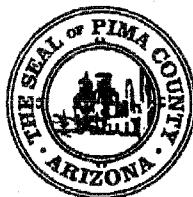


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ROBSON COMMUNITIES INC
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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
QUAIL CREEK COUNTRY CLUB

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
QUAIL CREEK COUNTRY CLUB

THIS AMENDED AND RESTATED DECLARATION (the "Restated Declaration" or the "Declaration") is made as of the 12th day of October, 1999, to establish the nature of use and enjoyment of that certain real property located in Pima County, Arizona, known as "Quail Creek Country Club".

RECITALS:

A. On January 31, 1990, a "Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Quail Creek Country Club" dated January 25, 1990 (the "Original Declaration") was recorded in the official records of Pima County, Arizona, in Docket 8716, at page 1334, for the real property described on Exhibit "A" hereto. The Original Declaration provided, among other things, for a planned community to be known as "Quail Creek Country Club", for phased development of the community, for "Tract Declarations" to be recorded as portions of the community were readied for development, and for amendments to the Original Declaration and to Tract Declarations. The Original Declaration also provided for special rights and powers to be held and exercised by the "Declarant" under the Original Declaration in connection with the planning, development and operation of the community.

B. Robson Ranch Quail Creek, LLC, a Delaware limited liability company, is the successor to the named Declarant for purposes of the Original Declaration. For purposes of this Restated Declaration, any references to "Declarant" shall mean and refer to Robson Ranch Quail Creek, LLC, its successors and assigns. The land described on Exhibit "A", together with any land annexed to it and subjected to this Declaration as provided herein, will be referred to as the "Property".

C. This Restated Declaration is intended to amend and restate (and entirely replace) the Original Declaration to provide for an updated and modified plan of governance and development in connection with Declarant's future development and operation of the community. For that purpose, the amendment procedures set forth in Section 14.2 of the Original Declaration have been implemented and this Restated Declaration has been approved as an amendment of the Original Declaration.

D. Defined terms used in this Declaration shall have the first letter of each word in the term capitalized. If not otherwise provided, defined terms shall have the meanings given to them in Section 1 of this Declaration.

E. Declarant intends (without obligation) that, when developed fully, Quail Creek Country Club will include several residential neighborhoods, one or more golf courses, one or more clubhouses, and greenbelts and recreational and commercial areas including, but not limited to, open spaces, walkways and other social or commercial buildings and facilities.

F. As development of Quail Creek Country Club proceeds, Declarant intends (without obligation) to record various subdivision plats, to dedicate portions of the community to the public for streets, roadways, drainage, flood control and general public use, or to keep all or portions of the community private and dedicate them to the Association, and to record Tract Declarations covering portions of the community. Any Tract Declaration will designate the purposes for which the described portion of the community may be used and may set forth additional covenants, conditions and restrictions applicable to the described portion of the community.

G. Declarant reserves the right, without obligation, to annex additional land into the community by subjecting it to the provisions of this Declaration. The additional land that may be annexed is defined and described as "Annexable Property" in Section 1.1 below. Any such annexations may or may not be land contiguous to other land within the community.

H. A non-profit corporation has been formed to be the property owners' association provided for herein to (1) own, manage and maintain the Common Areas and certain other areas in the community, (2) levy, collect and disburse the Assessments and other charges imposed hereunder, and (3) act as the agent and representative of the Owners and enforce the use restrictions and other provisions of this Declaration;

I. Declarant may develop land described in Recital G above without making it part of the Property or subjecting it to this Declaration. In that event, Declarant shall have the right, without obligation, to execute binding reciprocal agreements (on terms reasonably satisfactory to Declarant) between any land subject to this Declaration and additional areas of land developed without being subjected to this Declaration.

J. For the benefit of all Owners and others holding interests in any portion of the community, certain mutually beneficial covenants, conditions, restrictions and obligations with respect to the proper development, use and maintenance of the Property were established. They are hereby being replaced and superseded by the terms of this Declaration.

K. Owners, mortgagees, beneficiaries, trustees and other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of the community.

L. All of the Property is therefore being subjected to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth (collectively, "Covenants"). The Covenants shall run with the land and shall be binding

upon and inure to the benefit of all parties having any right, title or interest in and to the Property or any part of the Property.

NOW, THEREFORE, the Original Declaration is hereby amended and superseded (and entirely replaced) with the following:

1. DEFINITIONS

As used in this Declaration, and except as may be otherwise expressly provided, the following terms, when capitalized, shall have the meanings set forth below:

1.1. "Amenities Fee" is defined in Section 7.6 hereof.

1.2. "Ancillary Association" shall mean an incorporated property owners' association created by or with the written consent of Declarant for (1) the Owners of Lots or Dwelling Units within one or more subdivision(s) or neighborhood(s) in the Property, or (2) the Owners or tenants of unimproved or improved commercial land, commercial condominiums, or commercial improvements within one or more commercial Parcel(s) in the Property.

1.3. "Annexable Property" shall mean the land described in Exhibit "B" hereto, or any other land designated by Declarant, whether or not contiguous thereto or to any portion of the Property.

1.4. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot, Dwelling Unit and Owner pursuant to Section 7.2 of this Declaration.

1.5. "Apartment Development" shall mean a Parcel or portion thereof which is identified as an Apartment Development in a Tract Declaration and is comprised of integrated Rental Apartments and surrounding areas under the same ownership.

1.6. "Architectural and Landscape Committee" shall mean the Architectural and Landscape Committee of the Association to be created pursuant to Section 11 below.

1.7. "Architectural and Landscape Guidelines" shall mean the guidelines that may be established by the Architectural and Landscape Committee for the appearance and development of Residential Areas in the Property, as well as the review and approval procedures for the Architectural and Landscape Committee, as amended from time to time. Also called "Design Guidelines".

1.8. "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

1.9. "Assessable Property" shall mean any Lot in the Property covered by a recorded Tract Declaration, except such part or parts thereof as may from time to time constitute Exempt Property.

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1.10. "Assessment" or "Assessments" shall mean Annual Assessments, Special Assessments, Maintenance Charges, Special Use Fees, Amenities Fees, or any other fees, fines or charges assessed hereunder.

1.11. "Assessment Lien" shall mean the lien created and imposed by Section 7.

1.12. "Assessment Period" is defined in Section 7.8.

1.13. "Association" shall mean the Quail Creek Country Club Property Owners Association, Inc., an Arizona non-profit corporation, organized to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, and its successors and assigns.

1.14. "Association Land" shall mean any portion of the Property held by Declarant (or by a trustee) for conveyance to the Association on or before the Transition Date, or that the Association now or hereafter owns in fee, or in which the Association now or hereafter has a leasehold or easement interest, for as long as the Association is the owner of the fee, leasehold or easement interest or such property is so held by Declarant (or such a trustee) for conveyance to the Association, together with the buildings, structures and improvements thereon. Except as otherwise provided in this Declaration, all Association Land shall be maintained by the Association at its expense for the benefit of all of the Owners. From time to time, Declarant may convey easements, leaseholds or other real property interests within the Property to the Association, and any such property interests automatically shall be deemed accepted by the Association.

