

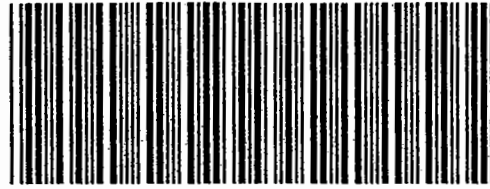
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

ARROWPOINT

**COURTESY RECORDING
NO TITLE CO. LIABILITY**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FORARROWPOINT

Houston-Neeley, L.L.C., an Arizona limited liability company is the sole legal owner of certain real property located in, Maricopa County, Arizona, which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference. Declarant hereby publishes and declares that said real property, together with all the improvements constructed and to be constructed thereon and all additions and accessions thereto (hereinafter referred to as the "Property"), known as ARROWPOINT, is and will be held, sold and conveyed subject to the following covenants, conditions and restrictions, which are hereby declared to be for the benefit of and binding on all of the Property and the owners and future owners thereof and of interests therein, their heirs, successors, grantees and assigns. This Declaration of Covenants, Conditions and Restrictions ("Declaration") establishes a plan for the individual ownership of real property estates, each to consist of an individual Lot (defined below) and the related undivided interest in the Common Elements (defined below). The interest in the Common Elements associated with each Lot is set forth on Exhibit B attached hereto and incorporated herein by this reference. This Declaration imposes certain covenants, conditions and restrictions upon the Property and upon the use, occupancy and enjoyment thereof. Any conveyance of the Property or any portion thereof or interest therein shall be and is subject to the covenants, conditions and restrictions set forth in this Declaration (which shall be deemed to run with the land) whether or not so specified in any deed or other instrument with respect to the same.

The covenants, conditions and restrictions of this Declaration are as follows:

ARTICLE I

DEFINITIONS

Section 1.1. "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 1.2. "Association" shall mean and refer to the Owners' homeowners' association, to be incorporated as an Arizona non-profit corporation following recordation of this Declaration under the name "ARROWPOINT HOMEOWNERS' ASSOCIATION" or such other name as the Declarant deems appropriate, and its successors and assigns.

Section 1.3. "Board" shall mean and refer to the Board of Directors of this Association.

Section 1.4. "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 1.5. "Common Elements" shall mean that portion of the Property described on Exhibit C attached hereto and incorporated herein by this reference and all improvements constructed and to be constructed thereon and all additions and accessions thereto.

Section 1.6. "Common Expenses" shall be (1) all expenses of administration of the Association, and of the maintenance, operation, management, improvement, repair or replacement of the Common Elements and other portions of the Property, if any, required to be maintained, improved, repaired or replaced by the Association; (2) all expenses declared or contemplated to be Common Expenses by provisions of this Declaration, the Articles, Bylaws or rules and regulations of the Association (as the same may be duly adopted and amended from time to time) or applicable statutes or regulations; and (3) subject to Section 4.1 hereof, any valid charge or assessment against the Property as a whole.

Section 1.7. "Declarant" shall be Key Construction, Inc., an Arizona corporation, dba Trend Homes and any successors in interest or assigns who acquire as stock in trade for resale and not for investment the entire interest in all of the then remaining unsold Lots, so long as more than one (1) Lot remains.

Section 1.8. "Lot" shall mean and refer to any plot of land shown on any Map of the Property as a lot.

Section 1.9. "Map" shall mean the subdivision maps or plats which are recorded from time to time with the Maricopa County, Arizona, Recorder and which show the Lots with reference to their location on the Property.

Section 1.10. "Member of the Association" or "Member" shall mean and refer to the members of the Association as defined in Section 5.2 hereof.

Section 1.11. "Mortgagee" shall mean the holders of a first priority mortgage or the first beneficiaries under a first priority deed of trust upon a Lot.

Section 1.12. "Owner" shall mean and refer to any person or entity, including Declarant, who owns of record a Lot, regardless of whether such Owner actually resides on any part of the premises; provided, however, that the purchaser under a recorded agreement for sale shall be deemed an Owner; and provided further that neither the trustee under a deed of trust securing indebtedness nor other persons or entities holding an interest in a Lot merely as security for performance of an obligation, nor any trustee holding for Declarant under trust agreement, shall be deemed the Owner of the Lot(s) subject thereto, but rather the beneficial owner of such Lot(s) shall for all purposes be deemed the Owner thereof.

Section 1.13. "Votes eligible to be cast" shall mean and refer to the aggregate number of votes which are then eligible to be cast by all Members of the Association at a meeting thereof (whether or not present and irrespective of class of membership unless otherwise specifically stated herein or required by law).

ARTICLE II

USE AND BUILDING RESTRICTIONS; RULES AND REGULATIONS

Section 2.1. Use of the Property. The use of all or any portion of the Property is hereby restricted as follows:

a. Animals. No animals of any kind shall be raised, bred or kept except upon the prior written approval and authorization of the Board and then only in accordance with such rules and regulations, if any, as promulgated, amended or supplemented from time to time by the Board; provided, however, that dogs, cats, birds or fish may be kept in reasonable numbers as household pets without such approval but subject to any such rules and regulations so long as, in the discretionary judgment of the Board, such pet is not, or does not become, a nuisance, threat or otherwise objectionable to other Owners or residents.

b. Antennas; Clotheslines. No exterior television, radio or other antenna or receiver of any type nor any outside clotheslines or similar facilities shall be placed, allowed or maintained without prior written approval and authorization of the Board.

c. Burning and Incinerators. No open fires or burning shall be permitted at any time and no incinerators or like equipment shall be placed, allowed or maintained. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills on the Lots.

d. Common Elements. The Common Elements shall be used only for the purposes for which they are designed and intended in the furnishing of services and facilities related to the enjoyment of the Lots.

e. Encroachments. No tree, shrub, or plant of any kind or any other improvement or thing shall be allowed to overhang or otherwise encroach upon any roadway, sidewalk or any other way without the prior written approval and authorization of the Board.

f. Garbage and Trash. No garbage or trash shall be placed on the exterior of any building or other improvement except in containers meeting all applicable requirements of law and the specifications of the Board, if any, and the placement, maintenance and appearance of all such containers shall be subject to prior written approval and authorization of the Board. All garbage and trash shall be regularly removed and shall not be allowed to accumulate.

g. Health and Safety. No thing or condition shall exist upon any portion of the Property which shall induce, breed or harbor plant or other disease or noxious insects or other pests or which shall pose a health or safety hazard of any kind.

h. Leasing. A Lot may be leased and subleased, but only if said Lot is to be occupied as a whole by the lessee (or sublessee) and his family, their servants and guests. Except for a lender in possession after a foreclosure proceeding, trustee's sale, or any procedure in lieu thereof, no Owner may lease his Lot to transient tenants (i.e., persons leasing or subleasing a Lot for an original term contemplated to be less than one (1) month). In no event shall a lease or sublease of a Lot exempt or relieve the Owner from his obligations as such, and in all cases any lessee or occupant under such a lease or sublease shall be deemed fully bound by this Declaration, the Articles, the Bylaws, and all rules and regulations promulgated pursuant thereto, and the lease or sublease shall specifically so state and shall provide that any failure to abide by their terms shall be a default under the lease or sublease. Any Lessor who leases or subleases a Lot shall deliver to his or her lessee or sublessee a copy of all such documents and shall be jointly and severally bound with such lessee or sublessee for any breach by such lessee or sublessee of the same. All leases shall be in writing. No lease or sublease shall be for less than an entire Lot.

i. Maintenance; Nuisances. All Lots and any improvements thereon (including without limitation all building exteriors, lawns and landscaping and the visible interior of all carports and other improvements) shall at all times be maintained by the Owners thereof in a neat, clean and sightly condition as determined in the discretion of the Board. All damage to a Lot or buildings or other improvements thereon shall be promptly repaired. No Lot shall be maintained or utilized in a manner which, in the discretion of the Board, presents an unsightly appearance or unreasonably offends the morale of, constitutes a nuisance, offense or unreasonable annoyance to, or endangers the health or safety of any person.

j. Oil, Gas and Mineral Activity. No oil, gas or mineral exploration, drilling, refining or mining operations of any kind, including but not limited to wells, derricks, surface tanks, tunnels, or mineral excavations or shafts shall be erected, maintained or permitted without the prior written approval and authorization of the Board.

