Lots within a specific portion of the
17 Property then or previously subject to the provisions of a Subassociation . All such
18 additional Maintenance shall be undertaken in the sole and absolute discretion of the
19 Board without any obligation to do so or to continue to do so. The Board also shall be
20 entitled to establish reserves for such additional maintenance without any obligation to
21 do so. Such additional maintenance shall not relieve the Association of its general
22 maintenance responsibilities hereunder, and all such additional Maintenance shall be in
23 addition to and an enhancement of such general maintenance activities.
24

25 ARTICLE 5

26 INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES

27 5.1 Insurance to be Obtained by the Association.

1 5.1.1 Hazard Insurance. The Board, acting on behalf of the Association,
2 shall obtain and maintain at all times, insurance for all insurable Improvements on the
3 Common Area, against loss or damage by fire or other hazards, casualties and risks
4 embraced within the coverage of the standard "extended coverage" policy available
5 from time to time in the State of Arizona, against all other perils customarily covered
6 for similar types of projects (including those covered by the standard "all risk"
7 endorsement available from time to time in the State of Arizona), and against loss or
8 damage due to vandalism and malicious mischief. Said insurance shall be in an amount
9 equal to 100% of the current replacement cost, from time to time, without deduction for
10 depreciation, of all such insurable Improvements (excluding land, foundations,
11 excavations and other items usually excluded from such insurance coverage, but
12 including fixtures and building service equipment and personal property and supplies
13 owned by the Association).

14 5.1.2 Liability Insurance. The Board, acting on behalf of the Association,
15 shall obtain and maintain at all times a comprehensive general liability policy insuring
16 the Association, each member of the Board, and each Member of the Association against
17 any liability to the public or to any Owner or Occupant (and such Owner's or
18 Occupant's invitees, agents, employees, tenants, guests, servants and household
19 members) for death, bodily injury and property damage arising out of or incident to the
20 ownership or use of the Common Area or any other real property owned by the
21 Association or over which the Association holds a conservation easement or similar
22 interest or arising out of or incident to the performance by the Association of its
23 maintenance and other obligations hereunder. In no event shall said policy or policies
24 provide coverage less than One Million Dollars (\$1,000,000.00) for death, bodily injury
25 and property damage for any single occurrence.

26 5.1.3 Flood Insurance. In the event any part of the Common Area is in
27 a "special flood hazard area," as defined by the Federal Emergency Management
28 Agency or its successors, the Board, acting on behalf of the Association, shall obtain and

1 maintain at all times during which any part of the Common Area is in such a "special
2 flood hazard area" a "master" or "blanket" policy of flood insurance covering all
3 insurable Improvements on the Common Area, and covering any personal property
4 situated from time to time within such Improvements (to the extent such personal
5 property is normally covered by the standard flood insurance policy available from
6 time to time in the State of Arizona). Said insurance shall be in an amount not less than
7 the lesser of: (a) 100% of the current replacement cost, from time to time, of all such
8 insurable Improvements (and such insurable personal property) located in the "special
9 flood hazard area"; or (b) the maximum coverage available for such insurable
10 Improvements and insurable personal property under the National Flood Insurance
11 Program.

12 5.1.4 General Provisions Governing Insurance. The insurance required
13 to be obtained under Subsections 5.1.1, 5.1.2 and 5.1.3 shall be written with one or more
14 companies authorized to provide such insurance in the State of Arizona and exclusive
15 authority to adjust losses under policies in force on property owned or insured by the
16 Association shall be vested in the Board.

17 5.1.5 Fidelity Bonds. The Board, acting on behalf of the Association,
18 shall obtain and maintain at all times adequate fidelity bond coverage to protect against
19 dishonest acts on the part of officers, directors and employees of the Association, and all
20 others who handle, or are responsible for handling, funds held or administered by the
21 Association, whether or not such officers, directors, employees or others receive
22 compensation for services they render to or on behalf of the Association. Any
23 independent management agent which handles funds for the Association also shall
24 obtain (and pay for) such fidelity bond coverage with respect to its own activities (and
25 those of its directors, officers and employees, whether or not such directors, officers or
26 employees receive compensation for services rendered). Such fidelity bonds: (a) shall
27 name the Association as obligee; (b) shall be issued by one or more companies
28 authorized to issue such bonds in the State of Arizona; and (c) shall be in an amount

1 sufficient to cover the maximum total of funds reasonably expected by the Board to be
2 in the custody of the Association or such agent at any time while such bond is in force.
3 Each such fidelity bond shall provide that the issuer thereof shall provide no fewer than
4 ten (10) days written notice to the Association before such bond may be cancelled or
5 substantially modified for any reason.

6 5.1.6 Workers' Compensation Insurance. The Board, acting on behalf of
7 the Association, shall obtain and maintain workers' compensation insurance if and to
8 the extent necessary to meet the requirements of applicable law.

9 5.1.7 Cost of Insurance. All premiums for the insurance or bonds
10 required to be obtained by the Board by this Section 5.1, shall be Common Expenses
11 (except that, as provided in Subsection 5.1.5, the cost of the fidelity bond required to be
12 furnished by any independent management agent shall be paid by such agent). The
13 Board shall not be liable for failure to obtain or maintain any of the insurance coverage
14 required by this Section 5.1, or for any loss or damage resulting from such failure, if
15 such failure is due to the unavailability of such insurance coverage from reputable
16 companies authorized to provide such insurance in the State of Arizona, or if such
17 insurance coverage is available only at an unreasonable cost.

18 5.1.8 Limited Common Area Insurance. The Association shall be under no
19 obligation or responsibility to maintain any insurance coverages with respect to Limited
20 Common Areas, notwithstanding that Limited Common Areas are included within
21 Common Areas under this Declaration.

22 5.2 Insurance to be Obtained by the Owners.

23 5.2.1 Hazard and Contents Insurance. It shall be each Owner's
24 individual responsibility to procure, as such Owner sees fit and at such Owner's sole
25 expense, such fire, liability, theft and any other insurance covering: (a) any Dwelling
26 Unit and any other structure on such Owner's property; and (b) any and all fixtures and
27 personal property upon such Owner's property or in such Dwelling Unit or other
28 structure(s).

1 5.3 Casualty Losses.

2 5.3.1 Damage and Destruction.

3 5.3.1.1 Immediately after any damage or destruction by fire or other
4 casualty to all or any part of the property required to be insured by the Association
5 under Section 5.1, the Board or its duly authorized agent shall: (a) proceed with the
6 filing and adjustment of all claims arising under such insurance; (b) obtain reliable and
7 detailed estimates of the cost of repair or reconstruction of the damaged or destroyed
8 property; and (c) upon receipt of the proceeds of such insurance and except as is
9 otherwise provided in this Subsection 5.3.1, use such proceeds to repair or reconstruct
10 the damaged or destroyed property. The terms "repair" and "reconstruction" (or
11 variants thereof), as used in this Article 5 shall mean repairing or restoring the property
12 in question to substantially the same condition as that in which it existed prior to the
13 fire or other casualty (or, where applicable, replacing the damaged or destroyed
14 property with property substantially similar to the damaged or destroyed property as it
15 existed prior to such damage or destruction).

16 5.3.1.2 Any major damage or destruction to the property required
17 to be insured by the Association under Section 5.1 shall be repaired or reconstructed
18 unless: (a) at a special meeting of the Members of the Association duly noticed and
19 convened within ninety (90) days after the occurrence of such damage or destruction,
20 the Members determine, by the affirmative vote of at least two-thirds (2/3) of all
21 Members represented in person or by valid proxy at a meeting of Members duly called
22 for that purpose, not to repair or reconstruct. If, for any reason, either the amount of
23 the insurance proceeds to be paid as a result of such damage or destruction, or reliable
24 and detailed estimates of the cost of repair or reconstruction, or both, are not made
25 available to the Association within said period, then the period shall be extended until
26 such information shall be made or become reasonably available. The Board shall
27 determine whether any minor damage or destruction to the Common Area should be
28 repaired or reconstructed.

1 5.3.1.3 In the event that it is determined in the manner described
2 above that the damage or destruction of any part of the Common Area shall not be
3 repaired or reconstructed and no alternative Improvements are authorized, then such
4 property shall be maintained by the Association in a neat and attractive condition as an
5 undeveloped portion of the Common Area.

6 5.3.2 Excess or Deficiency of Proceeds. If the damage or destruction for
7 which the insurance proceeds are paid is to be repaired or reconstructed and such
8 proceeds are not sufficient to pay the cost thereof, the Board shall, without the necessity
9 of a vote of the Members, levy assessments against the Owners of Lots, which
10 assessments shall be allocated as described in Section 8.9. Additional assessments may
11 be made in like manner at any time during or following the completion of any repair or
12 reconstruction. Any assessments levied pursuant to this Subsection 5.3.2 shall be
13 deemed to be a part of the Assessments and shall be secured by the lien created by
14 Section 8.3. If the funds available from insurance exceed the cost of repair, such excess
15 shall be used to meet Common Expenses or, in the discretion of the Board, placed in a
16 reserve account for contingencies or capital improvements.

17 5.3.3 Repair or Reconstruction of Dwelling Units or Other Structures. In
18 the event of the destruction of a Dwelling Unit or other structure on a Lot or the Golf
19 Course, or of damage to such Dwelling Unit or other structure which, in the reasonable
20 judgment of the Board, materially affects the exterior appearance thereof, the Board
21 shall have the right, at its option, exercisable by written notice to the Owner of the
22 property upon which such Dwelling Unit or other structure is situated, to require such
23 Owner to repair or reconstruct (or cause to be repaired or reconstructed), at such
24 Owner's expense, subject to any insurance proceeds as such Owner may then or
25 thereafter receive with respect to such destruction or damage, such Dwelling Unit or
26 other structure within such reasonable period of time as shall be specified by the Board
27 in such notice. The Board may exercise such right and establish such time period
28 notwithstanding such Owner's failure to maintain hazard or casualty insurance upon

1 his, her or its property or any structures thereon, and notwithstanding any
2 unavailability or delay in receipt of proceeds of any insurance policy or policies,
3 although the Board may take such matters into account in establishing or extending the
4 time period within which such repair or reconstruction must be completed. Any such
5 repair or reconstruction work shall be performed in compliance with all applicable
6 provisions hereof, and the Owner shall take such steps as are reasonably necessary to
7 prevent damage to surrounding property and injury to persons as may result from or
8 arise in connection with the destroyed or damaged Dwelling Unit or other structure, or
9 the repair or reconstruction activities with respect thereto.

10 ARTICLE 6

11 ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

12 6.1 Reservation of Certain Annexation Rights. While, as of the date this
13 Declaration is Recorded, the Association has no plans to annex Annexable Property, it is
14 possible that one or more portions (and perhaps all) of the Annexable Property may
15 from time to time be annexed to the Property (and thereby subjected to the provisions
16 of this Declaration). Therefore, while the Association shall have no obligation or duty
17 to annex all or any portion of the Annexable Property, the Association hereby reserves
18 the right, privilege and option, from time to time hereafter, to add and annex to the
19 Property (and thereby to subject to the provisions of this Declaration), any part(s) or all
20 of the Annexable Property, without the vote of the Members and without notice to or
21 approval of any holder, insurer or guarantor of any Mortgage or of any other Person.
22 Notwithstanding the foregoing sentence, no portion of the Annexable Property may be
23 annexed to the Property unless, at the time of each and any such annexation, the owner
24 of the portion to be Annexed consents in a written, Recorded instrument to such
25 annexation.