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

1.16. "Bylaws" shall mean the Bylaws of the Association, as amended from time to time.

1.17. "Commercial Areas" within the Property shall mean and include any Parcel or portion thereof owned by one individual or entity (or by a group of individuals and/or entities) that is used for one or more commercial purposes including, but not limited to, the following: Apartment Development, commercial offices, shopping centers, resorts, hotels, motels, churches and other areas used for commercial or other non-residential purposes. Commercial Areas shall not include any Common Areas owned by the Association or other common areas owned by an Ancillary Association or owned in common by residential condominium owners. If an Apartment Development is converted to a residential Condominium Development, it shall cease to be a Commercial Area and shall thereafter be a Residential Area. The Commercial Areas shall be deemed to include the Golf Course Land and the associated recreational areas and facilities.

1.18. "Committee" shall mean the Architectural and Landscape Committee.

1.19. "Common Area and Common Areas" shall mean: (1) all Association Land; (2) unless otherwise indicated in this Declaration or in a recorded instrument executed by Declarant, all land within the Property that Declarant makes available for use primarily by

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Members of the Association, but not after Declarant ceases to make such land available for use primarily by Members of the Association; (3) all land within the Property that a recorded subdivision plat or Tract Declaration states is to be used for landscaping, drainage and/or flood control or other purposes for the benefit of the Property and/or the general public and is to be transferred to the Association or dedicated to the public or a municipality or other governmental unit or agency at a future time, but only until the land is so dedicated, unless specifically specified otherwise in the dedication or as specified pursuant to clause (6) below; (4) all land or right-of-way easements within the Property that are dedicated to the public or a municipality or other governmental unit or agency, but that the governmental unit or agency requires the Association to maintain or that the Association agrees to maintain; (5) areas on a Lot or Parcel within easements granted to the Association or its Members for the location, construction, maintenance, repair and replacement of a wall, pursuant to an easement granted or created on a recorded subdivision plat or Tract Declaration or by a deed or other conveyance accepted by the Association; and (6) any other areas with respect to which the Association has assumed in writing administrative or maintenance responsibilities, whether or not such areas are located on a Lot or Parcel.

1.20. "Condominium Development" shall mean a portion of the Property that has been subjected to a condominium declaration pursuant to Arizona law.

1.21. "Condominium Unit" shall mean a unit (as that term is defined in A.R.S. Section 33-1202, together with any appurtenant interest in all common elements) that is created by a condominium declaration established and recorded under Arizona law. The term shall not include a Rental Apartment in an Apartment Development.

1.22. "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

1.23. "Declarant" shall mean Robson Ranch Quail Creek, LLC, a Delaware limited liability company, whether acting in its own capacity or through a trustee, and its successors and assigns. Any assignment of all or any portion of Declarant's rights and powers shall be made by a recorded instrument executed by the assignor. An assignment of any of the rights, privileges, or immunities of Declarant shall constitute only a sharing of the assigned interest with the assignee and shall not be construed or deemed to deprive Declarant of any of its interests hereunder or to diminish them in any way.

1.24. "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Quail Creek Country Club, as amended and/or supplemented from time to time.

1.25. "Design Guidelines" shall mean the same thing as "Architectural and Landscape Guidelines".

1.26. "Designated Builder" shall mean a builder of residences or other improvements to the Property which is designated by Declarant by written notice to the Association as having any of the special rights, privileges or immunities of Declarant under this Declaration. An assignment

of part of Declarant's rights, privileges or immunities shall vest in the Designated Builder the specific rights, privileges or immunities named in the written designation on the same terms that they were held by Declarant hereunder. Notwithstanding anything to the contrary herein, an assignment, by such a designation, of any portion of Declarant's rights shall not deprive Declarant of any protection, indemnity or freedom from liability that would otherwise exist under this Declaration if Declarant had retained all of its rights hereunder.

1.27. "Designee" shall mean an individual designated by a Member pursuant to Section 6.8 hereof to exercise certain rights of the Member.

1.28. "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot or Parcel, which building or portion of a building is designed and intended for use and occupancy as a residence by a Single Family.

1.29. "Exempt Property" shall mean the following parts of the Property:

- (a) All land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Pima County, or any other municipality, or any political subdivision thereof, for as long as any such governmental entity or political subdivision is the owner thereof or for so long as such dedication remains effective; provided, however, that any such land shall be Exempt Property only while it is being used by the governmental entity owner for governmental or public purposes.
- (b) All Association Land, for as long as the Association is the owner thereof (or of the interest therein that makes it Association Land).
- (c) All Golf Course Land for as long as such land is used for the purpose permitted in Section 4.5.
- (d) Each portion of a Residential Area designated in a recorded subdivision plat, deed, Tract Declaration, or condominium or other declaration as an area to be used in common by the Owners and Residents of the subdivision or condominium development.
- (e) Any land used as a Well-Site, or for utility purposes, and designated by a Tract Declaration for Well-Site Use or Utility Use.
- (f) Any Lot or Parcel or other land owned by Declarant or its affiliates, except for land owned by Declarant that is subject to a "contract" (as defined in Arizona Revised Statutes Section 33-741) under which Declarant is the seller.
- (g) Any land in the Property that is limited by a Tract Declaration to use for housing the aged and infirm and for related uses, if the

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Tract Declaration expressly provides that the Residents thereof either shall not be Members of the Association or shall have no right to use the recreational features and recreational amenities available to the other Owners of Lots, and any other land in the Property covered by a Tract Declaration that provides that the Residents shall have no right to use the recreational features and recreational amenities available to the other Owners of Lots.

- (h) All land in the Property with the following Land Use Classifications: Apartment Development Use, Commercial Office Use, General Public or Quasi-Public Use, Resort Hotel or Motel Use, Church Use, or General Commercial Use.

All Exempt Property shall be exempt from Assessments and ownership of it (other than by Declarant) shall not qualify the Owner for Membership in the Association and its associated privileges and responsibilities. Exempt Property (and the Owners of all interests in it) shall nevertheless be subject to all other provisions of this Declaration, unless otherwise provided in this Declaration or in the Tract Declaration applicable to the Lot or Parcel. The Golf Course Land shall be exempt from Assessments, Membership in the Association and architectural control and review. The Board may restrict or prohibit the use of the Common Areas (except any easements, rights-of-way, utility improvements and landscaping, drainage and flood control areas) by the Owners of Exempt Property, except for Declarant, its affiliates, subcontractors, employees, agents, guests and invitees. This subsection may not be amended without the approval of all Owners of Exempt Property affected by the amendment.

1.30. "Golf Course" and "Golf Course Land" shall mean the real property designated by Declarant or otherwise in a recorded plat or Tract Declaration, and all improvements thereon including, but not limited to, any Clubhouse, pro shop, driving range and associated recreational, maintenance and other facilities owned and operated in conjunction with the Golf Course.

1.31. "Governmental Mortgage Agency" is defined in Section 13.5.1 hereof.