k. Outside Speakers and Amplifiers. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers or any kind shall be placed, allowed or maintained outside, or be directed to the outside of any building or other improvement without prior written approval and authorization of the Board.

l. Outside Lighting. No lighting shall be placed, allowed or maintained outside or be directed to the outside of any building or other improvement without prior written approval and authorization of the Board.

m. Parking. On street and other parking may be prohibited or restricted by, and shall be otherwise subject to, such rules and regulations as shall be adopted, amended or supplemented from time to time by the Board.

n. Repairs. No repairs or maintenance, other than emergency repairs, of any machinery, equipment, or other personal property or fixtures (including without limitation motor vehicles) nor part of the building or other improvement constructed on the Lot where such repair or maintenance takes place shall be made within view of any neighboring property without prior written approval and authorization of the Board.

o. Residences Only. Each Lot shall be occupied only by a single family, single person or single persons living together and their servants and guests, as a residence and for no other purpose.

p. Signs: Commercial Activities. No signs or advertisements of any kind may be placed, allowed or maintained without prior written approval and authorization of the Board, except customary mailboxes, residential nameplates, and "for sale" and "for rent" signs may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to number, size, location and appearance, as may be adopted amended or supplemented from time to time by the Board. No commercial or business activity of any kind shall be conducted at any time on any portion of the Property.

q. Storage: Vehicles. No exterior storage of any items of any kind shall be permitted except with prior written approval and authorization of the Board. Any such storage as is approved and authorized shall be in the areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from any neighboring property. This provision shall apply without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, boats, mobile homes, unmounted pickup camper units and similar items. Also, without limitation, no automobile, truck or other vehicle, regardless of ownership, age, condition or appearance, shall remain on any portion of the Property in any manner which could be construed as being stored, neglected, abandoned or otherwise not in frequent use, except pursuant to written approval and authorization of the Board. No buses, vans or trucks having a carrying capacity in excess of 3/4 tons or designed for commercial purposes shall be placed, allowed or maintained except with prior written approval and authorization of the Board and then only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of any neighboring property.

r. Violation of Laws, Statutes, Ordinances and Regulations. No portion of the property shall be improved, maintained, utilized or otherwise dealt with in such manner as to violate any applicable law, statute, ordinance or regulation of the United States of America, the State of Arizona, the County of Maricopa, the City of Phoenix, or any other governmental agency or subdivision having jurisdiction over the premises.

s. Violation of Association Rules or of Covenants, Conditions or Restrictions. No portion of the Property shall be improved, maintained, utilized or otherwise dealt with in violation of the rules and regulations of the Association or any covenants, conditions or restrictions applicable to and binding upon said property.

Section 2.2. Building Restrictions. All construction on and improvement of the Lots shall be performed pursuant to the following terms and conditions:

a. Structures. All buildings and other improvements on the Lots shall be of new permanent construction and no buildings or other improvement shall be moved from any other location onto any Lot, except trailers or other temporary construction offices or storage facilities may be placed or erected thereon for use for construction purposes by contractors performing either on-site or off-site work on the Lot during the course of construction.

b. Sequence of Construction. No garage or other buildings or improvement whatsoever shall be erected on any Lot until the single family dwelling shall have been erected thereon, or until a contract with a reputable contractor shall have been entered into for the construction of such dwelling.

c. Number and Type of Units. No building or other improvement shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two (2) stories in height and a private garage or carport not to exceed one (1) story in height for not more than three (3) cars.

d. Walls/Fencing. If permitted by applicable law, an approved front fence under 2-1/2 feet high (but no chain link or wooden fence of any height) may be constructed or maintained at the front property line of Lot. Approved rear and side fences and walls may be constructed along the rear and side property lines of the Lots (but not encroaching on other Lots), if permitted by applicable law.

e. Easements. No building or other improvement of any kind shall be erected, permitted or maintained on the easements for utilities, as shown on any Map; except approved private fences or walls and structures specifically required for the installation and operation of utilities.

f. Architectural Control. No building, improvements, alterations, repairs, rebuilding, excavation, grading, landscaping or other work which in any way temporarily or permanently alters the exterior appearance of any of the Property or any building or other improvements located thereon, shall be commenced, performed, made or maintained at any time without the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications approved by the Architectural Committee for any such work shall be made without the prior written approval of the Architectural Committee. In determining whether to approve or disapprove plans and specifications, the Architectural Committee shall have the right to disapprove any such plans or specifications which, in its discretion, are not suitable or desirable with respect to the individual plan or specification, the particular or surrounding locations concerned, or the Property as a whole. In this regard, the Architectural Committee shall have the right to take into consideration the matters mentioned above, as well as the aesthetics of the proposed plans and specifications, the harmony thereof with the surroundings, their effect on the view of the adjacent or neighboring property, the materials involved and the effect on the Property as a whole. Approval hereunder is for the purpose of reviewing harmony and aesthetics of design and location and ensuring consistency of the overall development of the Property and neither the Association, the Architectural Committee, Declarant nor any other person, association or entity shall have any liability in connection with the granting of any approval for any technical or other defects in the plans or specifications so approved. The Board shall establish an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. The Architectural Committee shall consist of three regular members and two alternate members, all appointed by the Boards. All vacancies shall also be filled by the Board. The appointees need not be architects, directors, Owners or residents and do not need to possess any special qualifications of any type except such as the Board may, in its discretion, require. The Architectural Committee shall hold regular meetings, a quorum for such meeting shall consist of two members, and the concurrence of two members shall be necessary for any decision of the Architectural Committee. An alternate member may participate at any meeting at which there is not a quorum of regular members present, may count toward a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. The Architectural Committee shall hold meetings in such manner and upon such notice as provided for by the Board in the Bylaws. The Architectural Committee may (but need not) from time to time establish, amend and repeal general architectural guidelines and standards to be used in rendering its decisions. Such guidelines and standards need not be the same for all portions of the Property and nothing shall preclude the Architectural Committee from granting variances therefrom. The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration.

In the event the Architectural Committee fails to approve or disapprove any design, location or the kind of material to be used on any structure, within thirty (30) days after the written request has been made and all supporting documents, plans and specifications filed with the Architectural Committee, then such approval of the Architectural Committee shall not be required; provided, the design, location and kind of material in the buildings or other improvements to be built shall continue to be governed by all of the restrictions set forth in this Declaration and said buildings and other improvements shall be in harmony with the existing buildings and improvements in the immediate vicinity thereof.

Section 2.3. Rules and Regulations. Rules and regulations concerning the use of the Lots and the Common Elements (including, but not limited to, those establishing reasonable fees or charges, hours and terms for the use of any property and facilities subject to the Association's control and administration, and policies for enforcement of this Declaration and such rules and regulations including schedules of costs and charges incurred by the Association and payable by the violator in the event of a breach of the same) may be adopted, amended and revoked from time to time by the Board or a committee thereof or of Owners duly appointed by said Board; provided, however, that no such adoption, amendment or revocation shall be effective until thirty (30) days after copies of the same shall have been sent or made available to all Owners (provided such rules and regulations may be retroactive in effect following expiration of such 30 day period and restrict or preclude existing conditions, all such conditions to be brought into conformance within such 30 day period); provided, further, that no such adoption, amendment or revocation shall be effective after the Members of the Association holding a majority of the votes eligible to be cast shall have specified to the Board of Directors of the Association their disapproval thereof in writing. Copies of available rules and regulations and amendments thereto shall be furnished by the Association to all Mortgagees and Owners and residents of Lots upon written request.

Section 2.4. Waivers. Upon the written request of any Owners, the Association's Board of Directors may in its sole discretion determine to waive any restriction contained in this Article II upon a demonstration by such Owner that said waiver will not materially interfere with the use or enjoyment of any Lot or the Common Elements, or any portion thereof; provided, however, that no such waiver shall continue in effect for more than one (1) year unless either renewed by the Board or the Board determines that said waiver shall continue for such other period of time (or permanently or indefinitely) as is specifically stated in the resolution of the Board granting said waiver. The Board shall mail or deliver to each Owner a copy of such waiver within thirty (30) days after granting or renewing such waiver. If within thirty (30) days of the effective date of the notice of the granting or renewing such waiver, ten (10) or more Owners shall so petition in writing, any such waiver shall be submitted to a vote of the Members of the Association as soon as practicable, and if disapproved by the Members holding a majority of the votes eligible to be cast, shall be of no further force and effect.