26 6.2 Limitations on Other Annexations. As of the date this Declaration is
27 Recorded, the Association does not anticipate that any additional property, other than
28 portions or all of the Annexable Property, as provided in Section 6.1, will be annexed to

1 the Property, and additional property not included within the Annexable Property may
2 be annexed to the Property, and thereby subjected to the provisions of this Declaration,
3 only: (a) by the affirmative vote of at least two-thirds (2/3) of the Members represented
4 in person or by valid proxy at a meeting of Members duly called for that purpose; and
5 (b) with the express written consent of each owner of all or any part of the property
6 proposed to be annexed.

7 6.3 Recordation of Annexation Instrument. Upon approval, to the extent
8 required by this Article 6, of any annexation of property to the Property, the President
9 and Secretary of the Association, in the case of annexation of all or any part of the
10 Annexable Property pursuant to Section 6.1, shall execute, acknowledge and Record an
11 instrument effecting and evidencing such annexation (which instrument also shall be
12 duly executed and acknowledged by each owner of all or any part of the property being
13 annexed), and such annexation shall be deemed effective only upon such Recordation.
14 Such instrument (or a separate instrument Recorded by the Association, as applicable,
15 against any property annexed to the Property pursuant to this Article 6 and executed by
16 the owner of such annexed property) may subject the annexed property to such
17 additional covenants, conditions and restrictions as the owner thereof may deem
18 appropriate or desirable (subject, however, to approval thereof by the Association, as
19 applicable, and to such other approval rights as may be granted hereby to other parties
20 in connection with such annexation); provided, however, that any and all such
21 additional covenants, conditions and restrictions shall be subordinate and subject to the
22 provisions of this Declaration.

23 6.4 Effect of Annexation. Upon the effective date of an annexation pursuant
24 to this Article 6: (a) the property so annexed shall immediately be a part of the Property
25 and subject to all of the provisions hereof; (b) any Lot then or thereafter constituting a
26 part of the annexed property, and the Owner of any such Lot, shall thereupon be subject
27 to all of the provisions of this Declaration (including, but not limited to, the provisions
28 of Articles 2, 3, and 8); (c) any part or parts of the property annexed which is or are

1 designated or declared to be Common Area shall thereupon be subject to the provisions
2 of this Declaration (including, but not limited to, the provisions of Articles 2 and 4); and
3 (d) Improvements then or thereafter situated upon the annexed property shall be
4 subject to the provisions of this Declaration and shall be reasonably consistent, in terms
5 of quality of construction, with the Improvements situated upon other portions of the
6 Property prior to such annexation.

7 6.5 No Obligation to Annex. Nothing herein shall constitute a representation,
8 warranty or covenant that the Association, any successor or assign of the Association,
9 or any other Person will subject any additional property (whether or not a part of the
10 Annexable Property) to the provisions of this Declaration, nor shall the Association, any
11 successor or assign of the Association, or any other Person be obligated so to do, and
12 the Association may, by Recorded instrument executed by the President and Secretary
13 of the Board, waive its rights so to do, in whole or in part.

14 6.6 De-Annexation. Notwithstanding any other provision of this Declaration,
15 the Association shall have the right to delete from the Property and remove from the
16 effect of this Declaration one or more portions of the Property; provided, however, that:

17 (a) at the time of such deletion and removal, such portion is owned by
18 the Association or, in the case of a deletion and removal of a portion of the Property not
19 owned by the Association, at the request of the owner(s) of such portion, the
20 Association executes and Records an instrument approving such deletion and removal;

21 (b) a portion of the Property may not be so deleted and removed
22 unless at the time of such deletion and removal, no Dwelling Unit(s) or Common Area
23 recreational facilities have been constructed thereon;

24 (c) a portion of the Property may not be so deleted and removed if
25 such deletion and removal would deprive Owners and Occupants of other parts of the
26 Property of access or other easements or rights-of way necessary to the continued use of
27 their respective parts of the Property (unless the Association, at the same time, provides
28 for reasonably adequate replacement easements or rights-of-way);

1 (d) no portion of the Property comprising Natural Open Space may be
2 so deleted and removed; and

3 (e) there is approval by the affirmative vote of at least two-thirds (2/3)
4 of the Members represented in person or by valid proxy, at a meeting of Members duly
5 called for that purpose. The Association may exercise its rights under this Section 6.6 in
6 each case by executing and causing to be Recorded an instrument which identifies the
7 portion of the Property to be so deleted and removed, and which is executed by the
8 President and Secretary of the Association. The deletion and removal of such portion of
9 the Property shall be effective upon the later of: (a) the date such instrument is
10 Recorded; or (b) the effective date specified in such instrument, if any, whereupon,
11 except as otherwise expressly provided in this Section 6.6, the portion of the Property so
12 deleted and removed shall thereafter for all purposes no longer be deemed a part of the
13 Property or subject to this Declaration, and the owner(s) thereof (or of interests therein)
14 shall not be deemed to be Owners or Members or have any other rights or obligations
15 hereunder. No such deletion and removal of a portion of the Property shall act to
16 release such portion from the lien for Assessments or other charges hereunder which
17 have accrued prior to the effective date of such deletion and removal, but all such
18 Assessments or other charges shall be appropriately prorated to the effective date of
19 such deletion and removal, and no Assessments or other charges shall thereafter accrue
20 hereunder with respect to the portion of the Property so deleted and removed. Each
21 portion of the Property deleted and removed pursuant to this Section 6.6 shall
22 thereafter be deemed to be a part of the Annexable Property, unless otherwise expressly
23 provided to the contrary in the instrument Recorded by the Association to effect such
24 deletion and removal.

25
26 **ARTICLE 7**

27 **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

1 7.1 Common Areas. The Association, subject to the rights of the Owners set
2 forth in this Declaration, shall be responsible for the management and control of the
3 Common Areas and shall keep the Common Areas in good, clean, attractive and
4 sanitary condition, order and repair, pursuant to the terms and conditions hereof. The
5 Association also shall maintain the portion of all slopes located adjacent to the Common
6 Area roadways, so that erosion from such slopes does not interfere with the passage of
7 vehicles and pedestrians over such roadways. To the extent that any such slopes do not
8 constitute Common Areas, the Owners of such slopes hereby grant to the Association a
9 non-exclusive easement in order to allow the Association to carry out its maintenance
10 obligation hereunder.

11 At the Board's discretion, the Association may manage, control and keep
12 in good, clean, attractive and sanitary condition, order and repair any of the Limited
13 Common Areas, if determined in the sole and absolute discretion of the Board, to be in
14 the best interests of the Association, without imposing or creating any obligation or
15 liability upon the Association with respect to future management, control and
16 maintenance of the Limited Common Areas.

17 7.2 Personal Property and Real Property for Common Use. The Association,
18 through action of the Board, may acquire, hold and dispose of tangible and intangible
19 personal property and real property, except that no dedication, sale or transfer of the
20 fee title to all or any part of the Common Areas shall be made or effective unless
21 approved by by the affirmative vote of at least two-thirds (2/3) of the Members
22 represented in person or by valid proxy, at a meeting of Members duly called for that
23 purpose. The Board, acting on behalf of the Association, shall accept any real or
24 personal property, leasehold or other property interests within, adjacent to, or related
25 to, all or any part of the Property.

26
27 7.3 Rules and Regulations. By a majority vote of the Board, the Association
28 may, from time to time and subject to the provisions of this Declaration, adopt, amend

1 and repeal the Association Rules. The Association Rules may restrict and govern the
2 use of the Property; provided, however, that the Association Rules shall not
3 discriminate among Owners and Occupants except to reflect their different rights and
4 obligations as provided herein, and shall not be inconsistent with this Declaration, the
5 Articles, or the Bylaws. The Association rules shall be intended to enhance the
6 preservation of the Property. Upon adoption, the Association Rules shall have the same
7 force and effect as if they were set forth herein. Sanctions for violation of the
8 Association Rules may be imposed by the Board and may include suspension of the
9 right to vote and the right to use the recreational facilities on the Common Areas, and
10 may also include reasonable monetary fines (so long as such fines are
11 nondiscriminatory and are in accordance with a general schedule of fines adopted or
12 amended by the Board prior to the date of the particular violation for which a fine is to
13 be imposed). No suspension of an Owner's right to vote or of the right of such Owner
14 (or any Occupant of such Owner's Lot or any guest or household member of such
15 Owner or Occupant) to use the recreational facilities on the Common Areas due to a
16 violation of the Association Rules may be for a period longer than sixty (60) days
17 (except where such Owner or Occupant fails or refuses to cease or correct an ongoing
18 violation or commits the same or another violation, in which event such suspension
19 may be extended for additional periods not to exceed sixty (60) days until such
20 violation ceases or is corrected).

21 7.4 Availability of Books, Records and Other Documents. The Association
22 shall maintain complete and current copies of this Declaration, the Articles, the Bylaws,
23 and the Association Rules (as well as any amendments to the foregoing), and of the
24 books, records and financial statements of the Association. Upon the prior written
25 request by any Owner, the Association shall make the same available for inspection, at
26 reasonable times and under reasonable circumstances, by such Owner. All funds
27 allocable to the Conservation Functions of the Association pursuant to Sections 8.1, 8.12,

1 9.12 and 11.7, shall be kept in a separate account by the Association and shall be
2 separately accounted for.

3 7.5 Implied Rights. The Association may exercise any other right or privilege
4 given to it expressly by this Declaration, the Articles, the Bylaws, or applicable law, and
5 every other right or privilege reasonably to be implied from the existence of any right of
6 privilege given to it herein or reasonably necessary to effectuate any such right or
7 privilege.

8 7.6 Board of Directors and Officers. The affairs of the Association shall be
9 conducted by the Board and such officers as the Board may elect or appoint in
10 accordance with the Articles and the Bylaws. The Board may appoint various
11 committees at its discretion. The Board may also appoint or engage a manager to be
12 responsible for the day-to-day operation of the Association, the Common Areas, and
13 any Natural Open Space over which the Association holds a conservation easement or
14 similar interest. The Board shall determine the compensation to be paid to the manager.

15 ARTICLE 8

16 ASSESSMENTS

17 8.1 Creation of Assessment Right. In order to provide funds to enable the
18 Association to meet its financial and other obligations and to create and maintain
19 appropriate reserves, there hereby is created a right of assessment exercisable on behalf
20 of the Association by the Board. Annual Assessments and Special Assessments shall be
21 for Common Expenses and, except as otherwise provided herein, shall be allocated
22 equally among all Lots.

23 Notwithstanding the immediately preceding provisions of this Section 8.1, in
24 addition to Common Expenses, Annual Assessments also shall be used to help fund the
25 Conservation Functions of the Association as described in Article 12. The portion of the
26 Annual Assessments allocable to the Conservation Functions of the Association shall be
27 one dollar (\$1.00) per assessable Lot per year at the time this Declaration is Recorded.
28 In no event shall the portion of the Annual Assessments allocable to the Conservation

1 Functions of the Association be increased to exceed two dollars (\$2.00) per assessable
2 Lot per year without the affirmative vote of at least two-thirds (2/3) of the Members
3 represented in person or by valid proxy, at a meeting of Members duly called for that
4 purpose or who are voting by mail-in ballot, in accordance with the Bylaws.