1.32. "Land Use Classification" shall mean the classification to be established by the Declarant pursuant to Section 4.1, which designates the type of improvements which may be constructed on a Lot, Parcel or Association Land and the purposes for which any such improvements and surrounding land may be utilized.

1.33. "Lot" shall mean any (a) area of real property within the Property designated as a Lot on any subdivision plat or replat recorded or approved by Declarant and limited by a Tract Declaration to either Single Family Residential Use or Cluster Residential Use, (b) Membership Lot within the Property; and (c) any Condominium Unit within the Property which is limited to residential use by a Tract Declaration or condominium declaration.

1.34. "Lot Maintenance Fee" is defined in Section 10.5 hereof.

1.35. "Maintenance Charges" shall mean any and all costs assessed pursuant to Sections 10.2 or 10.3.

1.36. "Master Development Plan" shall mean the Quail Creek Country Club Specific Plan approved by Pima County (or such other zoning and/or land use plan as may be applicable to the Property pursuant to the requirements of governmental authorities having jurisdiction over the Property), as amended from time to time, a copy of which shall be on file at all times in the office of the Association.

1.37. "Maximum Annual Assessment" is defined in Section 7.4 hereof.

1.38. "Member" shall mean any person holding Membership in the Association pursuant to this Declaration.

1.39. "Membership" shall mean a membership in the Association and the rights granted to the Owners of Lots pursuant to Section 6 to participate in the Association.

1.40. "Membership Lot" shall mean any area of land within the Property designated as a "Membership Lot" or "M-(number)" on any subdivision plat recorded or approved by Declarant, which may be significantly restricted pursuant to Section 4.7 hereof, unless the Lot is "developable" and a Dwelling Unit is constructed on it, as provided in Section 4.7.

1.41. "Owner" (when so capitalized) shall mean the record holder of legal, beneficial or equitable title to the fee simple interest of any Lot or Parcel including, but not limited to, a person who is buying a Lot or Parcel under a recorded contract (as defined in Arizona Revised Statutes Section 33-741), but excluding others who hold such title merely as security. "Owner" shall not include a lessee or tenant of a Lot or Parcel. If fee simple title to any Lot or Parcel is vested of record in a trustee pursuant to Arizona Revised Statutes Section 33-801 *et seq.*, legal title shall be deemed to be in the Trustor. If fee simple title to any Lot or Parcel is vested in a trustee pursuant to a trust agreement, the beneficiary of the trust who is entitled to possession shall be deemed to be the Owner. An Owner shall include any person who holds record title to a Lot or Parcel in joint ownership with any other person or holds an undivided fee interest in any Lot or Parcel.

1.42. "Parcel" shall mean an area of real property within the Property limited by a Tract Declaration to one of the following Land Use Classifications: Apartment Development Use, Residential Condominium Development Use (but only until the condominium declaration is recorded), Commercial Office Use, General Public or Quasi-Public Use, Resort Hotel or Motel Use, Church Use, General Commercial Use, and Utility or Well-Site Use. The term Parcel shall also include an area of land as to which a Tract Declaration has been recorded designating the area for Single Family Residential Use or Cluster Residential Use but which has not yet been subdivided into Lots and related amenities and rights-of-way, but any such area shall cease to be a Parcel upon the recordation of a subdivision plat or other instrument covering the area and creating Lots and related amenities. Notwithstanding the foregoing provisions, a Parcel shall not include a Lot, any Golf Course Land or any Association Land, but in the case of staged developments, shall include areas not yet included in a subdivision plat, condominium

declaration or other recorded instrument creating Lots and related amenities. A Parcel with a Land Use Classification of Apartment Development shall cease to be a Parcel if the Apartment Development is converted to residential Condominium Units.

1.43. "Party Walls" shall mean a wall constructed on or immediately adjacent to the common boundary of Lots, Parcels, Common Areas or other areas in the Property.

1.44. "Property" shall mean the land described on Exhibit "A" and any additional land annexed and subjected to this Declaration, but only upon completion of annexation.

1.45. "Quail Creek Country Club" shall mean the real property described on Exhibit "A" of this Declaration and the development to be completed thereon, together with any real property hereafter annexed and less any real property hereafter de-annexed pursuant to the provisions of Section 14 of this Declaration.

1.46. "Quail Creek Rules" shall mean the rules for Quail Creek Country Club adopted by the Board pursuant to Section 5.3, as amended from time to time.

1.47. "Rental Apartments" shall mean Dwelling Units within a permanent improvement consisting of 2 or more commercially integrated Dwelling Units under a single ownership upon one or more contiguous Parcels, each of which is designed and utilized, otherwise than as a hotel or on some other transient basis, for rental or leased residential purposes to non-owners on a non-cooperative basis.

1.48. "Resident" shall mean:

- (a) Each buyer under a recorded contract (as defined in Arizona Revised Statutes Section 33-741) covering any part of the Assessable Property, provided the buyer is actually residing on any part of the Assessable Property, and each Owner, tenant or lessee actually residing on any part of the Assessable Property; and
- (b) Members of the immediate family of each Owner, lessee, tenant and of each buyer referred to in subparagraph (a) actually living in the same household with such Owner, lessee, tenant or buyer on any part of the Assessable Property.

Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special nonresident fees for the use of Association Land if the Association shall so direct), the term "Resident" also shall include the onsite employees, guests or invitees of Declarant or of any such Owner, lessee, buyer or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.49. "Residential Areas" shall include Single Family Residential Developments, Cluster Residential Developments, residential Condominium Developments, Membership Lots,

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all common recreational areas and facilities associated with any of the foregoing Residential Areas and other non-commercial, non-industrial and non-utility areas.

1.50. "Single Family" shall mean an individual living alone, or a group of 2 or more persons each related to the other by blood, marriage or legal adoption who maintain a common household in a Dwelling Unit.

1.51. "Special Assessment" shall mean any assessment levied and assessed pursuant to Section 7.5.

1.52. "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Resident or any other person is obligated to pay to the Association over, above and in addition to any Annual and Special Assessments, Maintenance Charges, or Amenities Fees imposed or payable hereunder. The amount of any Special Use Fee shall be determined in the Board's sole discretion.

1.53. "Taking" is defined in Section 9.4 hereof.

1.54. "Timeshare" shall mean any division of ownership into periods of time, division of use rights by periods of time, vacation club, undivided interests, or other ownership or use arrangements that would be within the definition of timeshare interests pursuant to Arizona law.

1.55. "Tract Declaration" shall mean a declaration recorded pursuant to Section 4.1 below, as modified or amended from time to time.

1.56. "Transition Date" shall be the first to occur of:

- (a) the day on which title to the last Lot in the Property owned by Declarant (or by a trustee under a trust of which Declarant is a beneficiary) is conveyed to a third party for value, other than as security for the performance of an obligation; or
- (b) the expiration of any 5-year period during which title to no residential Lot in the Property is conveyed by Declarant (or by a trustee under a trust of which Declarant is beneficiary) to a third party for value, other than as security for the performance of an obligation; or
- (c) the date 35 years after the date this Restated Declaration is recorded in the Official Records of Pima County, Arizona; or
- (d) such earlier date as Declarant declares to be the Transition Date in a properly recorded instrument.