ARTICLE III

MAINTENANCE, ALTERATIONS AND IMPROVEMENTS

Section 3.1. Responsibility for Maintenance. Responsibility for the maintenance of the Lots and the Common Elements shall be as follows:

a. The Association shall maintain, repair and replace the Common Elements at the Association's expense.

b. Each Owner shall maintain, repair and replace at his expense all portions of his Lot and any buildings or other improvements thereon.

Section 3.2. Alteration and Improvement of the Common Elements. Except as provided in Section 6.7 hereof, there shall be no material alteration or further substantial improvement of the Common Elements without prior approval in writing by Members of the Association holding at least three-fourths

(3/4) of the votes eligible to be cast; and if such approval is obtained, the costs of said alterations or improvements shall be borne by the Association and specially assessed against all the Owners in the manner specified in Section 4.4. However, in the event any such alteration or improvement of the Common Elements is approved in writing by Members of the Association holding a majority of the votes eligible to be cast and does not materially interfere with the use and enjoyment by other Owners of their Lots, such improvement or alteration may be effected if the non-approving Owners are relieved from the capital costs of building or otherwise effecting such alteration or improvement, but not the expense thereafter of maintaining, repairing and replacing the same (which expense shall be payable by the Association from regular assessments like other Common Expenses). The amount of any capital costs from which such non-approving Owners shall be so relieved shall be assessed to each approving Owner in the percentage amount that each approving Owner's interest in the Common Elements bears to the aggregate interest in the Common Elements held by all the approving Owners. Such assessments shall otherwise be assessed in substantially the same manner, and with like effect, as specified in Section 4.4 of this Declaration. Each and every Owner shall own his full undivided interest in the Common Elements which are so altered or improved, whether or not such Owner shall have been relieved from the capital costs thereof.

Section 3.3. General. The following provisions shall apply generally to questions of maintenance, repair, replacement, alteration and improvement:

a. The respective responsibilities of the Association and the several Owners for maintaining, repairing and replacing portions of the Property, as set forth herein, shall include the obligation at all times to keep the same in compliance with all applicable governmental regulations and laws, and well-maintained and in good repair so as not to interfere with the use and enjoyment of any Lot or the Common Elements, or any portion thereof, as by permitting any portion of the Property to become unsightly or to fall into a state of disrepair:

b. Any and all maintenance, improvements, alterations, repairs and replacements shall be accomplished in a workmanlike manner, with all deliberate speed and in such manner as is reasonably necessary to minimize any undue interference with the use and enjoyment of other portions of the Property. Such maintenance, improvements, alterations, repairs and replacements shall be carried out in accordance with all applicable building codes and regulations and other applicable laws.

c. Each Owner shall bear and pay the cost (to the extent not covered by insurance) of any and all maintenance, repairs and replacements necessitated, directly or indirectly, either by such Owner's failure (after notice) to perform his obligations hereunder, or by his family's, agents' or guests' negligent or willful acts or omissions, as well as other damages attributable or incidental to such failure, acts or omissions.

d. Each Owner shall promptly report to the Association any defect or condition, apparent from within or without his Lot, as to which the Association has the responsibility for maintenance, repair and replacement as herein provided.

Section 3.4. Personal Property. The Association, through its Board, may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in such personal property shall be held by the Owners in the same proportion as their respective undivided interests in the Common Elements, which interest shall not be transferable except with a transfer of a Lot. The transfer of the associated Lot shall vest in the transferee ownership of the transferor's beneficial interest in such personal property.

ARTICLE IV

PROPERTY TAXES; ASSESSMENTS

Section 4.1. Property Taxes. State, county, and local (including special assessment districts) taxes, assessments and charges imposed upon the Common Elements shall not be an expense to be borne by the Association, except as hereinafter set forth. Such taxes, assessments and charges shall be borne and paid by the Association.

Section 4.2. Assessments. Each Owner, by becoming such, shall be deemed to covenant and agree to pay to the Association with respect to his Lot assessments as set forth herein, all such assessments to be fixed established and collected from time to time as hereinafter provided. Any assessment made with respect to a Lot, together with interest thereon and any costs of collection thereof (including reasonable attorneys' fees) as hereinafter provided, shall be the personal, joint and several obligations of the persons who were the Owners of such Lot at the time when the assessment fell due and, in addition, shall (subject to Section 13.1(b) hereof) be a charge of such Lot and a continuing lien thereon. The assessments provided for herein shall be used for the purpose of promoting the use and enjoyment of the several Lots and the Common Elements, and the health, safety and welfare of the Owners, the residents of Lots and their families and guests and, in particular, for the payment of the Common Expense of the Association. Amounts of assessments and each Owner's share of such assessments for a Lot, unless expressly stated otherwise, shall be determined in accordance with this Article. The Board may adopt a schedule of "late charges" payable, in addition to all other remedies, on assessments and other charges not paid when due. No amendment hereto which shall disproportionately alter any assessment obligation of an Owner as set forth in this Article will be effective without the consent of such Owner and any Mortgagee of said Owner and the affirmative vote of 67% of each class of Members.

Section 4.3. Regular Assessments. In advance of each fiscal year of the Association, the Board of Directors shall estimate the costs and expenses to be incurred by the Association for such fiscal year and the other proper cash requirements of the Association for such year, including but not limited to:

a. The costs of maintenance, improvements, repairs and replacements to be effected by the Association as contemplated by Article III hereof, and generally the costs and expenses specified or contemplated hereby as Common Expenses to be borne and paid by the Association;

b. Such sums as shall be fair and prudent for the establishment and maintenance of an adequate reserve fund for costs and expenses of the Association (including, but not limited to, maintenance, repair and replacement of the Common Elements); and

c. Such additional sums as shall be necessary or appropriate to meet and accomplish the proper purposes of the Association.

d. The aggregate estimated amount of such cash requirements for the ensuing fiscal year of the Association shall then be allocated by the Board of Directors among the Owners other than the Declarant, subject to Section 4.7 below, so that each Owner's share of such aggregate amount with respect to each Lot owned shall be as set forth on Exhibit B as from time to time amended; which share(s) shall be assessed against such Owner, other than Declarant, as his regular assessment.

e. The regular assessments shall commence as to all Lots on the first of the month next following the conveyance of the first Lot by Declarant to an unaffiliated Owner.

f. Notwithstanding any other provisions of this Section, the maximum regular assessment shall be \$360 Dollars per year (or the applicable pro rata portion for shorter periods) per Lot until the January 1 immediately following the conveyance of the first Lot by Declarant to an unaffiliated Owner. Thereafter the maximum regular assessment may be increased as follows:

i. The Board may in any year increase the then applicable maximum regular assessments (as previously adjusted) for the next year and all subsequent years by the same percentage that the U. S. Department of Labor Consumer Price Index for All Urban Consumers (CPI-U), U. S. City Average, All Items (1982=100) (or such other index as the Board in its discretion may select) has increased between the November immediately preceding the last increase in the maximum regular assessment authorized by the Board and the November immediately preceding the first assessment year for which the change is to be effective, or by ten percent (10%), whichever is greater.

ii. The maximum regular assessment may be increased at any time for any year (and any subsequent years if so authorized) by the affirmative vote of 67% of each class of Members who are voting in person or by proxy, at a meeting duly called for such purpose.

g. The Board may fix the regular annual assessment at any amount not in excess of the applicable maximum for each year.

h. For purposes of making such estimates and allocations, the Board may elect to utilize the services of accountants and/or other advisors, but shall not be required to do so. Estimates made in good faith by the Board shall be conclusive and binding upon all Owners and others concerned. The Board may at any time revise its estimates and thereby increase or decrease the regular assessments payable by Owners, if it determines that its initial estimates are inaccurate. The Board or their designated representative shall from time to time give each Owner reasonable notice, at his last recorded address on the books of the Association, as to the amount of the regular assessment made against him computed as above, any revisions thereof, the time or times at which such assessment is payable (which shall be at least thirty (30) days after transmission of such notice and may in the Board's discretion be payable in a lump sum or in equal or unequal installments due as frequently as monthly) and the address to which remittances shall be made.