5 8.2 Covenants with Respect to Assessments. Each Owner, by acceptance of
6 his, her or its deed (or other conveyance instrument) with respect to a Lot or the Golf
7 Course, is deemed to covenant and agree to pay the Assessments levied pursuant to this
8 Declaration. The Board of Directors shall have the authority to levy late fees for
9 Assessment payments that are delinquent beyond thirty (30) days, and such late fees
10 shall continue to accrue, together with interest, from the date due at a monthly rate as
11 set by Board. Owner also shall be responsible for such other costs and reasonable
12 attorneys' fees as may be incurred by the Association in seeking to collect such
13 Assessments. Assessments together with late fees, interest, costs and reasonable
14 attorney's fees, as provided in this Section 8.2, also shall be the personal obligation of
15 the Person who or which was the Owner of a Lot or the Golf Course at the time such
16 Assessment arose; provided, however, that the personal obligation for delinquent
17 Assessments shall not pass to a successor in title of such Owner unless expressly
18 assumed by such successor. No Owner shall be relieved of his, her or its Assessment
19 obligation by abandoning or not using his, her or its Lot, or the Common Area, or by
20 leasing or otherwise transferring occupancy rights with respect to his, her or its Lot.
21 However, upon transfer by an Owner of fee title to such Owner's Lot, as evidenced by a
22 Recorded instrument, such transferring Owner shall not be liable for any Assessments
23 thereafter levied against such Lot. The obligation to pay Assessments is a separate and
24 independent covenant on the part of each Owner of a Lot and the Golf Course. No
25 diminution or abatement of Assessments or set-off shall be claimed or allowed by
26 reason of the alleged failure of the Association or Board to take some action or perform
27 some function required to be taken or performed by the Association or Board under this
28 Declaration, the Articles or the Bylaws, or for inconvenience or discomfort arising from

1 the making of repairs or improvements which are the responsibility of the Association,
2 or from any action taken to comply with any law or ordinance or with any order or
3 directive of any municipal or other governmental authority.

4 8.3 Lien for Assessments; Foreclosure. There is hereby created and
5 established a lien against each Lot, which shall secure payment of all present and future
6 Assessments assessed or levied against such Lot or the Owner or Occupant thereof
7 (together with any present or future charges, fees, fines, penalties or other amounts
8 levied against such Lot or the Owner or Occupant thereof pursuant to this Declaration
9 or the Articles, the Bylaws or the Association Rules). There is hereby also created and
10 established a lien against the Golf Course, which shall secure payment of any present or
11 future charges, fines, penalties or other amounts levied against the Golf Course or the
12 Owner thereof pursuant to this Declaration or the Articles, the Bylaws or the
13 Association Rules. Such liens are and shall be prior and superior to all other liens
14 affecting the property in question, except: (a) all taxes, bonds, assessments and other
15 levies which, by law, would be superior thereto; and (b) the lien or charge of any First
16 Mortgage made in good faith and for value. Such liens may be foreclosed in the
17 manner provided by law for the foreclosure of mortgages. The sale and transfer of any
18 property pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall
19 extinguish the above-described liens as to payments which became due prior to such
20 sale or transfer, but no such sale or transfer shall relieve such property from liability for
21 any payments becoming due after such sale or transfer, or from the lien thereof. The
22 Association shall have the power to bid for any property at any sale to foreclose the
23 Association's lien on the property, and to acquire and hold, lease, mortgage and convey
24 the same. During the period any Lot is owned by the Association, no right to vote shall
25 be exercised with respect to said Lot and no Assessments (whether Annual Assessments
26 or Special Assessments) shall be assessed or levied on or with respect to said Lot;
27 provided, however, that the Association's acquisition and ownership of a Lot under
28 such circumstances shall not be deemed to convert the same into Common Area. The

1 Association may maintain a suit to recover a money judgment for unpaid Assessments,
2 interest and attorneys' fees and/or charges, fines, penalties, other amounts levied
3 against property or the Owner thereof, together with interest and attorney's fees,
4 without foreclosing or waiving the lien securing same. Recording of this Declaration
5 constitutes record notice and perfection of the liens established hereby, and further
6 Recordation of any claim of a lien for Assessments or other amounts hereunder shall
7 not be required, whether to establish or perfect such lien or to fix the priority thereof, or
8 otherwise (although the Board shall have the option to Record written notices of claims
9 of lien in such circumstances as the Board may deem appropriate).

10 8.4 Dates Assessments Commence. Except as otherwise provided herein,
11 Assessments shall be payable with respect to a Lot from the date upon which title to
12 said Lot, shall first be conveyed to a Retail Purchaser, and such Assessments shall be
13 payable regardless of whether a Dwelling Unit or other structure shall be situated upon
14 such Lot on such date. As to any Lot conveyed to a Retail Purchaser, Assessments as to
15 such Lot shall be prorated as of the close of escrow with respect to such Lot (or, if no
16 escrow is utilized, as of the date of Recordation of the deed conveying such Lot to such
17 Retail Purchaser).

18 8.5 Casita Assessments. Each Casita became subject to Assessments due
19 hereunder as of January 1, 2004. Until vertical construction is commenced on a Casita,
20 the owner thereof shall pay Assessments equal to one-half of the amount applicable to a
21 Lot. Thereafter, the Assessments payable for each Casita shall be the same as for a Lot.

22 8.6 Golf Course Assessments. The Golf Course owner is obligated to
23 participate in Assessments for its share of the use of the Common Area and other
24 benefits provided by the Association. The formula for determining the Assessments
25 owed by the Golf Course is a percentage of the total costs of certain Association
26 expenses as follows: (Utility Expense + Administration Expense + Gatehouse Expense)
27 x 14%, and (Roadway + Landscape) x 47% x 14%.

1 8.7 Computation of Assessments; Annual Budget. The Board shall prepare
2 and adopt an estimated annual budget for each fiscal year of the Association, which
3 annual budget shall serve as the basis for determining the Annual Assessments for the
4 applicable fiscal year (subject to the limitations of Section 8.7 hereof). Such budget shall
5 take into account the estimated Common Expenses and cash requirements of the
6 Association for the year, including the amount required to be allocated to the
7 Conservation Functions of the Association pursuant to Section 8.1. The annual budget
8 also shall take into account the estimated net available cash income for the year, if any,
9 from the operation or use of any of the Common Area. The annual budget also shall
10 provide for a reserve for contingencies for the year (and for subsequent fiscal years) and
11 a reserve for replacements, all in such reasonably adequate amounts as shall be
12 determined by the Board, taking into account the number and nature of replaceable
13 assets, the expected life of each asset, and each asset's expected repair or replacement
14 cost. Not later than thirty (30) days following the meeting at which the Board adopts
15 the annual budget for the year in question, the Board shall cause to be delivered or
16 mailed to each Owner a copy of the budget and a statement of the amount of the
17 Annual Assessments to be levied against such Owner's Lot for the fiscal year in
18 question. In the event the Board fails to adopt a budget for any fiscal year prior to
19 commencement of such fiscal year, then until and unless such budget is adopted, the
20 budget (and the amount of the Annual Assessments provided for therein) for the year
21 immediately preceding shall remain in effect. Subject to the provisions of this Section
22 8.7 neither the annual budget (nor any amended budget) adopted by the Board, nor any
23 Assessment levied pursuant thereto, shall be required to be ratified or approved by the
24 Owners. If, at any time during a fiscal year of the Association the Board deems it
25 necessary to amend the budget for such year, the Board may do so and may levy an
26 additional Annual Assessment for such year (subject to the limitations imposed by
27 Section 8.9), or may call a meeting of the Members to request that the Members approve
28 a Special Assessment pursuant to Section 8.11. Within thirty (30) days after adoption of

1 the amended budget (if the Board elects to levy an additional Annual Assessment), the
2 Board shall cause a copy of the amended budget and a statement of the additional
3 Annual Assessments to be levied against the Lots to be delivered or mailed to each
4 Owner. If, instead, the Board elects to call a meeting of Members to seek approval of a
5 Special Assessment, the Board shall cause a copy of the amended budget proposed by
6 the Board to be delivered or mailed to each Owner with the notice of such meeting, and
7 if a Special Assessment is duly approved by the Members at such meeting, shall cause a
8 statement of the Special Assessment to be levied against each Lot to be promptly mailed
9 or delivered to each Owner.

10 8.8 Due Dates. Annual Assessments for each fiscal year shall be due and
11 payable in equal periodic installments, payable not more frequently than monthly nor
12 less frequently than semiannually, as determined for such fiscal year by the Board, with
13 each such installment to be due and payable on or before the first day of the applicable
14 period during that fiscal year. Special Assessments, if any, shall be paid in such manner
15 and on such dates as may be fixed by the Board. In addition to any other powers of
16 collection or enforcement granted hereunder, in the event any Assessments (or
17 installments thereof) with respect to a Lot are delinquent, the Board shall have the right,
18 in its sole discretion, to accelerate the date on which all Assessments with respect to
19 such Lot are due and payable. For purposes of this Declaration, Assessments shall be
20 deemed "paid" when actually received by the Association or by its manager or agent
21 designated by the Association to collect the same (provided, however, that if any
22 Assessments were paid by check and the bank or other institution upon which such
23 check is drawn thereafter dishonors and refuses to pay such check, those Assessments
24 shall not be deemed "paid" and shall remain due and payable with interest accruing
25 from the date such Assessments were originally due).

26 8.9 Annual Assessment Adjustments. The Board may, without the approval
27 of the Members, adjust the Annual Assessment for any fiscal year by an amount
28 sufficient to permit the Board to meet any changes over the preceding fiscal year in:

1 (a) premiums for any insurance coverage required by the Declaration to be maintained
2 by the Association; or (b) charges for utility services necessary to the Association's
3 performance of its obligations under this Declaration. Should the Board deem it
4 necessary to raise the Annual Assessment by more than ten percent (10%) over the
5 previous fiscal year's Annual Assessment, for reasons other than those outlined in (a)
6 and (b) above, such an increase must be approved by the affirmative vote of at least
7 two-thirds (2/3) of the Members represented in person or by valid proxy, at a meeting
8 of Members duly called for that purpose. In addition, in the event the Association at
9 any time hereafter annexes any or all of the Annexable Property, and the Association's
10 added maintenance and other responsibilities with respect to Common Area and other
11 property thereby annexed, necessitate an adjustment in the Annual Assessment greater
12 than otherwise permitted under this Section 8.9 without approval of the Members, the
13 Board nevertheless may adjust such Annual Assessment, effective not earlier than the
14 first sale to a Retail Purchaser of a Lot within the portion(s) so annexed, without the
15 vote of the Members, so long as such adjustment is in an amount and in accordance
16 with a revised budget approved by the Board. Such new Annual Assessment, shall
17 thereupon be substituted for the previously-established Annual Assessment for the
18 applicable fiscal year.

19 8.10 Notice and Quorum for Meetings to Consider Special Assessments and
20 Certain Adjustments in Annual Assessments. Notwithstanding any other provision of
21 this Declaration, the Articles, Bylaws or Association rules, written notice of any meeting
22 called for the purpose of: (a) approving the establishment of any Special Assessment, as
23 required by Section 8.11 hereof; or (b) approving any adjustment in the Annual
24 Assessment greater than that permitted by application of the computation set forth in
25 Section 8.7, shall be sent to all Members not less than thirty (30) days nor more than
26 sixty (60) days prior to the date of said meeting. At the first meeting thus called to
27 consider the particular Special Assessment or adjustment in the Annual Assessment, a
28 quorum shall consist of two-thirds (2/3) of the total votes in the Association,

1 represented in person or by valid proxy at a meeting of Members duly called for that
2 purpose; provided, however, that if a quorum, as so determined, is not present at said
3 first meeting, a second meeting may be called (subject to the same notice requirements
4 as set forth above) to consider the same issue, and a quorum at said second meeting
5 shall be one-half of the required quorum at the first meeting, as described above. Such
6 second meeting may not be held more than sixty (60) days after the first meeting.

7 8.11 Special Assessments. In addition to the Annual Assessments, the Board
8 may levy Special Assessments from time to time; provided, however, that any Special
9 Assessment shall be effective only with approval by the affirmative vote of at least two-
10 thirds (2/3) of the Members represented in person or by valid proxy, at a meeting of
11 Members duly called and convened to consider such Special Assessment. Subject to
12 Section 8.4, Special Assessments shall be allocated equally among all Lots.