1.57. "Visible From Neighboring Property" shall mean, with respect to any given object, that the object is or would be visible to a person 6 feet tall standing on neighboring property, on the level of the base of the structure or building being viewed.

2. PROPERTY SUBJECT TO DECLARATION

2.1. General Declaration. All of the Property (except any land which is hereafter excluded or abandoned pursuant to the provisions of this Declaration) is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration. In addition, within the Property may be subject to recorded Tract Declarations. Declarant intends to develop the Property by subdivision into various Lots, Parcels and other areas and to sell and convey Lots and/or Parcels. As portions of the Property are developed, Declarant shall record one or more Tract Declarations covering the areas to be developed. Each Tract Declaration will specify the Land Use Classification(s) and permitted uses of property described therein (in accordance with Section 4 hereof) and will incorporate this Declaration and establish such additional covenants, conditions and restrictions as may be appropriate for the land subject to the Tract Declaration. This Declaration and all subsequent Tract Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of Quail Creek Country Club and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of Quail Creek Country Club and every part thereof. All of this Declaration and applicable Tract Declarations shall run with the land for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and Residents and their successors in interest. Nothing in this Declaration shall be construed to prevent Declarant from modifying the Master Development Plan or any portions thereof regarding any property owned by Declarant or regarding any other property, whether or not a Tract Declaration for it has been recorded, provided Declarant obtains the consent of the Owner of the land that is the subject of the modification. This Declaration shall not be construed to prevent Declarant from dedicating or conveying portions of the Property, including streets or roadways, for uses other than as a Lot, Parcel, Golf Course Land, Common Area or Association Land, subject to the provisions of Section 4.1.

2.2. Association Bound. This Declaration shall be binding upon and shall benefit the Association.

3. EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

3.1. Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to the Owner's Lot or Parcel. All Residents, other than Owners, shall have a nonexclusive, nontransferable temporary easement to use and enjoy the Common Areas so long as they remain Residents. The foregoing grant and rights are subject, among other things, to the following limitations:

- (a) The right of the Association to charge reasonable admission and other Special Use Fees for the use of any recreational or other facility situated upon the Common Areas.
- (b) The right of the Association to suspend the voting rights of any Member, and the right to use Common Area recreational facilities

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of any Member and any Resident claiming through the Member, (i) for any period during which an Assessment against the Member's Lot remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, a Tract Declaration, the Quail Creek Rules or applicable Architectural and Landscape Guidelines, and (iii) for successive 60 day periods if any infraction is not corrected during any preceding 60 day suspension period.

- (c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by zoning stipulations or agreements with a governmental agency or entity effective prior to the date hereof or unless specified hereafter on a recorded subdivision plat executed by Declarant, no such dedication or transfer shall be effective unless approved in writing by Declarant and, if the transfer is after the Transition Date, by the Owners of at least 2/3 of the Memberships which are then eligible to vote, except that the Board shall have authority without Membership approval to transfer to such public agencies, authorities or utilities, easements and rights-of-way that are intended to benefit the Property and which, in the Board's sole judgment, do not have any substantial adverse effect on the enjoyment of the Common Areas by the Members.
- (d) The right of the Association to regulate the use of the Common Areas through the Quail Creek Rules and to prohibit access to those Common Areas, such as landscaped areas, not intended for use by Owners or Residents.
- (e) The right of the Association to regulate, restrict or prohibit the use of the Common Areas, other than easements, rights-of-way, utility improvements and landscaping, drainage and flood control areas, by non-Members, except for Rental Apartment Residents designated by the Owners of such Rental Apartments as provided in Section 5 below.
- (f) The right of the Association to change the use of Common Areas and to change the size, shape or location of the Common Areas as provided in Sections 12.4 and 12.5.

3.2. Delegation of Use. Any Owner may, in accordance with and subject to this Declaration and the Quail Creek Rules and the limitations therein contained, delegate the Owner's right of enjoyment in the Common Areas and facilities to the members of his family, his tenants or lessees, his guests or invitees or to his tenant's family, guests or invitees. In

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adopting rules or requirements related to use of Common Areas or recreational amenities in the Property by persons other than Owners, the Board shall give meaningful consideration to the impact of such use on the enjoyment of Common Areas and recreational amenities by Owners.

3.3. Rights of Ingress and Egress. Every Owner shall have an unrestricted right of ingress and egress to the Owner's Lot or Parcel. This right shall be perpetual and shall be appurtenant to and shall pass with title to the Owner's Lot or Parcel. This right shall be over the following areas:

- (a) for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that may exist upon the Common Areas from time to time and which are designated as being for ingress and egress to the Owner's Lot or Parcel; and
- (b) for pedestrian and vehicular traffic over, through and across the Common Area streets and roadways, if any, which are designated and paved for such purposes.

Any Owner may, in accordance with and subject to this Declaration and the Quail Creek Rules and the limitations contained therein, delegate his right of ingress and egress to the members of the Owner's family, his guests, and his tenants (including his tenant's family and guests).

3.4. Easements and Encroachments. Each Lot and Parcel, the Common Areas, and all other areas in the Property shall be subject to an easement of not more than 5 feet for inadvertent encroachments of walls, ledges, roofs, air conditioners and other structures created by construction, settling and overhangs as originally or subsequently designed and constructed by Declarant or its affiliates and contractors. If any such improvement on the Common Areas encroaches upon any Lot, Parcel or other area, or if any such improvement on any Lot, Parcel or other area encroaches upon any portion of the Common Areas, or if any such improvement on any Lot, Parcel or other area encroaches upon another Lot, Parcel or other area, an easement for the encroachment and for the maintenance thereof shall exist. In the event any structure on any Lot, Parcel, Common Area or other area is repaired, altered or reconstructed in accordance with the original plans and specifications or subsequent plans and specifications of Declarant or its affiliates, similar encroachments shall be permitted and an easement for any such encroachment and for the maintenance thereof shall exist.

3.5. Use of Facilities by Rental Apartment Residents. Notwithstanding anything to the contrary contained in this Section 3, unless otherwise provided in an applicable Tract Declaration for an Apartment Development, Owners of Rental Apartments shall have the right to authorize the Residents of their Rental Apartments to use those Common Areas and facilities that are otherwise limited to use by Members of the Association or for which preference is given to Members of the Association, upon the same terms and conditions as Members of the Association, provided that the Association is paid, with respect to each Rental Apartment that contains Residents who are so authorized, an amount equal to ½ of the Annual Assessments that would be required in the year of use for the Rental Apartment if the Rental Apartment were a Lot. All such amounts shall be payable only with respect to those Rental Apartments that contain

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Residents who are authorized to use such Common Areas and facilities by the Owner of the Rental Apartments. Any such authorization by the Owner of a Rental Apartment may be made or withdrawn at any time or times. However, Declarant shall have the right to authorize Residents of Rental Apartments owned by Declarant to use the Common Areas and facilities, and neither Declarant nor such Residents shall be obligated to pay the Association the amounts provided for in this Section if the Rental Apartments are used by Declarant for marketing purposes including, but not limited to, use by potential purchasers of Lots or Parcels at Quail Creek Country Club. The amounts payable to the Association pursuant to this Section with respect to any Rental Apartment shall be prorated for the period during which the authorization by the Owner of the Rental Apartment exists.