Section 4.4. Special Assessments. In the event the Board determines that, because of unanticipated casualty or other extraordinary occurrence or the approval of any improvements pursuant to Section 3.2, funds available to the Association from regular assessments, insurance proceeds and other sources will not be sufficient to meet the Association's obligations, the Board may thereupon levy special assessments against the Owners as hereinafter provided. The aggregate amount so to be specially assessed against the Owners shall be determined by the Board and allocated among all Owners so that each Owner's share of such aggregate amount with respect to each Lot owned shall be as set forth on Exhibit B as from time to time amended; which share(s) shall thereupon be assessed against such Owner as his special assessment. The Association's Board of Directors or their designated representative shall give each Owner reasonable notice, at his last recorded address on the books of the Association, as to the amount of the special assessment made against him as set forth above, the time or times at which such special assessment is payable (which shall be at least sixty (60) days after transmission of such notice and may in the Board's discretion be payable in a lump sum or in equal or unequal installments due as frequently as monthly) and the address to which remittances shall be made.

Any damage, charge, cost or expense incurred by the Association as the direct or indirect result of the actions or failure to act of an Owner or others for whom such Owner is responsible may be specially assessed against such Owner as a special assessment and shall be fully enforceable to the same extent as any other assessment hereunder.

Section 4.5. Utility Costs and Assessments. The Association shall pay as a Common Expense the cost of all hot and cold water, all gas and/or electricity and other utilities used in conjunction with the Common Elements.

To the extent gas, water, electricity or other utilities are not separately metered to each Lot, the owner of each Lot shall pay his pro rata share of such master metered utilities based on the ratio of his share of assessments shown on Exhibit B associated with his Lot as to the total shares of assessments shown on Exhibit B associated with all Lots served through the master meter serving the owner's Lot.

The Association may, but need not, serve as collection and disbursement agent for such master metered utilities which shall be assessed against the affected Owners with the same force and effect as any other assessment hereunder. In such event the Association's Board of Directors or their designated representative shall give each Owner reasonable notice, at his last recorded address on the books of the Association, as to the amount of the utility assessment made against him as set forth above, the time or times at which such utility assessment is payable (which shall be at least five (5) days after transmission of such notice and due in a lump sum) and the address to which remittances shall be made. The individual Owners shall pay the costs of all other utilities as separately billed to their respective Lots.

Section 4.6. Enforcement and Lien of Assessments and Charges, Etc. Each Owner, for himself, his heirs, successors and assigns, covenants that with respect to all assessments or charges of any kind (including without limitation regular, special or utility assessments, late charges, charges adopted pursuant to Section 2.3 or 4.2 of this Declaration or otherwise) coming due during the period that he is an Owner, he will remit the same directly to the party or parties designated by the Board, at the time and place and in the amounts specified, all as herein provided. Each Lot is charged with a continuing servitude and lien from the date of recordation hereof for the amount of all assessments and charges levied under this Declaration against such Lot as the Owner thereof (the "association Lien") which lien is prior to all other liens upon the Lots; provided, however, that the Association Lien shall be subordinate to the lien of Mortgagees as provided in Section 13.1(b) hereof. Any assessments or charges which are not paid when due shall be delinquent.

Each Owner further agrees that such assessments or charges, if not paid when due, and any costs (including reasonable attorneys' fees) incurred by or on behalf of the Association in collecting the same (which shall be paid by such Owner to the Association on demand), shall bear interest from the date due or incurred, as the case may be, at the greater of twelve percent (12%) per annum or the prevailing Veteran's Administration home loan interest rate. All assessments and charges (including all costs and interest) are secured by the Association Lien and shall continue to be secured by such Association Lien until fully paid, regardless of any offset or counterclaim. The lien provided for herein shall be in favor of the Association or its assignee. The Board may file or cause to be filed in the public records of Maricopa County, Arizona, a public notice of such lien.

Each Owner does hereby waive, to the extent of the Association Lien created pursuant hereto, the benefit of any homestead or exemption laws of the State of Arizona. No Owner may exempt himself from liability for assessments or charges of any kind by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Lot. The sale or conveyance of the Lot out of which the assessment or charge arose shall not relieve the selling or conveying Owner of his personal liability for such assessment or charge.

Each Owner expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt under any remedy available at law or equity and/or to enforce the aforesaid Association Lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, or by sale as under a deed of trust and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The Association may elect to make payments on any prior lien, and such payments shall thereupon become the obligations of the Owner to the Association, bearing interest as aforesaid and secured by the Association Lien herein created. The Association or its agent shall have the power to bid on an interest so foreclosed or purchase at a sale thereof and to acquire and hold, lease, mortgage, sell or convey the same.

Section 4.7. Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each person who purchases a Lot from the Declarant shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-sixth (1/6th) of the current Annual Assessment for the Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose

permitted under this Declaration. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any assessments levied by the Association pursuant to this Declaration.

Section 4.8. Declarant Assessment. Notwithstanding any provision in this Declaration to the contrary, so long as there is a Class B Membership, Lots owned by the Declarant shall not be subject to assessment, but Declarant shall be required to pay to the Association the difference between the cost of operating and administering the Association and the income from assessments. When the Class B Membership ceases in accordance with Article V, Section 5.3 hereof, Declarant shall no longer be required to subsidize the cost of operating and administering the Association but all Lots owned by Declarant shall be subject to assessment in the same way as any other Lot.

ARTICLE V

THE ASSOCIATION

Section 5.1. The Association. The Association shall have such powers as are set forth herein and in its Articles and Bylaws, as the same may be duly adopted and amended from time to time; provided however, that no provision of the Association's Articles or Bylaws shall be inconsistent with the express provisions hereof.

Section 5.2. Membership. Membership in the Association shall be limited to Owners. An Owner shall automatically, upon becoming such, be a Member of the Association and shall remain a Member of the Association until he ceases to be an Owner for any reason, at which time his membership in the Association shall automatically cease. Ownership of a Lot shall be the sole qualification and criterion for membership.

A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot, and then only to the purchaser thereof, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or other legal process whereby ownership of such Lot is transferred. Any attempt to make a prohibited transfer of membership is void and will not be reflected upon the books or records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the subsequent Owner of such Lot, the Association shall have the right to record said transfer upon the books and records of the Association reflecting a new membership in such subsequent Owner, and thereupon the old membership outstanding in the name of the prior Owner shall be null and void.

There shall be no more than one (1) membership with respect to each Lot, which membership shall be subject to all of the provisions of this Declaration, the Articles, the Bylaws, and any rules and regulations duly adopted on behalf of the Association. In the event ownership of a Lot is held by two or more persons or entities, whether by joint tenancy, tenancy in common, community property, or otherwise, the membership with respect thereto shall be joint, and a single membership shall be issued in the joint names of such two or more persons or entities, and they shall designate to the Association in writing one of their number who shall have the power to vote and exercise other rights of said membership, and in the absence of such designation and until such designation is made, the Secretary of the Association may make such designation.

Section 5.3. Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners other than Declarant. A Class A member shall be entitled to one (1) vote for each Lot owned by said Member.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot owned by it; provided, however, that the Class B membership shall convert to Class A membership no later than the earlier of:

- a. The date seventy-five percent (75%) of the Lots have been conveyed to Owners other than a Declarant; or
- b. Five (5) years after the date the Declarant first conveys a Lot to an Owner other than a Declarant; or
- c. Such other time as the Declarant shall designate in writing.

Voting, other rights of membership in the Association and other rights as an Owner hereunder may be delegated in writing by an Owner, but only to a person holding an interest (whether as lessee, beneficial owner, seller pursuant to an agreement of sale, Mortgagee or otherwise) in the Lot with respect to which such voting and other rights exist. Such delegation shall not relieve the delegating Owner or Member of any of their obligations as such. In addition to the foregoing, a revocable proxy for any meeting of Members may be granted to a person holding an interest in any other Lot or to an employee, agent or representative of Declarant. Any delegation or proxy shall be subject to such reasonable requirements as may from time to time be promulgated in the Bylaws or otherwise by the Association's Board of Directors.