13 8.12 Title Transfer Fee. In order to help fund the Conservation Functions of
14 the Association as described in Article 12, each successive Retail Purchaser of any Lot
15 that has been improved with a Dwelling Unit, shall pay to the Association a per Lot fee
16 within ten (10) days following conveyance of fee title of any such Lot to such Retail
17 Purchaser. The per Lot fee described in this Section shall be an amount that shall be set
18 at the Board's sole discretion.

19 8.13 Certificates. The Board shall, upon the written request of any Owner, and
20 upon payment of such reasonable charge as may be determined by the Board, furnish to
21 the requesting party a certificate, executed by an authorized representative of the
22 Association, stating the date to which Assessments with respect to such Owner's Lot
23 have been paid, and the amount, if any, of any Assessments which have been levied
24 with respect to said Lot, but which remain unpaid as of the date of such certificate. Said
25 certificate shall be binding upon the Association as to the matters set forth therein as of
26 the date thereof.

27 8.14 Surplus Monies. Unless otherwise expressly determined by the Board,
28 any surplus monies of the Association shall be held by the Association and placed in

1 one or more reserve accounts as determined by the Board and shall not be paid to the
2 Owners or credited against the Owners' respective liabilities for Assessments.

3 8.15 Expenses Resulting from Misconduct. Notwithstanding any other
4 provision of this Article 8, if any expense of the Association is caused by the misconduct
5 of any Owner (or of any Occupant, tenant, employee, servant, agent, guest or invitee for
6 whose actions such Owner is responsible under this Declaration or applicable law), the
7 Board may assess that expense exclusively against such Owner and such Owner's
8 property, which amount (together with any and all costs and expenses, including but
9 not limited to attorneys' fees incurred by the Association in recovering the same) shall
10 be secured by the lien created pursuant to Section 8.3.

11 **ARTICLE 9**

12 **ARCHITECTURAL STANDARDS;**

13 **ARCHITECTURAL COMMITTEE**

14 9.1 Appointment of Architectural Committee; Standing to Enforce. All
15 property which is now or hereafter subject to this Declaration shall be subject to
16 architectural, landscaping and aesthetic review as provided herein. This review shall be
17 in accordance with this Article 9 and such standards as may be promulgated by the
18 Architectural Committee, which is hereby established. Authority and standing on
19 behalf of the Association to enforce in any court of competent jurisdiction, decisions of
20 the Architectural Committee and the provisions of this Article 9, shall be vested in the
21 Board. The Board shall appoint the members of the Architectural Committee, which
22 shall have such number of members [but not fewer than three (3)] as the Board may
23 elect, from time to time. Each member of the Architectural Committee appointed by the
24 Board shall serve in such capacity until: (a) such member is removed by the Board; or
25 (b) such member resigns such position or dies. At any time when there is no one
26 serving on the Architectural Committee (whether due to death, resignation or removal),
27 the Board shall have and exercise any and all rights, powers, duties and obligations of
28 the Architectural Committee.

1 9.2 Jurisdiction of the Architectural Committee; Promulgation of Standards.

2 The Architectural Committee shall have jurisdiction over all original construction and
3 any modifications, additions or alterations to Improvements on any portion of the
4 Property, including, but not limited to, the construction or installation of, or
5 modifications, additions or alterations to: (a) Dwelling Units and any other buildings or
6 other structures; (b) swimming pools; (c) landscaping; (d) fences and walls; (e) heating,
7 ventilating, air conditioning and cooling units and other exterior mechanical
8 equipment; (f) solar panels; (g) paint; (h) Golf Course structures and improvements; and
9 (i) any other construction, modification, addition, alteration, clearing, excavation or
10 grading affecting the exterior appearance of any structure or the Property. Subject to
11 the approval of the Board, the Architectural Committee shall adopt, and from time to
12 time, may amend, supplement or repeal architectural and landscaping standards and
13 application procedures, and shall make the same available to Members who seek to
14 engage in construction upon any portion of the Property. Such standards and
15 procedures shall have the same force and effect as the Association Rules. Such
16 standards and procedures may include, without limitation, provisions regarding:

17 9.2.1 the size of Dwelling Units;

18 9.2.2 architectural design, with particular regard to the harmony of the
19 design with surrounding structures and topography;

20 9.2.3 placement of buildings;

21 9.2.4 landscaping design, content and conformance with the character of
22 the Property, and permitted and prohibited plants;

23 9.2.5 requirements concerning exterior color schemes, exterior finishes
24 and materials;

25 9.2.6 signage;

26 9.2.7 cut and fill limitations; and

27 9.2.8 perimeter and screen wall design and appearance.

1 9.3 Submission and Review of Plans. No original construction, modification,
2 alteration or addition subject to the Architectural Committee's jurisdiction (including,
3 but not limited to, landscaping) shall be commenced until it has been approved or is
4 deemed approved by the Architectural Committee as provided herein. Any Owner or
5 other Person seeking to construct or install any new Improvements or landscaping or to
6 make any modification, alteration or addition to any existing Improvement (including,
7 but not limited to, landscaping) upon any portion of the Property (or to cause same to
8 be constructed, installed or made) shall first submit to the Architectural Committee (in
9 care of the Association) detailed plans, specifications and elevations relating to the
10 proposed construction, installation, modification, alteration or addition. The
11 Architectural Committee shall have thirty (30) days after receipt of such plans,
12 specifications and elevations (and thirty (30) days after any required re-submittal
13 thereof) to approve or disapprove the proposed construction, installation, modification,
14 alteration or addition or to request additional information, and, if the Architectural
15 Committee disapproves, to give such Owner or other Person reasonably detailed
16 written reasons for such disapproval. In the event the Architectural Committee fails
17 either to approve or disapprove the proposed construction, installation, modification,
18 alteration or addition (or to request additional information) within said thirty (30) day
19 period, such proposed construction, installation, modification, alteration or addition
20 shall be deemed not approved.

21 9.4 Obligation to Obtain Approval.

22 9.4.1 Except as otherwise expressly provided in this Declaration or the
23 Architectural Committee's standards and procedures, without the prior written
24 approval by the Architectural Committee of plans and specifications prepared and
25 submitted to the Architectural Committee in accordance with the provisions of this
26 Declaration and such standards and procedures:

27 (a) No improvements, alterations, repairs, excavation, grading,
28 landscaping or other work shall be done which in any way alters the exterior

1 appearance of any portion of the Property or Improvements thereon from their natural
2 or improved state; and

3 (b) No building, fence, wall, pool, roadway, driveway or other
4 structure, Improvement or grading shall be commenced, erected, maintained, altered,
5 changed or made on any portion of the Common Areas at any time, unless approved by
6 the Architectural Committee and Board of Directors, and for the express purpose of
7 offering an Common Area accessible to all Members.

8 9.4.2 No exterior trees, bushes, shrubs, plants or other landscaping shall
9 be planted or placed upon the Property except in compliance with plans and
10 specifications therefor which have been submitted to and approved by the Architectural
11 Committee in accordance with its standards and procedures and in compliance with
12 Section 9.11.

13 9.4.3 No material changes or deviations in or from the plans and
14 specifications for any work to be done on the Property, once approved by the
15 Architectural Committee, shall be permitted without approval of the change or
16 deviation by the Architectural Committee.

17 9.4.4 No other item or matter required by this Declaration to be
18 approved in accordance with this Article 9 shall be done, undertaken or permitted until
19 approved by the Architectural Committee.

20 9.5 Changes to Interiors of Dwelling Units or Other Structures. Nothing
21 contained herein shall be construed to limit the right of an Owner to remodel the
22 interior of his, her or its Dwelling Unit or other structure on such Owner's property.

23 9.6 Other Approvals; Limitation of Liability. No approval by the
24 Architectural Committee of any proposed construction, installation, modification,
25 addition or alteration shall be deemed to replace or be substituted for any building
26 permit or similar approval required by any applicable governmental authority, nor
27 shall any such approval be deemed to make the Architectural Committee (or the Board
28 or the Association) liable or responsible for any damage or injury resulting or arising

1 from any such construction, modification, addition or alteration. Neither the Board, the
2 Architectural Committee, nor any member thereof shall be liable to the Association, any
3 Owner or any other party for any damage, loss or prejudice suffered or claimed on
4 account of:

5 9.6.1 The approval or disapproval of any plans, drawings or
6 specifications, whether or not defective;

7 9.6.2 The construction or performance of any work, whether or not
8 pursuant to approved plans, drawings and specifications; or

9 9.6.3 The development of any portion of the Property.

10 9.7 Fees. The Board may establish a reasonable processing fee to defer the
11 costs of the Architectural Committee and the fees of any reviewing architect retained by
12 the Board in considering any request for approvals submitted to the Architectural
13 Committee or for appeals to the Board, which fee shall be paid at the time the request
14 for approval or review is submitted.

15 9.8 Inspection. Any member or authorized consultant of the Architectural
16 Committee, or any authorized officer, director, employee or agent of the Association,
17 may at any reasonable time and without being deemed guilty of trespass enter upon
18 any portion of the Property, after reasonable notice to the Owner thereof, in order to
19 inspect the Improvements constructed or being constructed on such property and to
20 ascertain that such Improvements have been, or are being, built in compliance with this
21 Declaration, the standards and procedures adopted by the Architectural Committee and
22 any approved plans, drawings or specifications.

23 9.9 Waiver. Approval by the Architectural Committee of any plans, drawings
24 or specifications for any work done or proposed, or for any other matter requiring
25 approval of the Architectural Committee, shall not be deemed to constitute a waiver of
26 any right to withhold approval of any similar plan, drawing, specification or matter
27 subsequently submitted for approval.

1 9.10 Appeal to Board. Any Owner of any portion of the Property aggrieved by
2 a decision of the Architectural Committee may appeal the decision to the Board in
3 accordance with procedures to be established in the Architectural Committee's
4 standards and procedures. In the event the decision of the Architectural Committee is
5 overruled by the Board on any issue or question, the prior decision of the Architectural
6 Committee shall be deemed modified to the extent specified by the Board.

7 9.11 Landscaping. All Lots, excluding driveways, parking areas and areas
8 covered by structures, and excluding that portion of the Lot, if any, which is enclosed
9 by a perimeter wall around the rear yard, shall be landscaped in a manner and using
10 plants and soil approved in advance by the Architectural Committee. No exterior trees,
11 bushes, shrubs, plants or other landscaping shall be planted or placed upon any Lot
12 except in compliance with plans and specifications therefor which have been submitted
13 to and approved by the Architectural Committee in accordance with this Article 9 and
14 the Architectural Committee's standards and procedures. No material changes or
15 deviations in or from the plans and specifications for any work to be done on any Lot,
16 once approved by the Architectural Committee, shall be permitted without approval of
17 the change or deviation by the Architectural Committee. Neither this Section 9.11 nor
18 Sections 9.3 or 9.4 above shall be construed to prevent normal landscape maintenance
19 or the replacement of dead or diseased plants with other similar plants (so long as the
20 replacement plants are permitted by the Architectural Committee's standards and
21 procedures). Rear yards that are not landscaped and are enclosed in whole or in part by
22 wrought iron view fencing shall be maintained free of weeds and debris.

23 9.12 Authority Over Natural Open Space. Nothing contained in this Article 9
24 shall be deemed to grant the Architectural Committee authority over the conservation
25 of the Natural Open Space over which the Association is granted a conservation
26 easement or other similar interest, nor may the Architectural Committee authorize
27 construction within the Natural Open Space.