4. LAND USE CLASSIFICATIONS AND USE RESTRICTIONS

4.1. Land Use Classifications. As portions of the Property are readied for development, the Land Use Classifications, including any number of subclassifications thereof for any special uses, shall be fixed by Declarant in a Tract Declaration, which shall be recorded for that portion of the Property. Any such Tract Declaration may include additional covenants and restrictions and shall be construed as a supplement to this Declaration and fully a part hereof for all purposes to the same extent as if all of the provisions thereof were set forth in this Declaration. Declarant may also record one or more supplemental Tract Declarations against portions of the Property owned by Declarant, which are already subject to a Tract Declaration, for the purpose of adding to the covenants, conditions, and restrictions applicable to those portions, so long as the terms of the supplemental Tract Declaration do not materially conflict with the terms of the Tract Declaration already applicable to the same land. The Land Use Classifications for Lots, Parcels and Association Land established by a Tract Declaration shall not be changed except as specifically permitted by this Declaration and by any applicable provisions of the affected Tract Declaration. The contemplated Land Use Classifications that may be established by Declarant include, but are not limited to, the following:

- (a) Single Family Residential Use.
- (b) Apartment Development Use, which may be converted to Residential Condominium Development Use upon approval by Declarant.
- (c) Residential Condominium Development Use, which may be converted to Apartment Development Use upon approval by Declarant.
- (d) Commercial Office Use, including but not limited to office condominiums and business parks.
- (e) General Commercial Use, including but not limited to business parks, restaurants, recreational facilities not owned by the Association or any residential Ancillary Association, shopping

centers, storage, recreational vehicle storage and other commercial uses.

- (f) Association Use, which may include common recreational and other areas owned and maintained by the Association.
- (g) Golf Course Use, including any clubhouse and any other recreational and maintenance uses operated in connection therewith.
- (h) Utility or Well-Site Use, including maintenance and storage related thereto. A Parcel with a Land Use Classification of Utility Use may be used as a cable headend facility, which may include satellite receiving dishes and towers.
- (i) General Public or Quasi-Public Uses approved by Declarant including, but not limited to, libraries and parks which are not Association Land and fire stations.
- (j) Cluster Residential Use, which shall consist of Lots with Dwelling Units intended for Single Family occupancy and may include those types of residential housing arrangements known as townhouses, clustered housing, duplexes, zero-lot line housing and similar arrangements, together with any related amenities.
- (k) Resort, Hotel or Motel Use, including time share apartments and condominiums.
- (l) Church Use.

Notwithstanding anything to the contrary contained in this Declaration, except as otherwise expressly provided in an applicable Tract Declarations for Parcels within Commercial Areas, Commercial Areas shall be exempt from any and all architectural restrictions contained in this Declaration, including, but not limited to, the provisions of Section 4.2.1 and Section 11, and from any and all Assessments and charges by the Association. Unless otherwise specifically provided in this Declaration, the definitions and characteristics of all Land Use Classifications, and specific permitted and prohibited uses in such Classifications or any subclassifications or combined classifications, shall be determined in the Tract Declaration and shall be within the complete discretion of Declarant. Each Tract Declaration and each subdivision plat may be modified, amended or revoked at any time by Declarant as to all or any portion of the land that is subject to the Tract Declaration or plat, without the consent of any Owners other than the Owner(s) of the land that is the subject of the modification, amendment or revocation. If the Association is the Owner of real property that is subject to any such modification, amendment or revocation, Declarant shall not be required to obtain the Association's consent to any such action prior to the Transition Date. In addition, each Tract Declaration and plat may be modified, amended or revoked at any time by Declarant (so long as Declarant or any of its affiliates owns any portion of the

Property or any interest therein) and Owners of the Lots that are subject to the Tract Declaration or plat casting 2/3 of the votes cast at an election held for such purposes, with or without a meeting of the Owners. Notwithstanding the foregoing, no modification, amendment or revocation shall be effective if it would leave any Lot which is not owned by Declarant without legal access. No Tract Declaration or plat may be modified, amended or revoked without Declarant's consent to and signature on the modification, amendment or resolution so long as Declarant or any of its affiliates owns any portion of the Property or any interest therein. All Tract Declarations shall be subject to applicable zoning laws.

4.2. Covenants Applicable to Lots, Parcels and Other Areas Within All Land Use Classifications. Except as otherwise expressly provided in this Section or elsewhere in this Declaration, the following Covenants and rights shall apply to all Lots, Parcels and other areas in the Property, and the Owners, Residents and tenants thereof, whether or not a Tract Declaration has been recorded for it and regardless of the Land Use Classification of it:

4.2.1. Architectural Control. Except as otherwise expressly provided in this Declaration, in the Architectural and Landscape Guidelines or in any applicable Tract Declaration that has been signed by Declarant, (i) no improvements (whether temporary or permanent), alterations, repairs, excavation, grading, lighting, painting, landscaping or other work that in any way alters the exterior appearance of any property within Residential Areas of the Property or improvements thereon from its natural or improved state existing on the date this Declaration is recorded shall be made or done, and (ii) no building, fence, exterior wall, residence, statue, or other structure shall be commenced, erected, improved, altered or made within Residential Areas of the Property, without the prior written approval of the Architectural and Landscape Committee. Any subsequent addition to or change or alteration in any such building, fence, wall or other structures that affects the exterior appearance thereof, including exterior color scheme, and any change in the grade, outside lighting or landscaping of any Residential Area in the Property, shall be subject to the prior written approval of the Architectural and Landscape Committee. No change or deviation in or from the plans and specifications approved by the Architectural and Landscape Committee shall be made without the prior written approval of the Architectural and Landscape Committee. Once construction of an improvement has been commenced on the Property, the Owner shall diligently pursue completion of the improvement in accordance with approved plans. Declarant, Owners of Commercial Areas and tenants of Commercial Areas shall be exempt from the requirements of this subsection and therefore all improvements, alterations, repairs, excavation, grading, lighting, landscaping or other work performed, constructed or installed by Declarant or Owners or Tenants of Commercial Areas shall be deemed approved by the Architectural and Landscape Committee.