Section 5.4. Annual Reports: Mortgagee Rights. Within ninety (90) days after the close of each fiscal year of the Association, the Board shall cause to be prepared and distributed to all Owners, and, if requested in writing, to Mortgagees, an annual report of the Association setting forth in reasonable detail the results of operations of the Association for, and its financial position at the end of, such fiscal year and such other information as the Board shall deem appropriate. The financial information may, in the Board's discretion, but need not, be audited or reviewed by a public accountant or accounting firm. In addition, a Mortgagee shall, upon reasonable request, be entitled to inspect the relevant books and records of the Association for any proper purpose during normal business hours, and to receive written notice of all meetings of the Members of the Association and may designate a representative to attend such meetings.

Section 5.5. Limitation Upon Liability. Notwithstanding anything herein to the contrary contained or implied, the Association's liability to Owners and others shall be limited to its obligations herein expressly set forth, and shall not include liability for any consequential or other injuries or damages arising from any act or omission by the Association, its officers, directors, employees, agents or others acting on its behalf, or the acts or omissions of any Owner. To the fullest extent permitted by law, neither the Association, the Board, the Architectural Committee, any other committees of the Association, the Declarant or any officer, director or other appointed or elected member of any of the above, shall be liable to any person or entity for any damage, loss, cost, expense or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications whether or not defective), course of actions act, omission or the like made in good faith, whether or not erroneous or negligent, which they reasonably believed tube within the scope of their respective duties and rights hereunder or in connection herewith.

ARTICLE VI

INSURANCE

Section 6.1. Purchase of Insurance. The Association shall purchase insurance policies upon certain of the Property, all as hereinafter more particularly set forth, which policies shall be for the benefit of the Association, the Owners and their Mortgagees, all as their respective interests may appear. Owners and others holding interests in Lots, at their own expense, and subject to the terms of this Article, shall have the responsibility to obtain such insurance coverage upon their personal property, portions of Lots and

other portions of the Property in which they have an interest (whether or not constituting portions of the Common Elements) and such liability, living expense and other insurance coverage as they consider appropriate under the circumstances.

Section 6.2. Coverage. The Association shall purchase insurance policies with the Association as the named insured as trustee for the several Owners sufficient to provide the following coverage:

a. All buildings and other improvements constituting portions of the Common Elements shall be insured by the Association in an amount equal to the maximum insurable replacement value, as determined annually by the Board, or if such amount is impracticable, such lesser amount as is deemed appropriate by said Board of Directors in order to fund its obligations pursuant to Article III of this Declaration. Such coverage shall afford protection against:

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(ii) Such other risks as from time to time shall be customarily covered with respect to like or similar property.

b. The Association shall procure insurance against public liability in a minimum amount of Five Hundred Thousand Dollars (\$500,000.00) per person, One Million Dollars (\$1,000,000.00) per occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage or in such higher amounts and with such additional coverage as shall be deemed appropriate by the Board.

c. The Association shall procure a workmen's compensation policy if appropriate or necessary to meet the requirements of law.

d. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and/or fidelity bond meeting the insurance and fidelity bond requirements for projects of this type established by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, and Veterans Administration, as applicable, so long as any of them is a mortgagee or owner of a Lot within the project, except to the extent such coverage is not available or has been waived in writing.

e. The Association may procure such other insurance and on such terms as the Board shall determine from time to time to be desirable or appropriate.

Section 6.3. Policy Provisions. The insurance policy or policies obtained by the Association shall, to the extent practicable, contain the following provisions:

a. That the coverage afforded by said policy or policies shall not be brought into contribution or proration with any insurance which may be purchased by Owners, their Mortgagees or others having an interest in any Lot;

b. That the conduct of any one or more Owner(s), his family, agents, employees, tenants or guests, or others having an interest in a Lot, or any act or omission not within the control of the Association shall not constitute grounds for avoiding liability on said policy or policies;

c. That any "no other insurance" clause shall not prohibit insurance purchased by Owners, their Mortgagees or others having interest in Lots;

d. That certificates of mortgagee endorsement or the equivalent shall be issued to Mortgagees;

e. That there shall be no subrogation with respect to the Association or its employees, agents, officers or directors, Owners, their respective families, agents, employees, tenants, guests or others having an interest in any Lot or said policy or policies shall name said persons as additional insureds;

f. That the policy cannot be canceled (including cancellation for nonpayment of premiums), invalidated, suspended or substantially modified without at least thirty (30) days' prior written notice to any and all insureds named thereon;

g. That, notwithstanding any provisions which give the insurer the right to restore damage in lieu of making a cash payment, such option shall not be exercisable without the prior written consent of the Association; and

h. Such other terms as the Board deems necessary or appropriate to the best interests of the Association.

Section 6.4. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

Section 6.5. Owner's Obligations. Each Owner or others holding interests in Lots shall obtain additional insurance at their own expense as they deem appropriate; provided, however, that no such person or entity shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time and, provided, further, that such insurance policies shall contain an effective waiver by the insurer of all rights of subrogation against all other Owners, their respective families, agents, employees, tenants or guests, the Association, its officers, directors, agents and employees or others having interests in Lots. Any person who obtains individual insurance policies covering any portion of the Property, other than property belonging exclusively to such person, shall file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance.

Section 6.6. Inspection. All insurance policies purchased by the Association shall be deposited with the Association and shall be available for inspection during normal business hours for any proper purpose upon the reasonable request of any Owner, Mortgagee or other person having an interest in a Lot.

Section 6.7. Proceeds. All insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to the Association, or a trustee designated by the Association. The Association or such trustee shall hold all net proceeds (after payment of related costs and expenses) in trust for the purpose of rebuilding, repairing or replacing the damaged Common Elements or other property so insured to substantially the same condition as prior to the loss. Any excess proceeds shall be held by the Association to be applied to future accruing Common Expenses. In no event will the Owner of a Lot have priority to receive unapplied insurance proceeds-over his Mortgagee.

All Mortgagees shall be given timely notice by the Association of any damage to or destruction of the Common Elements.

The Association Or its agents shall have exclusive authority under the Association's policies to negotiate with the insurance carrier and others and to adjust losses, make settlements and give releases in connection therewith and to collect monies from the insurance carrier. Each holder of any interest in the Property, by becoming such, expressly consents to and agrees to be bound by the provisions of this Section as it concerns their interest in the Property (including without limitation the Common Elements) and the proceeds and irrevocably appoints the Association (or such individual as the President of the Association shall designate) as his attorney-in-fact to effect the purposed referred to in this Section.

ARTICLE VII

EMINENT DOMAIN

Section 7.1. Association to Give Notice, Etc. In the case of a taking of all or any part of the Common Elements by exercise of the power of condemnation or eminent domain (hereinafter called a Taking"), or the commencement of any proceedings or negotiations which might result in a Taking, the Association will promptly give written notice thereof to each Owner and Mortgagee generally describing the nature and extent of such Taking or the nature of such proceedings and negotiations and the nature and extent of the Taking which might result therefrom, as the case may be. Subject to the terms of this Article, each Owner may file and prosecute its respective claims for an award, and the Association may file and prosecute the claims of any Owner who does not do so within the period of time stated in the notice from the Association as provided in the preceding sentence. The Association shall file and prosecute any such claim which it undertakes, and hold any proceeds which it may recover, on behalf of said Owner subject to the terms hereof.

Section 7.2. Use of Proceeds. If any portion of the Common Elements subject hereto should be taken by the exercise of the power of eminent domain or should be transferred and conveyed to a condemning authority in anticipation of such exercise, all net proceeds therefrom (after payment of related costs and expenses) shall be paid to the Board which shall first disburse such proceeds to the replacement o; any improvements affected and/or generally for the benefit of the Common Elements and any excess shall be held by the Association to be applied to future accruing Common Expenses. In no event will the Owner of a Lot have priority to receive unapplied proceeds over his Mortgagee. Each holder of any interest in the Property, by becoming such, expressly consents to and agrees to be bound by the provisions of this Section as it concerns their interest in the Property (including without limitation the Common Elements) and the proceeds and irrevocably appoints the Association (or such individual as the President of the Association shall designate) as his attorney-in-fact to effect the purposes referred to in this Section.