1 9.13 Subassociation Exercise of Architectural Standards. In the event portions
2 of the Property are subjected to a separate homeowners association with authority for
3 the establishment and implementation of architectural and landscaping standards for
4 such portions of the Property (a "Subassociation"), the Board shall be authorized and
5 permitted to enter into separate binding and enforceable agreements with each
6 Subassociation to coordinate and establish a process whereby the Subassociation may
7 implement primary architectural and landscaping review for the benefit of both the
8 Subassociation and the Association. The agreement between the Association and the
9 Subassociation shall establish the procedures for architectural and landscaping review
10 processes to be completed by the Subassociation, to obtain compliance with the
11 architectural and landscaping standards established by the Association. No such
12 agreement shall waive or relinquish the power and authority of the Board to enforce
13 compliance with the architectural and landscaping standards it established for the
14 Association, although the processes established by the agreement shall be binding upon
15 the Association Members to avoid unnecessary duplication of the architectural and
16 landscaping review process. In the event portions of the Property which are not subject
17 to a Subassociation are of a location and character similar to the portions of the Property
18 which are subject to such Subassociation, the Board shall be entitled to supplement its
19 Design Guidelines applicable to such Property not included within such Subassociation,
20 in order to apply uniform architectural and landscaping standards to portions of the
21 Property of similar location and character. In all events, the Association shall enforce
22 design guidelines established by a Subassociation in addition to the Design Guidelines
23 of the Association.

24 9.14 Multiple Committees. The Board may, at its discretion, create more than
25 one Architectural Committee and give each such Committee the authority to perform
26 duties delegated to it by the Board, with respect to portions of the Property which are
27 then or have been previously subject to the provisions of a Subassociation. The
28 Association, through the Architectural Committee or otherwise, shall be permitted to

1 enforce differing architectural standards for such portions of the Property based on
2 more restrictive standards (if any) that would be present in the applicable
3 Subassociation's governing documents then or previously in existence, subject to legal
4 and equitable limitations or prohibition on enforcement of such more restrictive
5 standards.

6 **ARTICLE 10**

7 **USE RESTRICTIONS AND OTHER COVENANTS,**

8 **CONDITIONS AND EASEMENTS**

9 10.1 Residential and Recreational Purpose. Except as provided in this Section
10 10.1, no portion of the Property, other than the Golf Course and the Common Areas,
11 shall be used for other than residential purposes. The Common Areas may be used for
12 a variety of purposes including, without limitation, natural open space, recreational
13 facilities, landscaping and roadways. The Association shall have the right to further
14 restrict the uses of Common Areas through the Recordation of additional instruments,
15 through the granting of conservation easements or similar rights over portions of the
16 Common Areas, or by similar means. No portion of the Golf Course shall be used as
17 other than a golf course and for uses commonly associated with a golf course, including,
18 without limitation, driving range, pro shop, restaurant and associated bar, clubhouse,
19 snack bars and maintenance facilities.

20 10.1.1 Business Activities. The following applies with respect to home
21 business activities within the Property:

22 10.1.2 Criteria for Home Business. An Owner or occupant residing in
23 any Lot may conduct business activities within the Lot so long as (a) the existence or
24 operation of the business activity is not apparent or detectable by sight, sound or smell
25 from outside the Lot; (b) the business activity conforms to all zoning requirements and
26 any other governmental requirements for the Property; (c) the business activity does not
27 involve any person conducting such business who does not reside in the Lot or door-to-
28 door solicitation of residents of the Property; (d) the existence or operation of the

1 business does not increase that Lot's use of Common Area facilities over the standard
2 for a single family dwelling; (e) the existence or operation of the business does not
3 require more than a reasonable number of customers or delivery trucks to visit the
4 Lot; and (f) the business activity does not constitute a nuisance, or a hazardous or
5 offensive use, or cause the owners to violate any other provisions of this Declaration, or
6 threaten the security or safety of other residents of the Property, as may be determined
7 in the sole discretion of the Board.

8 10.1.3 Pertinent Definitions. The terms "business" and "trade," as used in
9 this Section, shall be construed to have their ordinary, generally-accepted meanings,
10 and shall include, without limitation, any occupation, work or activity undertaken on
11 an ongoing basis which involves the provision of goods or services to persons other
12 than the provider's family and for which the provider receives a fee, compensation or
13 other form of consideration, regardless of whether: (a) such activity is engaged in full
14 or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is
15 required therefor. Notwithstanding the above, the leasing of a Lot shall not be
16 considered a trade or business within the meaning of this Section.

17 10.2 Garages and Driveways. All garages situated on a Lot shall be used for
18 parking vehicles and storage only, and shall not be used for living activities.

19 10.3 Temporary Structures. No temporary residence, structure or garage
20 shall be placed or erected within the Property (except as may otherwise be permitted by
21 Section 10.4 or Section 10.21).

22 10.4 New Construction. All buildings or structures erected on the Property
23 shall be of new construction, and the buildings and structures shall not have been
24 moved to the Property from other locations (except for temporary construction and/or
25 sales facilities for any Lot that may be under development at the time this Declaration is
26 Recorded).

27 10.5 Signs. No billboards or signs of any type or character shall be erected or
28 permitted on any Lot, except during the construction and sales period for any Lot that

1 may be under development at the time this Declaration is Recorded. Nothing herein
2 shall be deemed to prohibit attachment to the exterior of a Dwelling Unit, a single
3 nameplate and a single address plate identifying the occupant and the address of such
4 Dwelling Unit, or the placing upon the property of a single "For Sale" or "For Lease"
5 sign of usual and customary size, provided that such nameplates and address plates
6 shall be subject to the rules and regulations of the Architectural Committee. Further,
7 nothing herein shall be deemed to prohibit installation and maintenance of normal and
8 customary signage associated with a golf course on the Golf Course, if approved by the
9 Architectural Committee, or directional signs, subdivision identification signs, street
10 signs or similar signs as may be approved by the Architectural Committee for
11 installation or maintenance by the Association.

12 10.6 Heating, Ventilating and Air Conditioning Units. No heating, air
13 conditioning or evaporative cooling units or equipment shall be placed, constructed or
14 maintained upon the Property, including, but not limited to, upon the roof or exterior
15 walls of any structure on any part of the Property unless: (a) where such unit or
16 equipment is installed upon the roof of any structure upon the Property, such unit or
17 equipment is fully screened from view from all other portions of the Property by a
18 parapet wall which conforms architecturally with such structure; or (b) in all other
19 cases, such unit or equipment is attractively screened or concealed from ground level
20 view from all other portions of the Property, which means of screening or concealment
21 shall [in either case (a) or (b)] be subject to the regulations and approval of the
22 Architectural Committee.

23 10.7 Solar Collecting Panels or Devices. The Association recognizes the
24 benefits to be gained by permitting the use of solar energy as an alternative source of
25 electrical power for residential use. Therefore, subject to prior approval of the plans by
26 the Architectural Committee pursuant to Article 9 above, solar collecting panels and
27 devices may be placed, constructed or maintained upon the Golf Course or any Lot
28 (including upon the roof of any structure), so long as such solar collecting panels and

1 devices are placed, constructed and maintained in such location(s) and with such means
2 of screening or concealment as the Architectural Committee may reasonably deem
3 appropriate, to limit to the greatest extent possible, the visual impact of such solar
4 collecting panels and devices when viewed by a person six feet tall standing at ground
5 level on any other portion of the Property.

6 10.8 Antennas, Poles, Towers and Dishes. Except as otherwise provided by
7 applicable law, no television, radio, shortwave, microwave, satellite, flag or other
8 antenna, pole, tower or dish shall be placed, constructed or maintained upon the
9 Property (including, but not limited to, upon the roof or exterior walls of any Dwelling
10 Unit or other structure), unless: (a) where such antenna, pole, tower or dish is installed
11 upon the roof of a Dwelling Unit or other structure, such antenna, pole, tower or dish is
12 fully screened and concealed from view from all other portions of the Property by a
13 parapet wall which conforms architecturally with the structure of such Dwelling Unit or
14 other structure; or (b) in all other cases, such antenna, pole tower or dish is fully and
15 attractively screened or concealed from view from all other portions of the Property,
16 which means of screening or concealment shall [in either case (a) or (b)] be subject to the
17 regulations and approval of the Architectural Committee. Notwithstanding the
18 foregoing, the Board may (but shall not be obligated to) install (or permit to be
19 installed) upon the Common Area a television and/or radio "dish-type" antenna
20 designed to serve all Lots. Further, notwithstanding the foregoing, the Architectural
21 Committee may adopt a rule or regulation permitting the installation and maintenance
22 of a flagpole upon portions of the Property, provided that the location and size of such
23 flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by
24 the Architectural Committee and may, if so provided in such rule or regulation, be
25 made subject to the prior approval thereof by the Architectural Committee. Poles to
26 which basketball backboards, goals and related equipment are affixed shall be governed
27 by Section 10.9.

1 10.9 Basketball Goals or Similar Structures. No basketball goal or similar
2 structure or device (whether portable or mounted on a pole, wall or roof) shall be
3 placed or constructed upon the front yard, front elevation or front roof surface of any
4 structure on any part of the Property (except by the Association upon the Common
5 Area). For purposes of the foregoing sentence, the term "front" shall be deemed to
6 mean visible from ground level view from the street(s) running immediately in front of
7 or along the side of a Dwelling Unit or other structure. Notwithstanding the foregoing,
8 a basketball goal may be placed on a Lot in a location where such goal would be visible
9 from a street running along the side of a Dwelling Unit so long as: (a) such goal is not
10 visible from a street running in front of such Dwelling Unit; (b) such goal is located
11 within an enclosed rear yard on such Lot; and (c) the location of, and any proposed
12 methods of screening from view, such goal are approved in advance, in writing by the
13 Architectural Committee.

14 10.10 Tanks. No tanks of any kind (including tanks for the storage of fuel)
15 shall be erected, placed or maintained on the Property unless such tanks are either: (a)
16 buried underground; or (b) of such size and height, in such location and attractively
17 screened from view from adjacent Property in such manner as may be required by the
18 Architectural Committee. Nothing herein shall be deemed to prohibit use or storage
19 upon the Property of propane or similar fuel tanks with a capacity of ten (10) gallons or
20 less used in connection with a normal residential gas barbecue, grill or fireplace.

21 10.11 Vehicles.

22 10.11.1 No private passenger automobiles or pickup trucks shall be
23 parked upon the Property or any roadway adjacent thereto, except within a garage, in a
24 private driveway appurtenant to a Dwelling Unit, or within areas designated for such
25 purpose and approved by the Architectural Committee.

26 10.11.2 With the exception of commercial vehicles that are used to serve
27 the public's safety, no other vehicles (including, but not limited to, mobile homes, motor
28 homes, boats, recreational vehicles, trailers, commercial trucks, campers, permanent

1 tents or similar vehicles or equipment) shall be kept, placed or maintained upon the
2 Property or any roadways adjacent thereto, except: (a) within a fully enclosed garage
3 appurtenant to a Dwelling Unit; or (b) in such areas and subject to such rules and
4 regulations as the Architectural Committee may designate and adopt.

5 10.11.3 No vehicle (including, but not limited to, those enumerated in
6 subsections 10.11.1 and 10.11.2) shall be constructed, reconstructed or repaired upon the
7 Property or any roadway adjacent thereto except within a fully enclosed garage.

8 10.11.4 No motor vehicles of any kind which are not in operating
9 condition shall be parked in any unenclosed parking areas (including, but not limited
10 to, private driveways appurtenant to a Dwelling Unit).

11 10.12 Underground Facilities. No cesspool, septic tank or well may be dug or
12 installed without the prior written approval of the Architectural Committee.

13 10.13 Outdoor Burning. There shall be no outdoor burning of trash or other
14 debris; provided, however, that the foregoing shall not be deemed to prohibit the use of
15 normal residential barbecues or other similar outside cooking grills or outdoor
16 fireplaces.

17 10.14 Sanitation. Garbage and refuse facilities, containers and the like shall be
18 attractively screened or placed in such manner as to conceal them from the view of
19 neighboring Lots, Dwelling Units, property, roads or streets, except during reasonable
20 periods as defined by Association Rules to allow for collection by the appropriate
21 sanitation service. All equipment for the storage or disposal of garbage or other waste
22 shall be kept in a clean and sanitary condition. All rubbish, trash and garbage shall be
23 kept only in containers meeting applicable governmental sanitation requirements (and
24 any applicable reasonable rules and regulations of the Association), shall be regularly
25 removed from the Property, and shall not be allowed to accumulate thereon.