4.2.2. Animals. Except as otherwise expressly permitted in an applicable Tract Declaration, no animals or birds, other than a reasonable number of generally recognized house or yard pets, shall be kept on any Lot, Parcel or other area in the Property and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept in a fenced yard or on a leash or otherwise appropriately restrained at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance or an annoyance to other Owners or Residents. It shall be the responsibility of each

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4.2.5. Nuisances; Construction Activities. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Parcel or other area in the Property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such area or activity thereon unsanitary, unsightly, offensive or detrimental to any other portion of the Property in the vicinity thereof or to the Owner or occupant of any such other area. No other nuisance shall be permitted to exist or operate upon any Lot, Parcel or other area in the Property. The Architectural and Landscape Committee shall have the exclusive right to determine the existence of any nuisance within Residential Areas. Without limiting the generality of any of the foregoing provisions and except as otherwise permitted herein, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such portion of the Property. Normal construction activities and parking in connection with the building of improvements in the Property shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and Parcels shall be kept in a neat and tidy condition during construction periods, trash and debris shall be removed periodically and, in Residential Areas, supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by Declarant or the Architectural and Landscape Committee. An Owner shall be responsible for all on-site and construction trash and debris occasioned by his contractors and subcontractors and shall remove all such trash and debris within a reasonable period of time. In addition, any construction equipment and building materials stored or kept on any Lot or Parcel may be kept only in areas approved by Declarant or the Architectural and Landscape Committee. It is acknowledged that normal construction activities may be noisy and may require the use of exterior speakers and that exterior speakers may be needed on the Golf Course Land, and such use of exterior speakers is expressly permitted. Notwithstanding anything in this Section to the contrary, this Section shall be subject to the provisions of Section 4.2.28.

4.2.6. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot, Parcel or other area which shall include, breed or harbor diseases or insects.

4.2.7. Repair of Building. No building or structure on any area in the Property shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by subsection 4.2.1 above, the building or structure shall be promptly repaired, rebuilt or demolished. In the event a Lot Owner fails to comply with this provision, the Board may give notice to the offending Lot Owner, and may then proceed to repair the building or improvement and charge the Lot Owner for the cost of repair as permitted in Section 10.3.

4.2.8. Antennas. Subject to any applicable requirements of governmental authorities having jurisdiction, no antenna, satellite receiving station or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any area in the Property (whether attached to a building or structure or otherwise) so as to be Visible From Neighboring Property, unless approved by Declarant or the Architectural and Landscape Committee. Declarant or the

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been approved in writing by the Architectural and Landscape Committee or by Declarant.

- (d) "For sale" or "for rent" signs for individual Dwelling Units, provided the number and specifications of the signs satisfy criteria established by the Architectural and Landscape Committee from time to time. The Board, the Association, the Architectural and Landscape Committee, or their agent may enter a Lot for the purpose of removing any "for sale" or "for rent" signs that do not comply with Architectural and Landscape Committee standards or do not otherwise comply with this subsection.

4.2.14. Restriction on Further Subdivision, Property Restrictions and Rezoning.

No Lot or Parcel shall be further subdivided or separated into smaller Lots or Parcels by any Owner or other person, and no portion less than all of any Lot or Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of Declarant. This provision shall not apply to transfers of an individual ownership interest in the whole of any Lot or Parcel or to mortgages, deeds of trust or other liens on the whole of any Lot or Parcel. Notwithstanding anything to the contrary contained in this Declaration, Declarant reserves and shall retain the right to subdivide, separate, re-subdivide or combine into Lots or Parcels any portion of the Property at any time owned or controlled by Declarant. Unless otherwise approved by Declarant, no buildings or other permanent structures shall be constructed on any areas in the Property until a Tract Declaration has been recorded against the land where the structure is to be constructed. No subdivision plat, Tract Declaration or further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any land in the Property unless the provisions thereof have first been approved in writing by Declarant. Any plat, Tract Declaration or other covenants, conditions and restrictions or easements recorded without such an approval being evidenced thereon shall be null and void. Once a Parcel has been subdivided into Lots by a recorded plat, that Parcel may not be re-subdivided without the approval of Declarant. No application for rezoning of any Lot or Parcel, and no application for variances or use permits, shall be filed with any governmental authority unless the proposed use of the land has been approved by Declarant and the proposed use otherwise complies with this Declaration and any applicable Tract Declaration.

4.2.15. Utility Easements. There is hereby created a blanket easement upon, across, over and under the Property for ingress to, and egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and other systems as such utilities are installed in connection with the initial and ongoing development of the Property. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Property. Notwithstanding anything to the contrary contained in this subsection, no sewers, electrical lines, waterlines, or other utilities or service lines, facilities or equipment may be installed or relocated on any area in the Property pursuant to this easement without the consent of Declarant, except as

initially planned and approved by Declarant or, if installed on a Lot or Parcel after recordation of the Tract Declaration, as permitted by an otherwise valid easement or as approved by the Owner of the Lot or Parcel.

4.2.16. Party Walls. Except as hereinafter provided, the rights and duties of Owners of contiguous properties which have Party Walls shall be as follows:

- (a) Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment of the Party Wall.
- (b) If a Party Wall is damaged or destroyed through the act or failure to act of an Owner or any of the Owner's tenants, agents, guests or members of the Owner's family (whether or not the act is negligent or otherwise culpable), it shall be the obligation of the Owner to promptly rebuild and repair the Party Wall without cost to the Owner of the adjoining property.
- (c) In the event any Party Wall is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act or failure to act of an adjoining Owner, his tenants, agents, guests or family, it shall be the obligation of all Owners whose properties adjoin the Party Wall to rebuild and repair the Party Wall at their joint expense, with the expense to be allocated among the Owners in accordance with the frontage of their respective properties on the damaged or destroyed Party Wall.
- (d) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall, or with respect to the sharing of the cost thereof, the adjoining Owners shall submit their dispute to the Board and the Board's decision shall be binding. Notwithstanding any such decision, an Owner may seek indemnity from any party causing the damage.
- (e) Notwithstanding the foregoing and unless otherwise indicated in an applicable Tract Declaration or other recorded document, in the case of Party Walls (1) between Common Areas and Lots and Parcels, or (2) constructed by Declarant or the Association on Common Areas within a Lot or Parcel, the Association shall be responsible for all maintenance thereof, subject to the provisions of Sections 10.2 and 10.3, except that each Owner of a Lot or Parcel shall remain responsible for painting and maintaining the surface of the portion of the Party Wall facing his Lot or Parcel and/or the portion of the Party Wall which is not a portion of the Common Area, and except that an adjoining Owner shall reimburse the

Association for ½ of the costs incurred by the Association for any structural repair of the Party Wall located on that Owner's property.

- (f) The provisions of this subsection shall not apply to any Party Wall that separates the interiors of 2 Dwelling Units or to any Party Wall that also constitutes an exterior wall of a Dwelling Unit. The rights of the Owners of any such Dwelling Units with respect to any such Party Walls shall be governed by the applicable Tract Declaration or by any additional covenants recorded against those Dwelling Units.