ARTICLE VIII

MANAGEMENT AGREEMENTS

Section 8.1. Management Agreements. Each Owner, by becoming such, shall be deemed to have agreed to be bound by the terms and conditions of all management agreements entered into by the Association with respect to the Property. A copy of all such management agreements shall be available to each Owner and Mortgagee upon reasonable request for inspection for any proper purpose during normal business hours. Any management agreement entered into by the Association shall be for a term not in excess of one (1) year and shall provide that it may be canceled without payment of a termination fee (other than amounts then owing) upon thirty (30) days' written notice either (i) for cause by the Board or (ii) with or without cause upon the affirmative vote of Members of the Association holding at least a majority of the votes eligible to be cast.

ARTICLE IX

PARTITION, SUBDIVISION OR COMBINATION OF PROPERTY

Section 9.1. No Partition of Common Elements. The Common Elements shall remain undivided, and no Owner or any other person shall bring any action for division or partition, it being agreed that this restriction is necessary in order to preserve the rights of the Owners and others with respect to the ownership, operation and management of the Property. Further, the Association shall not, by act or omission, abandon, encumber, sell or transfer any part of the Common Elements without the consent of the Owners holding 67% of the vote of each class of Members. Each holder of any interest in the Property, by becoming such, expressly consents and agrees to be bound by the provisions of this Section as it concerns their interest in the Property (including without limitation the Common Elements) and

irrevocably appoints the Association (or such individual as the president of the Association shall designate) as his attorney-in-fact to effect the purposes referred to in this Section.

Section 9.2. Subdivision or Combination. Notwithstanding Section 9.1, subject to the requirements of any applicable laws, the subdivision or combination of any Lot or Lots may be accomplished upon the written consent of the Mortgagee(s) of the affected Lot or Lots and upon the written consent of the Owners holding 67% of the votes of each class of Members. If so approved, any such subdivision or combination shall be effective upon recordation with the Maricopa County Recorder of notice of such subdivision or combination executed by the directors of the Association or such officer of the Association as the Board shall designate. Unless otherwise approved pursuant to this Section, upon subdivision or combination of Lots, the appurtenant benefits, rights and obligations of the Lots so subdivided or combined shall be apportioned equally among the resulting Lot(s). All expenses for the preparation and recording of the notice and related instruments and documents shall be borne by the persons requesting the subdivision or combination and shall not be a Common Expense.

ARTICLE X

EASEMENTS

Section 10.1. Easements in Favor of Each Owner and Lot Relating to the Common Elements. Subject to this Declaration and regulation by rules and regulations adopted from time to time by the Board, there are hereby reserved and created easements for the purposes of occupancy, ingress and egress, access, use and enjoyment and any other lawful purpose in favor of each Owner and Lot, in, on, across, over, under, and through all the Common Elements wherever located. Said easements shall be appurtenant to each Lot and may not be severed therefrom and shall be deemed to be conveyed with title to such Lot, whether or not so specified in any deed or other instrument with respect to the same.

Section 10.2. Easements for Encroachments. Each Lot is subject to an easement for encroachments created by shifting, settling, or movement of buildings or other improvements as designed and constructed by or on behalf of the Declarant. A valid easement for said encroachments and for the maintenance, repair and replacement of the same shall and does exist. In the event that any building or other improvement is damaged or partially or totally destroyed, each Owner agrees that encroachments on parts of adjacent Lots of Common Elements due to repairs or reconstruction pursuant to the terms of this Declaration shall be permitted.

Section 10.3. Easements for Utilities. There is hereby created a blanket easement on, above, across, in, over and under the Property for the purpose of constructing, installing, replacing, repairing, maintaining and operating all utilities, including, but not limited to, water, sewers, gas, telephones, cable television and electricity together with the right of ingress or egress to and from said easement including the right to use existing roadways. By virtue of this easement, it shall be expressly permissible for each and every utility provider to bury underground pipes, circuits, conduits, wires and a buried cable system, together with all the necessary appurtenances, and to place, affix, maintain and replace wires, cables, circuits, pipes, conduits and other fixtures and facilities on, above, across, in, over and under the Common Elements, and several Lots and the roofs and exterior and interior walls of any and all buildings and other improvements thereon. Notwithstanding anything to the contrary contained in this Section, no water, sewer, gas, telephone, cable television, electrical or other utilities may be constructed, installed, replaced, repaired, maintained or operated on the Common Elements, the several Lots or any buildings or other improvements thereon except as placed by or on behalf of Declarant, or as approved by the Board. These easements shall in no way affect any other recorded easements on said premises.

Section 10.4. Access Easement. The Association and its employees and agents shall have the right of access to each Lot and any buildings or other improvements thereon to inspect the same, to remove or cure violations therein and to maintain, repair or replace the Common Elements (including without limitation any utility facilities) contained therein or elsewhere and to perform its other obligations hereunder; provided, however, that such Association right shall be exercised in a reasonable manner

and at reasonable times and with prior written notification (unless emergency situations make written notification unreasonably burdensome under the circumstances) to the Owner of the Lot, and shall be subject to all reasonable precautions and limitations imposed upon the Association by the Lot Owner.

ARTICLE XI

NON-DISCRIMINATORY APPLICATION

Section 11.1. Non-Discriminatory Treatment. The provisions of this Declaration shall be applied and enforced in a manner so that all Owners and other interested persons are treated in a nondiscriminatory manner.

ARTICLE XII

APPLICATION, ENFORCEMENT AND SANCTIONS

Section 12.1. Application, Enforcement, Sanctions. The covenants, conditions, restrictions and easements contained herein shall run with the land and shall be binding upon all persons with any interest in or occupying any portion of the Property and their respective heirs, successors, executors, administrators, grantees and assigns. These covenants, restrictions, reservations, conditions and easements, together with any and all terms and provisions of the Articles, the Bylaws or any rules and regulations as may from time to time be adopted and amended, may be enforced by the Association through the Board, which shall have the right and duty to enforce the same and expend Association monies in pursuance thereof. They may also be enforced by any Member of the Association, but only if such Member shall first have demanded in writing that the Association enforce the same and the Association shall have failed diligently to prosecute such enforcement within thirty (30) days after receipt of such demand. In the event the Association, the Board or any Member of the Association shall institute litigation so to enforce said covenants, conditions, restrictions and easements or the terms and provisions of the Articles, the Bylaws or any rules and regulations as may from time to time be adopted and amended, and shall prevail in such litigation, said Association, the Board or Member shall be entitled to recover all attorneys' fees and other costs incurred in connection with such litigation from the person or persons against whom said Association, the Board or Member so prevailed, which amounts together with any recovery pursuant thereto shall be secured by the Association Lien imposed pursuant to Article IV.

In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration, the Articles, the Bylaws or any rules and regulations as may from time to time be adopted and amended, for a period in excess of fourteen (14) days, or shall be in default in the performance of any other obligation provided or contemplated by this Declaration, the Articles, the Bylaws or any rules and regulations for a period in excess of fourteen (14) days, in addition to any other available remedies, said Owner's (and those claiming through him) right to vote shall be suspended and shall remain suspended until all such payments are brought current and all such defaults remedied and an Owner's (and those claiming through him) right to use any recreational facilities or the Common Elements may be suspended for a period not to exceed sixty (60) days, as determined by the Board.

An action to abate the breach of any of the covenants, conditions, restrictions and easements contained herein, the Articles, the Bylaws, or any rules and regulations and specifically enforce the same, or to recover damages for breach thereof, may be brought against any Owner (and/or person holding an interest through him) even though said breach was in existence at the time the Owner acquired an interest in or title to his Lot (whether pursuant to a foreclosure sale or any other sale or transaction). Any Owner of a Lot shall take title to the same subject to any liens pursuant to the provisions of this Declaration which shall have arisen or accrued prior to the date of acquisition, except as otherwise provided in Section 13.1 hereof. Nothing herein contained shall be deemed to indicate that damages at law constitute an adequate remedy for a violation of any of the provisions of this Declaration, the Articles, the bylaws or any rules and regulation promulgated pursuant thereto.