26 10.15 Walls, Fences, Interferences and Obstructions. All walls and fences shall
27 be of block construction (except as may be otherwise permitted with the prior written
28 consent of the Architectural Committee) and, except as otherwise approved by the

1 Architectural Committee, shall be painted or colored to match the exterior of the
2 structure(s) enclosed by or upon the same Lot as such fence. No wall or fence shall
3 exceed six and one-half (6 1/2) feet in height. No fence within fifteen (15) feet of the
4 front property line of a Lot shall exceed three (3) feet in height, provided that the
5 Architectural Committee shall have the authority to establish and enforce even more
6 restrictive limitations on the height, locations and appearance of fences and walls, either
7 in individual cases or as a general restriction on portions or all of the Property, where
8 necessary or appropriate, in the reasonable judgment of the Architectural Committee, to
9 comply with applicable zoning, building or public safety ordinances. The foregoing
10 shall not apply to boundary walls or fences constructed and or maintained by the
11 Association along property lines bounding public rights-of-way; provided, however,
12 that such boundary walls or fences shall be constructed and maintained so as to comply
13 with applicable zoning and other laws and ordinances. No fence shall be permitted to
14 interfere with existing Recorded restrictions, drainage ways or easements.

15 10.16 Nuisance. No rubbish or debris of any kind shall be placed or permitted
16 to accumulate for any unreasonable length of time on any portion of the Property, and
17 no odors shall be permitted to arise therefrom, so as to render the property or any
18 portion thereof unsanitary, unsightly or offensive or detrimental to any other portion of
19 the Property in the vicinity thereof. No noxious, destructive or offensive activity, or
20 any activity constituting an unreasonable source of annoyance, shall be conducted on
21 any portion of the Property. Without limiting the generality of any of the foregoing
22 provisions, no exterior speakers, horns, whistles, bells or other sound devices, except
23 ordinary intercom systems or security devices used exclusively for security purposes,
24 shall be located, used or placed on any Lot. The Board in its sole discretion shall have
25 the right to determine the existence of any such activity or item. The Association shall
26 have the standing and authority to institute legal proceedings to abate such activity or
27 to secure the removal of such item. Furthermore, the Board shall have the right to
28 remove any such activity or item at the expense of the Owner responsible for the

1 nuisance (or at the expense of the Owner whose tenant, occupant or guest is responsible
2 for such activity or item). Each Owner and Occupant shall refrain from any act on or
3 use of his, her or its Lot or the Common Area or the Golf Course which could
4 reasonably cause embarrassment, discomfort or annoyance to other Owners or
5 Occupants. The Board shall have the power to make and enforce reasonable rules and
6 regulations in furtherance of this provision.

7 10.17 Drainage Alteration; Easements. No vegetation (except suitable ground
8 cover) may be planted or permitted to remain on areas subject to drainage easements,
9 as shown on the Plat, in such manner as to interfere with drainage or which shall be
10 deemed by the Architectural Committee to be a detriment to utilities located under or
11 near such vegetation.

12 10.18 Clothes-Drying Facilities. Outside clotheslines or other outside facilities
13 for drying or airing clothes shall not be erected, placed or maintained on any part of the
14 Property unless they are erected, placed or maintained exclusively within a walled yard
15 or otherwise concealed and shall not be visible to a person six feet tall standing at
16 ground level on any other portion of the Property.

17 10.19 Pets. No animals, livestock or poultry of any kind shall be raised, bred or
18 kept on the Property; provided, however, that nothing herein shall be construed as
19 prohibiting the keeping of a reasonable number of ordinary household pets in or on a
20 Lot, subject to rules and regulations adopted by the Board; provided that such pets are
21 not kept, bred or maintained for any commercial purpose. Notwithstanding the
22 foregoing, no pets may be kept upon the Property which, in the opinion of the Board,
23 result in any annoyance or are obnoxious to Owners or Occupants of other Lots or to
24 the users of the Golf Course.

25
26 10.20 Leasing; Obligations of Tenants and Other Occupants.

27 10.20.1 All leases of any portion of the Property shall be in writing and
28 shall be subject in all respects to the provisions of this Declaration, the Articles, the

1 interest in the Golf Course solely by virtue of: (a) his, her or its membership in the
2 Association; and (b) his, her or its ownership, use or occupancy of any Lot, or portion
3 thereof.

4 11.2 Rights of Access. The Owner of the Golf Course and the Members and
5 invitees (whether or not such members and invitees are Owners), employees, agents,
6 contractors, and designers of the Golf Course, shall at all times have a right and non-
7 exclusive easement of access and use over all roadways located within the Property, as
8 may be reasonably necessary to travel to and from any entrance within the Property to
9 and from the Golf Course and, further, over those portions of the Common Area, which
10 are not in the future restricted by the Association to use as Natural Open Space,
11 reasonably necessary to the operation, maintenance, repair and replacement of the Golf
12 Course and its facilities.

13 11.3 Limitations on Amendments. In recognition of the fact that the
14 provisions of this Article are for the benefit of the Golf Course, no amendment to this
15 Article and no amendment in derogation of this Article to any other provisions of this
16 Declaration may be made, without the written approval thereof by the Owner(s) of the
17 Golf Course.

18 11.4 Golf Cart Path Easement. There may be golf cart path easements
19 designated as such on one or more Plats of the Property, or portions thereof, or in one
20 or more other Recorded instruments, which shall be used for golf cart paths, pedestrian
21 walkways, maintenance and vehicle access, and unhindered access between said paths
22 and the Golf Course. Nothing shall be placed or maintained in any golf cart path
23 easement which shall interfere with utilization thereof as a playable part of the Golf
24 Course, and all landscaping and other improvements within a golf cart path easement
25 shall require the approval of the Architectural Committee.

26 11.5 Golf Balls, Disturbances and Nuisances. Each Owner understands and
27 agrees that his, her or its Lot may be adjacent to or near the Golf Course and related
28 facilities and that Golf Course-related activities, including, without limitation, regular

1 course play and tournaments, may be held within the Property. Each Owner
2 acknowledges that the location of his, her or its Lot within the Property may result in
3 nuisances or hazards to persons and property on such Lot as a result of normal Golf
4 Course operations or as a result of other Golf Course-related activities. Each Owner
5 covenants for itself, its successors and assigns that it shall assume all risks associated
6 with such location, including but not limited to, the risk of property damage or personal
7 injury arising from stray golf balls or actions incidental to such Golf Course-related
8 activities and shall indemnify and hold harmless the Association, and the owner of the
9 Golf Course from any liability, claims or expenses, including attorneys' fees arising
10 from such property damage or personal injury. Each Owner further covenants that the
11 Association, and the owner of the Golf Course shall have the right, in the nature of an
12 easement, to subject all or any portion of the Property to effects incidental to the
13 reasonable maintenance, operation or use of the Golf Course, and to the carrying out of
14 such Golf Course-related activities. Notwithstanding the above, any Owner engaging
15 in such Golf Course-related activities shall respect neighboring Property in scheduling
16 and holding such events so as not to unreasonably disturb Owners and Occupants of
17 the neighboring property.

18 11.6 Operation of the Golf Course. Each Owner acknowledges that the
19 operation and maintenance of the Golf Course may require that maintenance personnel
20 and other workers required to operate and maintain the Golf Course will commence
21 work relating to the operation and maintenance of the Golf Course as early as 5:00 a.m.
22 on a daily basis. In connection therewith, each Owner and Occupant agrees that the
23 Owner or Owners of all or any portion of the Golf Course, and the employees, agents
24 and contractors of such Owners, shall not be responsible or accountable for, and shall be
25 held harmless from, any claims, causes of action, loss or liability arising in connection
26 with or associated with any noise or inconvenience normally associated with such
27 construction and maintenance activities.

1 habitat in any manner except as may be necessary to remove exotic vegetation that
2 endangers natural habitat conditions, or to restore natural vegetation damaged or
3 removed as a result of past land use practices and except for the Permitted
4 Encroachments;

5 12.2.4 There shall be no dumping of ashes, trash, garbage, or other
6 unsightly or offensive materials, and no changing of topography through placing of soil
7 or other substance or material such as landfill or dredging spoils, except in connection
8 with the Permitted Encroachments;

9 12.2.5 No operation of dune buggies, motorcycles, or all-terrain
10 vehicles shall be permitted by the Association; and

11 12.2.6 No operation of any type of motorized vehicles except as
12 necessary to inspect and maintain the NOS areas and estate lots consistent with the
13 terms of this Article 12 shall be permitted by the Association. This Section shall not
14 apply to limit any work done in order to restore the condition of the NOS or estate lot
15 area in the event of flood, fire or other natural disaster.

16 12.3 Permitted Encroachments. The Permitted Encroachments shall be located
17 on, across, and under the NOS pursuant to the Specific Plan. The Association shall
18 reasonably provide all necessary and appropriate rights-of-way and easements for the
19 Permitted Encroachments.

20 12.4 NOS Shall Remain Unimproved. Except for the Permitted
21 Encroachments, the NOS shall remain unimproved and unoccupied by any structures
22 or man-made elements, except pedestrian and non-motorized access trails and shall be
23 set aside for the conservation of permanent, undisturbed open space. None of the
24 activities described in Subsections 12.2.1 through 12.2.6 shall be permitted on the NOS.

25 12.5 Land Protection. The Association shall protect the NOS over which it has
26 an interest. The Association may use any equitable remedy, including, without
27 limitation, obtaining an order of injunction, that is required to conserve and protect the
28 NOS over which it has been granted conservation easements. The Association shall

1 ensure that the NOS over which it has been granted conservation easements remains
2 undeveloped.

3 12.6 Effectuation. The Association shall execute all additional documents and
4 instruments and do all acts not specifically referred to in this Article which are
5 reasonably necessary to fully effectuate the provisions of this Article. All additional
6 documents and instruments shall be in forms mutually agreed upon.

7 12.7 Notice and Opportunity for Cure. Should it become necessary for the
8 Association to take any action that is required in order for the Association to conserve
9 and protect the NOS over which it holds a conservation easement or other similar
10 interest, the Association shall first notify the Owner involved in writing, describe the
11 alleged violation in reasonable detail and request that it be cured, and give the Owner
12 involved sixty (60) days to cure the alleged violation before taking any appropriate
13 legal action; provided, however, that the Association shall not be obligated to wait
14 sixty (60) days before taking enforcement action if immediate additional harm to its
15 interest in the NOS is threatened.

16 12.8 Amendment of Conservation Functions. Notwithstanding anything
17 contained herein to the contrary, neither this Article 12, nor Sections 8.12 and 11.7, nor
18 the provision of Sections 8.1 relating to the portion of Annual Assessments allocable to
19 the Conservation Functions of the Association shall be amended.

20 12.9 Pima County Interest. Nothing in this Declaration shall be construed to
21 prevent Pima County from enforcing zoning as per A.R.S.§ 11-808 and Chapter 18.95 of
22 the Pima County Zoning Code, and as per Ordinances 1990-53 and 1992-61, which
23 adopted and amended, respectively, the Sabino Springs Specific Plan.
24
25
26
27
28

ARTICLE 13
ENFORCEMENT

1 13.1 Right to Enforce. The Association and/or any Owner (and Pima County,
2 but only with respect to the provisions of Article 12) has the right to enforce, by any
3 proceeding at law or in equity, the provisions of this Declaration, the Articles, the
4 Bylaws and the Association Rules. The prevailing party in any Court action shall be
5 awarded reasonable attorneys' fees and costs. If no Court action is brought, the
6 Association shall be reimbursed by the pertinent Lot Owner(s), all reasonable
7 attorneys' fees and costs it incurs any enforcement action. Said attorneys' fees and
8 costs, together with interest thereon from the date the costs are expended at a rate set by
9 the Board, shall constitute a lien on all portions of the Property owned by the Owner(s)
10 against whom the action is taken (or against whose Occupants the action is taken),
11 which lien shall have the priority and may be enforced in the manner described in
12 Section 8.3.