4.2.17. Perimeter Walls. All fences constructed by Declarant or its designee adjoining the Golf Course, Common Areas, parks or washes shall be maintained by the Association in accordance with specifications established by the Architectural and Landscape Committee. Subject to the provisions of Sections 10.2 and 10.3, the perimeter walls constructed by Declarant, if any, shall be maintained by the Association, except that each Owner shall remain responsible for painting and maintaining the surface of the portion of the perimeter wall facing his Lot or Parcel and except that the Owner shall reimburse the Association for ½ of the costs of any structural repair of that portion of the perimeter wall located on that Owner's property or on or near that Owner's property boundary. The Board shall have sole discretion with respect to the maintenance of the exterior surface facing rights-of-way and the structural repair of the perimeter walls. The Association shall be responsible for the maintenance of:

- (a) all landscaping immediately outside the perimeter walls and fences and adjoining rights-of-way; and
- (b) all areas immediately outside a perimeter wall and adjoining a Common Area wash, except any maintenance assumed by any governmental entity, by an Ancillary Association, or by the Owner of the adjoining Lot or Parcel.

4.2.18. Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in the Property unless they are contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures, except for:

- (a) boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices;
- (b) such above ground electrical apparatus as may be convenient or reasonably necessary on any Well Sites or Parcels designated for Utility Use; and
- (c) those expressly approved by Declarant.

Notwithstanding the foregoing, no above-ground electrical apparatus shall be installed without the approval of Declarant. All lines for the transmission of water and sewage shall also be installed and maintained underground or concealed in, on or under structures approved by Declarant or otherwise installed in a manner approved by Declarant. The installation and location of all utility lines and equipment must be approved in advance by Declarant. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted with the prior consent of Declarant.

4.2.19. Overhead Encroachments. No tree, shrub or planting of any kind on any Lot, Parcel or other area shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, bike path, trail, pedestrian way, the Golf Course or other area from the ground level to a height of 8 feet without the prior consent of Declarant or the Architectural and Landscape Committee.

4.2.20. Trucks, Trailers, Campers and Boats. Except for loading and unloading purposes not to exceed 48 hours, no motor vehicle classed by manufacturer rating as exceeding ¾ ton, mobile home, motor home, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle may be parked or stored on any area in the Property so as to be Visible From Neighboring Property; provided, however, this provision shall not apply to (i) pickup trucks of less than ¾-ton capacity with camper shells not exceeding 7 feet in height measured from ground level and mini-motor homes not exceeding 7 feet in height and 18 feet in length that are parked as provided in subsection 4.2.22 below and are used on a regular and recurring basis for basic transportation; (ii) trucks, trailers and campers parked in a recreational vehicle storage area, if any, within a Residential Area or other areas, if any, designated for such parking in non-residential Land Use Classifications, provided, however, that all such parking areas have been approved by Declarant or the Architectural and Landscape Committee; or (iii) trucks, trailers, temporary construction shelters or facilities maintained during, and used in connection with, construction of any improvement approved by Declarant or the Architectural and Landscape Committee.

4.2.21. Motor Vehicles. No motor vehicle of any kind shall be constructed, reconstructed or repaired upon any Lot, Parcel or street or other area in the Property, and no inoperable vehicle may be stored or parked so as to be Visible From Neighboring Property; provided, however, that this provision shall not apply to (i) emergency vehicle repairs; (ii) any automobile repair business which may be permitted in any General Commercial Land Use Classification; (iii) the parking of motor vehicles in garages or other parking areas in the Property designated or approved by Declarant or the Architectural and Landscape Committee so long as such vehicles are in good operating condition and appearance and are not under repair; and (iv) the storage of motor vehicles in an area designated for such purposes on a Tract Declaration or on a site plan approved by Declarant.

4.2.22. Parking. It is intended that on-street parking will be restricted as much as reasonably possible. Vehicles of all Owners and Residents, and of their employees, guests and invitees, are to be kept in garages, carports and other parking areas designated or approved by Declarant or the Board; provided, however, this subsection shall not be construed to permit the

parking or storing in the above described areas of any vehicle whose parking or storage is otherwise prohibited herein. The Quail Creek Rules may permit temporary parking on streets or other areas in the Property for public or private social events or other permitted activities.

4.2.23. Roofs. No solar panel, air conditioning unit, evaporative cooler or other apparatus, structure or object shall be placed on the roof of a Dwelling Unit without the prior written consent of Declarant or the Architectural and Landscape Committee. Any solar panel approved for placement on a roof must be flush mounted if it is Visible From Neighboring Property.

4.2.24. Window Treatments. Within 90 days of occupancy, each Owner of a Dwelling Unit shall install permanent draperies or suitable window treatments on all windows that are Visible From Neighboring Property. In no event shall windows be covered with paper, aluminum foil, bed sheets or any other materials or temporary coverings not specifically intended for such purposes. No interior or exterior reflective material shall be used as a window covering unless the material has been approved by the Architectural and Landscape Committee.

4.2.25. Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over his Lot or Parcel from or to any Lot or Parcel as that pattern may be established or altered by Declarant.

4.2.26. Garage Openings. Except as may be provided in the Quail Creek Rules, no garage door shall be open except when necessary for access to and from the garage. No carport, parking area or garage shall be used to store junk or other unsightly material.

4.2.27. Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot or Parcel, any member of the Architectural and Landscape Committee, any member of the Board, and any authorized representative of either of them, shall have the right to enter upon and inspect any Lot or Parcel and the improvements constructed or being constructed thereon (except for the interior portions of any completed and occupied Dwelling Unit and Dwelling Units under construction by Declarant or its affiliates) to determine compliance with this Declaration, the Architectural and Landscape Guidelines, or any approved stipulations issued by the Architectural and Landscape Committee, or to perform repairs and maintenance as provided in Section 10.3. No person shall be deemed guilty of trespass by reason of such an entry. In addition, the Association shall have an easement and right of entry upon each Lot and Parcel at any time, without prior notice, in order to perform emergency repairs.

4.2.28. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent or interfere with the erection, maintenance or operation by Declarant or its affiliates or subcontractors, or Designated Builders, of structures, improvements, signs, model homes, sales office and facilities, administrative offices, or other offices or facilities deemed by Declarant to be necessary or convenient to the development, marketing, sale or operation of the Property.

4.2.29. Health, Safety, Welfare and Security. In the event additional uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health,

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safety or welfare of Owners or Residents, the Board may make rules restricting or regulating their presence in the Property; provided, however, that the Board shall have such power only with respect to Residential Areas of the Property.

The Association will strive to maintain the Residential Areas of the Property as a safe, secure residential environment. HOWEVER, NEITHER THE ASSOCIATION NOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT DECLARANT AND THE ASSOCIATION, AND COMMITTEES ESTABLISHED BY EITHER OF THEM, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO PROPERTY, TO LOTS, TO RESIDENCES AND TO THE CONTENTS OF LOTS AND RESIDENCES AND FURTHER ACKNOWLEDGES THAT DECLARANT HAS MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR TAKEN.

4.2.30. Model Homes. The provisions of this Declaration and of Tract Declarations which prohibit nonresidential use of Lots and Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes, sales offices, administrative offices, and parking areas incidental thereto by Declarant and its designees engaged in the construction or marketing of Dwelling Units in the Property. Any homes constructed as model homes shall cease to be used as model homes when Declarant ceases to be actively engaged in the construction and sale of Dwelling Units in the Property.