ARTICLE XIII

MORTGAGEE RIGHTS

Section 13.1. Mortgagee Rights. Notwithstanding and prevailing over any other provision of this Declaration, the Articles, the Bylaws or any rules, regulations, management agreements or other contracts of the Association, as any of the same may be duly adopted and amended from time to time, the following provisions shall apply to and benefit each Mortgagee:

(a) During the pendency of any proceedings to foreclose a first mortgage or first deed of trust on a Lot, or equivalent proceedings, including any period of redemption and any period after the giving of notice of a trustee's sale under any such deed of trust, the Mortgagee or any receiver appointed in such action may, but need not, exercise any or all of the rights and privileges of the Owner of such Lot upon written notice to the Association, including but not limited to the right to vote as a Member of the Association to the exclusion of the Owner's exercise of such rights and privileges.

(b) The Mortgagee or any other party acquiring title to a Lot through foreclosure suit, trustee's sale, or any equivalent proceeding (including the taking of a deed in lieu of foreclosure) and their successors in interest shall acquire title to such Lot free and clear of any assessments or charges accrued hereunder and secured by the Association Lien prior to the final conclusion of any such foreclosure suit, trustee's sale, or equivalent proceeding (including the expiration date of any period of redemption).

(c) The Association may, and shall upon request, give a Mortgagee notice of any default by the Owner of the covered Lot of his obligations hereunder or under the Articles, the Bylaws or any rules and regulations, which has not been cured within thirty (30) days of the date of default.

Section 13.2. No Amendment Without Consent. No provision of Section 13.1 or any of the below listed portions of this Declaration shall be amended without the written consent of all Mortgagees:

(a) Section 1.11 defining "Mortgagee."

(b) The portions of the second paragraph in Section 4.6 relating to the priority of the lien of Mortgagees over the lien for unpaid assessments.

(c) The second and third paragraphs of Section 6.7.

(d) Section 7.2

(e) The portions of Section 9.2 requiring the consent of the Mortgagee of the Lot or Lots to any subdivision or combination of the same.

Section 13.3. Subordination. By subordination agreement the Board may, upon a three-fourths (3/4ths) majority vote, extend the benefits of this Article to mortgages or similar interests not otherwise entitled thereto.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.1. Owner's Obligations. Each person or entity constituting an Owner shall be jointly and severally responsible for compliance by said Owner, and said Owner's family, agents, employees, tenants and guest, or any others having an interest in such Owner's Lot or those acting through or on behalf of any of them with all the provisions of this Declaration, the Articles, the Bylaws, or rules or regulations promulgated pursuant thereto as the same may be amended from time to time. Such

person's or entity's failure to so ensure such compliance shall be grounds for the same action available by reason of said person's or entity's own noncompliance.

Section 14.2. Waiver or Abandonment. The waiver or failure to enforce any breach or violation of any provision herein contained shall not be deemed to be a waiver or abandonment thereof of rights thereunder or a waiver of the right to enforce the same or any other provision upon any subsequent breach or violation thereof. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce the provisions hereof) had knowledge of the breach or violation. Subject to Section 2.4 and Article XV hereof, no covenant, condition, restriction or easement contained herein shall be deemed to have been waived or abandoned unless this Declaration is amended to delete such restriction pursuant to Section 16.2 hereof.

Section 14.3. Construction. Wherever possible, all provisions hereof shall be interpreted in such manner and to such extent as to be effective and valid under applicable law. The invalidity of any one or more phrases, clauses, sentences, paragraphs, sections or articles hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that one or more of the phrases, clauses, sentences, paragraphs, sections or articles contained herein should be invalid, this Declaration shall be construed as if such invalid phrase or phrases, clause or clauses, sentence or sentences, paragraph or paragraphs or section or sections or article or articles had not been inserted.

Section 14.4. Interpretations. The singular, wherever used herein, shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply equally to individuals, corporations or other entities, men or women, shall in all cases be assumed as though in each case fully expressed. "Entity" shall include corporations, partnerships of all kinds, trusts, joint ventures and all other forms of legal entities or associations. Persons shall include ail entities.

Section 14.5. Captions. The marginal or topical headings of the paragraphs, sections and articles contained in this Declaration are for convenience only and do not define, limit or construe the contents of this Declaration.

Section 14.6. Notices. Any notice required or permitted to be given hereunder shall be given in accordance with the Bylaws and any rules or regulations adopted by the Board for this purpose. Each Owner's address shall be presumed to be his Lot unless written notice to the contrary is given. Each owner shall be responsible for giving the Association the mailing address of his Mortgagee.

Section 14.7. Rules and Regulations. The Board shall have the power to adopt, amend and repeal such reasonable rules and regulations as they may from time to time deem necessary or appropriate to effecting and/or interpreting the terms contained in the procedures set forth in Section 2.3 hereof. In no event may such rules and regulations be in contravention of the express terms hereof.

Section 24.8. Adjustments to Share of Assessments and Fractional Interest in the Common Elements. Except for subdivisions and combinations which shall be governed by Section 9.2 hereof, in the event of any change in the total number of Lots subject hereto (including those taken pursuant to the power of eminent domain) the share of assessments and the fractional interest in the Common Elements appurtenant to each Lot shall be recomputed and adjusted to reflect a fraction having one in the numerator and the number of Lots in the Property following such change in the denominator. Said ratios shall be effective immediately upon the recordation with the Maricopa County Recorder of an amendment to this document setting forth such new figures. Said amendment shall be executed by the director of the Association or such office of the Association as the Board of Directors shall designate. All future assessments made after the date of recordation shall be made in accordance with the amended shares. Prior assessments shall continue to be binding and enforceable as assessed (including but not limited to regular assessments for the Board's discretion to reflect the change. Each and every Owner, by becoming such, shall be deemed to have expressly consented and agreed to all adjustments made pursuant to this Section and the execution and recording of all documents and instruments necessary to effect the same.

ARTICLE XV

USE BY DECLARANT

Section 15.1. Use by Declarant. Notwithstanding any provision of this Declaration to the contrary, Declarant may, without the consent or approval of any Owner, the Association, the Architectural Committee or other person or entity, and free of any restrictions imposed or approvals required hereunder, make such use of its Lots and any of the Common Elements as Declarant deems appropriate to the development, improvement, lease or sale of its Lots, including, but not limited to, maintenance of one or more sales offices and model Lots, the showing of the Property, the displaying of flags, signs and other advertisements, conducting whatever business activities and constructing whatever buildings or other improvements, or making whatever alterations Declarant deems appropriate to development, improvement, lease or the sale of its Lots. For this purpose, Declarant shall have all easements, rights of way and rights of use concerning all portions of the Property necessary to permit the exercise of these rights, including without limitation the right to construct dwellings and other buildings and improvements on the Lots and on the Common Elements. Declarant may delegate any or all of its rights hereunder as it deems appropriate.

ARTICLE XVI

DURATION; AMENDMENTS

Section 16.1. Duration. This Declaration shall remain in effect for an initial period of twenty (20) years from the date of recording and thereafter, shall be deemed to have been automatically renewed for successive terms of ten (10) years; provided, however, that it may be revoked at any time by the recording of an instrument in writing, executed and acknowledged by or on behalf of those Members of the Association holding not less than three fourths (3/4ths) of the voting power of each class of Members, in the office of the Recorder for the County of Maricopa, State of Arizona.

Section 16.2. Amendment. Amendment hereof during the initial twenty (20) year period shall require the assent of Members of the Association holding at least 67% of the votes eligible to be cast, except as otherwise expressly provided herein or required by law. Following the expiration of the initial period of twenty (20) years, this Declaration may be amended at any time by an affirmative vote of the Members of the Association holding at least three fourths (3/4ths) of the votes eligible to be cast, except as otherwise expressly provided herein or required by law. Notwithstanding the foregoing, the written consent of the Owners holding at least 67% of the votes of each class of Owners shall be required for any amendment, modification or deletion of Sections 4.2, 4.3, 9.1 and 9.2 of the Declaration. Any amendment adopted pursuant hereto shall be executed on behalf of those Members approving the amendment by the directors of the Association or such officers of the Association designated by the Board of Directors, reciting such approval, and shall be effective immediately upon recordation. In no event shall any provision enuring to the benefit of Declarant be amended or modified without Declarant's written approval.

Section 16.3. Rule Against Perpetuities. In the event any provision or provisions of this instrument would be but for this provisions violative of the Rule Against Perpetuities, such provision or provisions shall be construed as terminated as of thirty (30) years after the date on which this instrument is executed.