13 13.1.1 Waiver. No delay or omission on the part of the Association or any
14 Owner (or Pima County, with respect to the provisions of Article 12) in exercising its
15 right to take any enforcement action pursuant to this Section 13.1 shall be construed as a
16 waiver of its right to do so, and no right of action shall accrue against the Board of
17 Directors, the Association or any Owner for its neglect or refusal to exercise such right
18 of enforcement.

19 13.1.2 Protection of Mortgagee. No breach of the foregoing provisions,
20 conditions, restrictions or covenants shall defeat or render invalid the lien of any
21 mortgage or deed of trust made in good faith for value as to any portion of the
22 Property. Such provisions, conditions, restrictions and covenants shall be enforceable
23 against any portion of the Property acquired by any person through foreclosure for any
24 breach occurring after such acquisition.

25 13.2 Notice of Violation. The Association shall have the right to Record a
26 written notice of a violation by any Owner or Occupant of any restriction or provision
27 of this Declaration, the Articles, the Bylaws or the Association Rules. The notice shall be
28 executed and acknowledged by an officer of the Association, or by an authorized

1 representative of the Association, and shall contain substantially the following
2 information: (a) the name of the Owner or Occupant; (b) the legal description of the
3 portion of the Property against which the notice is being Recorded; (c) a brief
4 description of the nature of the violation; (d) a statement that the notice is being
5 Recorded by the Association pursuant to this Declaration; and (e) a statement of the
6 specific steps which must be taken by the Owner or Occupant to cure the violation.
7 Recordation of a notice of violation shall serve as a notice to the Owner and Occupant,
8 and to any subsequent purchaser of the portion of the Property in question, that there is
9 such a violation. If, after the Recordation of such notice, it is determined by the
10 Association that the violation referred to in the notice does not exist or that the violation
11 referred to in the notice has been cured, the Association shall Record a notice of
12 compliance which shall state the legal description of the portion of the Property against
13 which the notice of violation was Recorded, the Recording data of the notice of
14 violation, and shall state that the violation referred to in the notice of violation has been
15 cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure
16 by the Association to Record a notice of violation shall not constitute a waiver of any
17 existing violation or evidence that no violation exists.

18 13.3 No Obligation to Enforce. The Association is not obligated to take any
19 enforcement action if the Board determines, in its sole discretion, that because of
20 considerations pertaining to the Association's finances, possible defenses, the time and
21 expense of litigation or other enforcement action, the likelihood of a result favorable to
22 the Association, or other facts deemed relevant by the Board, enforcement action would
23 not be appropriate or in the best interests of the Association. The failure of the
24 Association or an Owner to take enforcement action with respect to a violation of this
25 Declaration, the Articles, the Bylaws or the Association Rules, shall not constitute or be
26 deemed a waiver of the right of the Association or any Owner to take such enforcement
27 action in the future.

H-01-01-0004-H

1 Recorded. Notwithstanding any such revocation of this Declaration, each Owner (and
2 such Owner's Occupants, tenants, agents, guests and invitees) nevertheless shall have a
3 permanent easement across the Common Area for access to such Owner's property and
4 for access to and use of such recreational facilities as may exist on the Common Area at
5 the time of such revocation.

6 14.3 Indemnification. The Association shall indemnify each and every
7 officer and director of the Association (including, for purposes of this Section, former
8 officers and directors of the Association) against any and all expenses, including
9 attorneys' fees, reasonably incurred by or imposed upon any officer or director of the
10 Association) in connection with any action, suit, or other proceeding (including
11 settlement of any suit or proceeding, if approved by the Board serving at the time of
12 such settlement) to which he or she may be a party by reason of being or having been an
13 officer or director of the Association, except for their own individual willful
14 misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have
15 no personal liability with respect to any contract or other commitment made by them,
16 in good faith, on behalf of the Association (except indirectly to the extent that such
17 officers or directors may also be Members of the Association and, therefore, subject to
18 Assessments hereunder to fund a liability of the Association), and the Association shall
19 indemnify and forever hold each such officer and director free and harmless from and
20 against any and all liability to others on account of any such contract or commitment.
21 Any right to indemnification provided for herein shall not be exclusive of any other
22 rights to which any officer or director, or former officer or director of the Association,
23 may be entitled. If the Board deems it appropriate, in its sole discretion, the Association
24 may advance funds to or for the benefit of any director or officer (or former director or
25 officer) of the Association who may be entitled to indemnification hereunder,
26 offlineto enable as such Person to meet ongoing costs and expenses of defending
27 himself or herself in any action or proceeding brought against such Person for reason of
28 his or her being, or having been, an officer or director of the Association. In the event it

1 is ultimately determined that a current or former officer or director to whom, or for
2 whose benefit, funds were advanced pursuant to the preceding sentence does not
3 qualify for indemnification pursuant to this Section 14.3 or otherwise under the Articles,
4 Bylaws or applicable law, such current or former officer or director shall promptly,
5 upon demand, repay to the Association the total of such funds advanced by the
6 Association to him or her, or for his or her benefit, with interest (should the Board so
7 elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced
8 until paid.

9 14.4 Easements for Utilities. There hereby is reserved to the Association the
10 power to grant blanket easements upon, across, over and under all of the Common
11 Area for installation, replacement, repair, and maintenance of master television antenna
12 systems, surveillance systems, and all utilities, including, but not limited to, water,
13 sewer, telephone, cable television, gas and electricity, and for delivering or providing
14 public or governmental services such as refuse collection and fire and other emergency
15 vehicle access (which power also shall include the power to grant appropriate rights of
16 ingress and egress to facilitate such installation, replacement, repair and maintenance,
17 and the delivery or provision of such public, municipal or emergency services),
18 provided that no such easement shall interfere with a Dwelling Unit. Should any entity
19 furnishing a service covered by the general easement herein described request a specific
20 easement by separate Recordable document, the Association shall have the right to
21 grant such easement on said property in accordance with the terms hereof.

22 14.5 Bulk Service Agreements.

23 14.5.1 The Board, acting on behalf of the Association, shall have the
24 right, power and authority to enter into one or more Bulk Service Agreements with one
25 or more Bulk Providers (each of which terms is defined below), for such term(s), at such
26 rate(s) and on such other terms and conditions as the Board deems appropriate, all with
27 the primary goals of providing to Owners of Lots, separately, trash removal services:
28 (a) which might not otherwise be generally available to such Owners; (b) at rates or

1 charges lower than might otherwise generally be charged to Owners for the same or
2 similar services; (c) otherwise on terms and conditions which the Board believes to be in
3 the interests of Owners generally; or (d) any combination of the foregoing.

4 14.5.2 If all Lots are to be served by a particular Bulk Service
5 Agreement, the Board shall have the option either to: (a) include the Association's costs
6 under such Bulk Service Agreement in the budget for each applicable fiscal year, and
7 thereby include such costs in the Annual Assessments for each such applicable year; or
8 (b) separately bill to each Owner his, her or its proportionate share of the Association's
9 costs under such Bulk Service Agreement (as reasonably determined by the Board, and
10 with such frequency as may be determined by the Board, but no more often than
11 monthly). If not all Lots will be served by a particular Bulk Service Agreement, the
12 Board shall have only the billing option described in clause (b) above.

13 14.5.3 Each Owner by becoming the Owner of a Lot, is deemed to
14 covenant and agree, to pay all amounts levied or charged against or to him, her or it (or
15 his, her or its Lot) by the Board pursuant to this Section 14.5, and all such amounts: (a)
16 shall be deemed to be a part of the Assessments against the Lots against or to which
17 they are levied or charged (or against or to whose Owners they are levied or charged);
18 (b) with interest, late charges and all costs, including but not limited to reasonable
19 attorneys fees, incurred by the Association in collecting or attempting to collect
20 delinquent amounts, shall be secured by the lien for Assessments established by this
21 Declaration; and (c) as with other Assessments, also shall be the personal obligation of
22 each person or entity who was an Owner of the Lot at the time such amount became
23 due (which personal obligation for delinquent amounts shall not pass to the successors
24 in title of the Owner unless expressly assumed by them unless title is transferred to one
25 or more such successors for purposes of avoiding payment of such amounts or other
26 Assessments or is transferred to a person or entity controlling, controlled by or under
27 common control with the Owner transferring title). The Association may discontinue

141701-000015

1 services to any Lot in the event the Owner thereof has not paid its Assessments
2 required hereunder.

3 14.5.4 Subject to Section 14.5.3, no Owner of a Lot covered by a Bulk
4 Service Agreement shall be entitled to avoid or withhold payment of amounts charged
5 by the Board to such Owner or such Owner's Lot under this Section 14.5, whether on
6 the basis that such Owner does not use, accept or otherwise benefit from the services
7 provided under such Bulk Service Agreement, or otherwise. However, the Board shall
8 have the right, at its option, to exempt from payment of such amounts any Lot upon
9 which no Dwelling Unit or other building has been completed.

10 14.5.5 The Association shall have the authority (a) to prohibit any other
11 trash removal service provider from entering the Property other than the sole source
12 trash removal service provider, (b) to limit the sole source trash removal service
13 provider to residential service only, subject to an exception to permit the use of
14 construction roll-off trash dumpsters for trash removal by owner of the Golf Course.
15 Notwithstanding anything to the contrary in this Section 14.5, any Owner shall be
16 entitled to decide, in its, his or her sole discretion, whether or not to participate in the
17 sole source trash removal service provider program, and thereby to be exempt from
18 having to pay that portion of the Assessments attributable to such services; provided
19 that if it, he or she shall elect not to so participate, it, he or she shall be solely
20 responsible at its, his or her own expense to ensure the proper removal of its, his or her
21 trash, although such removal shall not be completed by another trash removal service
22 provider.

23 14.5.6 "Bulk Provider" means a private, public or quasi-public utility or
24 other company which provides, or proposes to provide, trash removal services to Lots
25 pursuant to a "Bulk Service Agreement" (as defined below).

26 14.5.7 "Bulk Service Agreement" means an agreement between the
27 Association and a Bulk Provider pursuant to which the Bulk Provider would provide
28 trash removal services to Lots.

1 14.6 No Partition. Subject to the provisions of Section 7.2, no Person acquiring
2 any interest in the Property or any part thereof shall have a right to, nor shall any
3 person seek, any judicial partition of the Common Area, nor shall any Owner sell,
4 convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's
5 interest in the Common Area or any funds or other assets of the Association, except in
6 connection with the sale, conveyance or hypothecation of such Owner's Lot (and only
7 appurtenant thereto), or except as otherwise expressly permitted herein. This Section
8 shall not be construed to prohibit the Board from acquiring and disposing of tangible
9 personal property nor from acquiring or disposing of title to real property (other than
10 disposition of title to Common Area) which may or may not be subject to this
11 Declaration.

12 14.7 Severability; Interpretation; Exhibits; Gender. Invalidation of any one of
13 these covenants of restrictions by judgment or court order shall in no way affect any
14 other provisions which shall remain in full force and effect. The provisions hereof shall
15 be construed and interpreted with reference to the laws of the State of Arizona.
16 References in this Declaration to Articles, Sections and Subsections shall be deemed to
17 be references to the specified Articles, Sections and Subsection of this Declaration
18 (unless otherwise specifically stated), whether or not phrases such as "of this
19 Declaration," "hereof" or "herein" are used in connection with such references. Any
20 Exhibits referred to in this Declaration are hereby incorporated herein by reference and
21 fully made a part hereof. Where the context hereof so requires, any personal pronoun
22 used herein, whether used in the masculine, feminine or neuter gender, shall include all
23 genders, and the singular shall include the plural and vice versa. Titles of Articles and
24 Sections are for convenience only and shall not affect the interpretation hereof.