Section 16.4. Right of Amendment if Requested by Governmental Corporation or Agency or Financing Institution. Anything in this Declaration to the contrary notwithstanding, including without limitation anything in Section 16.2 hereof, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be required by Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, Veterans Administration or any other federal state or local governmental

agency or corporation or any financing institution which requires such an amendment as a condition precedent to such agency's or institution's approval of this Declaration for any purpose. Any such amendment shall be effected by the recordation, by Declarant, of a Certificate of Amendment duly signed by an authorized representative of Declarant, with such signature acknowledged, specifying the federal, state or local governmental agency or the financing institution requiring the amendment and setting forth the amendatory language required by such agency or institution.

Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's requirement of such an amendment, and such Certificate, when recorded, shall be binding upon the Property and all persons having an interest in the Property. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment required pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant shall have the right to prepare, provide for and adopt as an amendment hereto, other and different control provisions subject to Section 16.5 below. Except as provided in this Section, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 16.2 of this Article.

Section 16.5. FHA/VA Approval. So long as there is a Class B member, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration (if they hold any interest in the Property or any portion thereof). Annexation of additional properties, dedication of the Common Elements, and amendment of this Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Covenants, Conditions and Restrictions to be executed as of the 19th day of June, 1996.

HOUSTON-NEELEY, L.L.C., an Arizona limited liability company

BAILES & COMPANY, INC, an Arizona corporation, It's Managing Member

By Marc Bailes
Marc Bailes, President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this, the 19th day of June, 1996, before me, the undersigned Notary Public, personally appeared Marc Bailes, the President of Bailes & Company, Inc., an Arizona corporation and acknowledged to me that he, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Donna L. Shoots
Notary Public

My Commission Expires:



EXHIBIT A

LEGAL DESCRIPTION

Lots 1 through 138, inclusive and Tracts "A-L" of ARROWPOINT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded May 21, 1996 in Book 416 of Maps, Page 11, under Recording Number 96-0352714, Official Records of Maricopa County, Arizona.

EXHIBIT B

OWNERSHIP OF COMMON ELEMENTS

The Common Elements shall be deeded to the Association by Owner upon completion of all initial improvements to the Common Area that are required to be installed by the Town of Gilbert. The Common Areas shall be held in fee title by the Association and no owner of any Lot shall own any portion of the Common Elements.

SHARE OF ASSESSMENTS

Each Lot and the Owner thereof shall have a one one hundred thirty eighth (1/138ths) share of the assessment obligations.

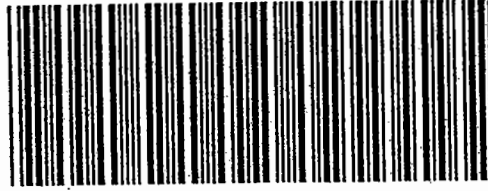
EXHIBIT C

COMMON ELEMENTS

TRACTS "A-L" of ARROWPOINT, all more particularly described on the Final Plat of ARROWPOINT, filed and recorded May 21, 1996 in Book 416, Page 11, under Recording Number 96-0352714, official records of Maricopa County, Arizona.

STEWART TITLE & TRUST OF PHOENIX

When recorded mail to:



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

96-0693281 09/30/96 02:20

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CAPTION HEADING: FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR ARROWPOINT

DO NOT REMOVE

This is part of the official document.

FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ARROWPOINT

This First Amendment ("First Amendment") to Declaration of Covenants, Conditions and Restrictions For Arrowpoint has been made and entered into by and among HOUSTON-NEELEY, L.L.C., an Arizona limited liability company ("Houston-Neeley"), STARDUST DEVELOPMENT, INC., an Arizona corporation ("Stardust"), and KEY CONSTRUCTION, INC., an Arizona corporation, d.b.a. Trend Homes ("Trend"), with reference to the following facts:

A. As of June 19, 1996, Houston-Neeley, as sole legal owner of all of the real property described therein (the "Initial Property"), published and declared the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ARROWPOINT (the "Declaration") and caused the same to be duly recorded, July 8, 1996, upon the Official Records of Maricopa County, Arizona as Document Number 96-0481066.

B. Thereafter, Houston-Neeley sold a portion of the Initial Property to Trend.

C. Stardust is the owner of that certain real property located within Maricopa County, Arizona, and more particularly described within Exhibit "A" hereto (the "Additional Property") which property is contiguous to the Initial Property.

D. Houston-Neeley, Stardust and Trend now desire to amend the Declaration for the purpose of subjecting the Additional Property to the terms, conditions and provisions of the Declaration to the end that the same shall, together with the Initial Property, be and become the Property, as that term is defined within the Declaration.

NOW, THEREFORE, Houston-Neeley, Stardust and Trend, as owners of all of the Initial Property and the Additional Property, do hereby agree as follows:

1. Addition of Property. From and after the date of this First Amendment, the term, "Property" as used within the Declaration of Covenants, Conditions and Restrictions For Arrowpoint, shall mean and include the Initial Property (as described within Exhibit A to the Declaration) and the Additional Property (as described within Exhibit A to this First Amendment).

2. Addition to Common Elements. From and after the date of this First Amendment, the term, "Common Elements," as defined within Section 1.5 of the Declaration, shall mean and include that portion of the Property described on Exhibit C to the Declaration and that portion of the Property described on Exhibit "B" to this First Amendment.

3. Share of Assessments. From and after the date of this First Amendment, the Share of Assessments, as specified within Exhibit B to the Declaration shall be modified and amended to provide that each Lot and the Owner thereof shall have a one two hundred thirteenth (1/213) share of the assessment obligations.

4. Ratification. Except as specifically amended hereby, the parties do hereby ratify, affirm and approve the Declaration and each of the covenants, conditions and restrictions therein contained and set forth.

IN WITNESS WHEREOF, the Parties have made and entered into this First Amendment as of the 23rd day of September, 1996.

HOUSTON-NEELEY:

HOUSTON-NEELEY, L.L.C., an Arizona limited liability company,

BY: BAILES & COMPANY, INC., an Arizona corporation, its Managing Member

By Marc Bailes
Marc Bailes, President

STARDUST:

STARDUST DEVELOPMENT, INC., an Arizona corporation

By Chris B. Heeter
Chris B. Heeter
Secretary/Treasurer

TREND:

KEY CONSTRUCTION, INC., an Arizona corporation, d.b.a. Trend Homes

By _____
Reed Porter
Its _____

3. Share of Assessments. From and after the date of this First Amendment, the Share of Assessments, as specified within Exhibit B to the Declaration shall be modified and amended to provide that each Lot and the Owner thereof shall have a one two hundred thirteenth (1/213) share of the assessment obligations.

4. Ratification. Except as specifically amended hereby, the parties do hereby ratify, affirm and approve the Declaration and each of the covenants, conditions and restrictions therein contained and set forth.

IN WITNESS WHEREOF, the Parties have made and entered into this First Amendment as of the 20th day of September, 1996.

HOUSTON-NEELEY:

HOUSTON-NEELEY, L.L.C., an Arizona limited liability company,

BY: BAILES & COMPANY, INC., an Arizona corporation, its Managing Member

By 
Marc Bailes, President

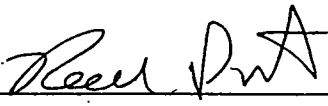
STARDUST:

STARDUST DEVELOPMENT, INC., an Arizona corporation

By _____
Chris B. Heeter
Secretary/Treasurer

TREND:

KEY CONSTRUCTION, INC., an Arizona corporation, d.b.a. Trend Homes

By 
Its President Reed Porter

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 23 day of Sept., 1996, by Marc Bailes, President, of Bailes & Company, Inc. an Arizona corporation.

C. Hottel

My Commission Expires:

2-10-98



STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 23 day of Sept., 1996, by Reed Porter, President, of Key Construction, Inc., an Arizona corporation, dba Trend Homes on behalf of the corporation.

C. Hottel

My Commission Expires:

2-10-98



STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 16th day of September, 1996, by Chris B. Heeter, Secretary/Treasurer, of Stardust Development, Inc., an Arizona corporation on behalf of the corporation.

Chris B. Heeter
Notary Public

My Commission Expires:

5/18/97

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Exhibit "A"

Legal Description of Additional Property

Lots 1 through 75, inclusive and Tracts A, B and C of Arrowpoint II according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 419, of Maps, Page 21.