25 14.8 Perpetuities. If any of the covenants, conditions, restrictions or other
26 provisions of this Declaration shall be unlawful, void or voidable for violation of the
27 rule against perpetuities, then such provisions shall continue only until twenty-one (21)
28 years after the death of the last survivor of the now living descendants of the person

10/20/01 10:00 AM

1 holding the office of President of the United States on the date this Declaration is
2 Recorded.

3 14.9 Property Held in Trust. Any and all portions of the Property (and of the
4 Annexable Property) which are now or hereafter held in trust, so called "Illinois land
5 trust," or similar trust or trusts (or similar means of holding title to property), the
6 beneficiary of which trust(s) is the Association, shall be deemed for all purposes under
7 this Declaration to be owned by the Association, as applicable, and shall be treated for
8 purposes under this Declaration in the same manner as if such property were owned in
9 fee by the Association, as applicable. No conveyance, assignment or other transfer of
10 any right, title or interest in or to any of such property by the Association to any such
11 trust (of the trustee thereof) or to the Association by an such trust (of the trustee thereof)
12 shall be deemed for purposes of this Declaration to be a sale of such property or any
13 right, title or interest therein.

14 14.10 Number of Days. In computing the number of days for purposes of any
15 provision of this Declaration or the Articles or Bylaws, all days shall be counted
16 including Saturdays, Sundays and holidays; provided however, that if the final day of
17 any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be
18 deemed to be the next day which is not a Saturday, Sunday or legal holiday.

19 14.11 Amendments to Articles and Bylaws. Subject to the provisions of Section
20 14.2, the Articles and Bylaws may only be amended by following the procedure set
21 forth in this Section. The Board shall adopt a resolution setting forth the proposed
22 amendment and directing that it be submitted to a vote at a meeting of Members, which
23 may be either an annual meeting or a special meeting, and if approved by Members
24 holding (either personally or by valid proxy) the Applicable Percentage (defined below)
25 of the votes, such amendment shall have been adopted; provided, however, that a copy
26 of any such proposed amendment or a summary of the changes to be effected shall have
27 been given to each Member in good standing at least ten (10) days prior to said meeting
28 of the Members. For purposes hereof, the "Applicable Percentage" shall mean, in the

10/20/2010 10:00:00 AM

1 case of an amendment to the Articles or to the Bylaws, two-thirds (2/3) of Members
2 voting in person or by proxy. Any number of amendments may be submitted and
3 voted upon at any one meeting.

4 14.12 Fire Management Policies. All Owners are advised to review the fire
5 management policies of the Coronado National Forest because of the proximity of the
6 Property to the Coronado National Forest.

7 14.13 Counterparts. This Declaration may be signed in one or more identical
8 counterparts.

9 IN WITNESS WHEREOF, the undersigned has executed this Declaration as of
10 the day and year first set forth above.

11 SABINO SPRINGS HOMEOWNERS ASSOCIATION,
12 an Arizona non-profit corporation

13
14 By: *Steen W. Young*
15 Its: President *Vice President*

16
17 ARIZONA NATIONAL GOLF COURSE,
18 an Arizona corporation

19
20 By: *[Signature]*
21 Its: GENERAL MANAGER

14700-1-0000410

1 EXHIBIT A

2 LIMITED COMMON AREAS AND EXTERNAL ROADWAYS

3 Parcel 1: Common Areas "A" and "B" of the Final Plat for Sabino Estates at Sabino
4 Springs according to the Plat thereof Recorded in the Office of the
5 Recorder of Pima County, Arizona.

6 Parcel 2: Roadway Over McManus Parcel:

7 A portion of that parcel described by instrument in the Pima County
8 Recorder's Office in Docket 5328 at page 674, said parcel being a part of
9 the Northwest quarter of Section 14, Township 13 South, Range 15 East,
10 Gila and Salt River Meridian, Pima County, Arizona, said dedication shall
11 be 18.00 feet on both sides of the following described line:

12 Commencing at the Northwest corner of Lot 4 in said Section 14;

13 Thence North $89^{\circ} 50' 27''$ East upon the North line of Lot 4 in said
14 Section 14, a distance of 667.75 feet to the West line of that parcel
15 Recorded in Docket 8393 at page 1707.

16 Thence North $01^{\circ} 34' 44''$ West upon said West line, 253.42 feet to
17 the Northwest corner thereof, said point being common to the
18 Southwest corner of subject parcel;

19 Thence South $89^{\circ} 33' 35''$ East upon the South line of subject
20 parcel, 382.88 feet to a point of curvature, concave Southeasterly

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

and having a radius of 181.00 feet which bears South 62° 59'35"
East, said point also being the Point of Beginning;
Thence Northeasterly upon said curve, through a central angle of
43° 22'31" an arc distance of 137.02 feet to the point of tangent;
Thence North 70° 22'57" East 189.53 feet to the East line of subject
parcel, said point being the Point of Terminus.

Side lines of the above-described dedication shall begin and terminate at
the above said property lines.

Parcel 3: External Roadway – Sabino Greens:

That certain real property located in Sabino Greens of Sabino Springs as
Recorded in Book 44 of Maps and Plats, Page 84, located in Section 14,
Township 13 South, Range 15 East, Gila & Salt River Meridian, Pima
County, Arizona, described as follows:

COMMENCING AT A POINT, said point being southwest corner
of Lot 1, Sabino Estates at Sabino Springs, as Recorded in Book 45
of Maps and Plats, Page 7, Pima County, Arizona.
Thence, North 89° 50'27" East, 40.01 feet to a point;
Thence, South 00° 47'00" West, 170.36 feet to a point;
Thence, South 23° 49'27" West, 74.41 feet to the TRUE POINT OF
BEGINNING, said point being the Northeasterly corner of the
subject parcel;

10/27/2011 10:00:00 AM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Thence, South $23^{\circ}49'27''$ West, 9.76 feet to a point;
Thence South $00^{\circ}45'32''$ East, 35.40 feet to a point;
Thence, along a non-tangent curve to the right having a radius of 222.00 feet, a central angle of $8^{\circ}26'07''$, a tangent length of 16.37 feet, the long chord of which bears North $88^{\circ}44'32''$ West for a distance of 32.68 feet to a point;
Thence, North $84^{\circ}31'29''$ West, 112.99 feet to a point;
Thence, along a tangent curve to the left with a radius of 25.00 feet, a tangent length of 7.99 feet, a central angle of $35^{\circ}26'14''$, the radius of which bears South $05^{\circ}28'31''$ West, the chord of which bears South $77^{\circ}45'24''$ West for a distance of 15.22 feet; Thence along the arc of said curve for a distance of 15.46 feet to a point;
Thence, North $28^{\circ}47'00''$ West 8.66 feet to a point;
Thence, North $17^{\circ}08'13''$ East, 55.52 feet to a point' Thence, North $76^{\circ}30'38''$ East, 9.09 feet to a point;
Thence, along a non-tangent curve to the left having a radius of 25.00 feet, a central angle of $68^{\circ}32'26''$, a tangent length of 17.03 feet, the long chord of which bears South $50^{\circ}15'16''$ East for a distance of 28.15 feet with a radial line in of North $74^{\circ}00'57''$ East and a radial line out of South $05^{\circ}28'31''$ West for an arc length of 29.91 feet to a point;

PLANNING ENGINEERING

1 Thence, South $84^{\circ} 31'29''$ East, 89.28 feet to a point;
2 Thence, along a tangent curve to the left with a radius of 178.00
3 feet, a tangent length of 16.03 feet, a central angle of $10^{\circ} 17'22''$,
4 the radius of which bears North $05^{\circ} 28'31''$ East, the chord of
5 which bears South $89^{\circ} 40'10''$ East for a distance of 31.92 feet;
6 Thence along the arc of said curve for a distance of 31.97 feet to
7 the TRUE POINT OF BEGINNING.

8 Said parcel containing an approximate area of 7,266 square feet or 0.167
9 acres of land, more or less.

10 EXCLUDING drainage channels and drainage culverts located below the
11 surface improvements upon the foregoing property.

12 Parcel 4: External Roadway – Block 16:

13 A portion of Block 16, "Sabino Springs" Master Plat as Recorded in the
14 Pima County Recorder's Office in Book 44 of Maps and Plats at Page 78,
15 said portion being described as follows:

16 Commencing at the West one-quarter corner of Section 14,
17 Township 13 South, Range 15 East, Gila & Salt River Meridian,
18 Pima County, Arizona;

19 Thence North $01^{\circ} 19'22''$ West upon the West line of said Section,
20 1313.76 feet;

10/27/01 10:00 AM

1 Thence North $89^{\circ} 50' 27''$ East, 707.75 feet to an angle point in said
2 Block 16;

3 Thence South $00^{\circ} 47' 00''$ West upon said Block line, 170.36 feet;

4 Thence South $23^{\circ} 49' 27''$ West upon said Block line 75.07 feet to
5 the Point of Beginning, said point being a point on curve, concave
6 Northwesterly and having a radius of 180.00 feet which bears
7 North $03^{\circ} 40' 14''$ West;

8 Thence Northeasterly upon said curve, through a central angle of
9 $41^{\circ} 52' 08''$ an arc distance of 131.54 feet to said Block line;

10 Thence South $27^{\circ} 12' 58''$ West upon said Block line, 84.68 feet to a
11 point on curve, concave Northwesterly and having a radius of
12 220.00 feet which bears North $25^{\circ} 51' 54''$ West;

13 Thence Southwesterly upon said curve, through a central angle of
14 $22^{\circ} 04' 30''$ an arc distance of 84.76 feet to said Block line;

15 Thence North $00^{\circ} 45' 32''$ West upon said Block line, 34.98 feet;

16 Thence North $23^{\circ} 49' 27''$ East upon said Block line, 9.10 feet to the
17 Point of Beginning

18 Said portion contains 4364.57 square feet of 0.10 acres, more or less.

19 EXCLUDING drainage channels and drainage culverts located below the
20 surface improvements upon the foregoing property.

1 EXHIBIT B

2 CASITAS LEGAL DESCRIPTION

3
4 Block 4 of Final Master Plat for SABINO SPRINGS, as shown by map recorded in Book
5 44 of Maps and Plats at Page 78, Pima County, Arizona;

6 EXCEPT that portion, described as follows:

7 BEGINNING at the Northwest corner of said Block 4, being a point on the South right
8 of way of Sabino Greens Drive as shown on said plat, said South right of way
9 line being the arc of a curve concave to the Southwest, the radius point of said
10 curve bears North 18 ° 42' 46" East;

11 THENCE Southeasterly upon the Northeasterly line of said Block 4, upon said right of
12 way, upon said arc to the right, having a radius of 470.00 feet and a central angle
13 of 16 ° 23' 21", an arc length of 134.44 feet to a tangent line;

14 THENCE South 54 ° 53' 53" East, upon said Northeasterly line, upon said right of way,
15 137.50 feet;

16 THENCE departing said Northeasterly line and said right of way, South 35 ° 06' 07"
17 West, 144.87 feet to the South line of said Block 4;

18 THENCE North 75 ° 53' 15" West, upon said South line, 97.95 feet to the West line
19 thereof;

20 THENCE North 21 ° 35' 43" West, upon said West line, 154.87 feet;

1 THENCE North $02^{\circ} 06' 35''$ East, upon said West line 90.40 feet to the POINT OF
2 BEGINNING.

3