4.2.31. Incidental Uses. Declarant may approve, regulate or restrict incidental uses of land within any Land Use Classification. By way of example and not of limitation, Declarant may permit private roadways, tennis and/or swimming clubs intended primarily for the benefit of all or certain Owners and Residents, and tennis courts, swimming pools and other recreational amenities.

4.2.32. Leases. Any lease agreement applicable to a Lot must be in writing and must be expressly subject to this Declaration, the Quail Creek Rules, the Architectural and Landscape Guidelines, the Articles and the Bylaws. Any violation of these documents by the tenant shall be a default under the lease. An Owner of a Lot shall notify the Association regarding the existence of all leases and shall provide the Association a legible copy. The Lot Owner shall remain liable for compliance with the Declaration, Articles, Bylaws, Quail Creek Rules and Architectural and Landscape Guidelines and shall be responsible for any violations thereof by the tenant or the tenant's family and guests. The Quail Creek Rules may impose reasonable requirements concerning leases including, but not limited to, minimum duration and may make reasonable distinctions (i) between persons who Owners and persons who are not Owners, and (ii) between persons who are Residents and persons who are not Residents.

4.2.33. New Construction. All Dwelling Units shall be of new construction. No buildings or other structures shall be moved onto a Lot, Parcel or other area from other locations without the written consent of either Declarant or the Architectural and Landscape Committee. No part of any Dwelling Unit shall be used for living purposes until the entire structure is completed.

4.2.34. Construction. All Dwelling Units and all other buildings in the Property commenced after the effective date of this Declaration must be constructed by Declarant or its designees. Notwithstanding anything to the contrary in this Declaration, this subsection can be amended, changed, waived or terminated only by Declarant by executing an instrument in recordable form that is recorded in the proper office of record.

4.2.35. Compliance with Law. No Lot, Parcel or other area in the Property shall be maintained or utilized in such a manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Arizona, the County of Pima or any other governmental entity or agency having jurisdiction over the Property or any part thereof.

4.2.36. No Modification by Private Agreement. No private agreement of any Owners shall modify or abrogate any of these Covenants or the obligations, rights and duties of the Owners hereunder.

4.3. Covenants Applicable to Lots Within Single Family Residential Land Use Classification. The following Covenants shall apply only to Lots, and the Owners and Residents thereof, within a Single Family Residential Land Use Classification:

4.3.1. General. Property classified as Single Family Residential Use under a Tract Declaration may be used only for the construction and occupancy of one Single Family detached Dwelling Unit per Lot and typical residential activities incidental thereto, such as the construction and use of private swimming pools, together with common recreational facilities or other common areas or amenities, if any. All Lots within such a Land Use Classification shall be used, improved and devoted exclusively to residential uses and no occupation, business, profession, trade or other nonresidential use shall be conducted thereon, except that an Owner or Resident may conduct business activities on a Lot so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (ii) the business activity conforms to all applicable zoning requirements; (iii) the business activity does not involve door-to-door solicitations of other Owners and Residents; and (iv) the business activity is consistent with the residential character of the surrounding area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents and Owners, as may be determined in the sole discretion of the Board. The terms "business", "occupation", "profession" and "trade", as used in this Section 4.3 and in the immediately following Section 4.4, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the

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activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business as defined herein. The restrictions contained in this Section 4.3 or in Section 4.4 below shall not apply to any activity conducted by Declarant with respect to its development, marketing, operation or sale of Lots or Dwelling Units within the Property, and Declarant shall have the right to maintain sales offices, administration offices, and sales and model complexes on property classified as for Single Family Residential Use, Residential Condominium Development Use or Cluster Residential Use.

4.3.2. Tenants. The entire Dwelling Unit and Lot may be leased to a Single Family tenant or lessee from time to time by the Owner, subject to the provisions of this Declaration, the Quail Creek Rules, and any applicable Architectural and Landscape Guidelines and Tract Declaration.

4.3.3. Minimum Home Size. All detached Single Family Dwelling Units in the Property commenced after the date hereof shall have at least 1,000 square feet of living space, exclusive of carports and porches.

4.4. Covenants Applicable to Property Within a Residential Condominium Development Land Use Classification and a Cluster Residential Land Use Classification. The following Covenants shall apply only to Dwelling Units, and the Owners and Residents thereof, within a Residential Condominium Development Land Use Classification or a Cluster Residential Land Use Classification:

4.4.1. General. Property classified as Residential Condominium Development Use or as Cluster Residential Use under a Tract Declaration may be used only for the construction and occupancy of Single Family Dwelling Units, together with common facilities and other common areas, if any. In addition, a management office may be maintained on any such property for the purpose of leasing and managing Dwelling Units and related improvements on the property. All Lots within such a Land Use Classification shall be used, improved and devoted exclusively to residential uses and no occupation, business, profession, trade or other nonresidential use shall be conducted thereon, except that an Owner or Resident may conduct business activities on a Lot so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (ii) the business activity conforms to all applicable zoning requirements; (iii) the business activity does not involve door-to-door solicitations of other Owners and Residents; and (iv) the business activity is consistent with the residential character of the surrounding area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents and Owners, as may be determined in the sole discretion of the Board. As provided in Section 4.3 above, the restrictions contained in this Section 4.4 shall not apply to any activity conducted by Declarant with respect to its development, marketing or sale of Lots or Dwelling Units within the Property.

4.4.2. Tenants. The entire Dwelling Unit may be leased to a Single Family tenant from time to time by the Owner, subject to the provisions of this Declaration, the Quail Creek Rules, and any applicable Architectural and Landscape Guidelines and Tract Declaration.

4.5. Timeshare Restrictions. Nothing contained in this Declaration shall limit Declarant from creating Timeshare interests in portions of the Property that are limited by Tract Declarations to such use or portions of the Property in which such use is permitted by applicable Tract Declaration. Except for such Timeshare interests as may be created expressly authorized by Declarant, no Timeshare shall be allowed within the Residential Areas of the Property.

4.6. Covenants Applicable to Golf Course Land Use Classification.

4.6.1. General. The Golf Course Land shall be designated as such in a Tract Declaration recorded by Declarant. No Association membership rights or responsibilities shall be attributed or charged to the Golf Course Land.

4.6.2. Use Restriction. The Golf Course Land shall be used solely as one or more golf courses, parks, recreation areas (including but not limited to driving ranges, pro shops, water storage, well-sites, recharge wells, drainage structure, automobile parking, and other recreational and associated maintenance facilities) or for open space or desert landscaping purposes. Notwithstanding the foregoing and subject to applicable zoning regulations, the Owner of the Golf Course Land, without approval from the Board or other Owners, may amend the Tract Declaration or plat or plats covering the Golf Course Land to alter the use or boundaries of the Golf Course Land or any portion thereof, provided that (i) the remaining Golf Course Land remains available for golf course purposes (and is sufficient for those purposes), and (ii) the change does not materially diminish the playability of any golf course existing on the Golf Course Land at the time of the change. As long as Declarant has fee title to, or any beneficial or security interest in, any of the Property, any amendment to a Golf Course Tract Declaration or a plat or plats affecting the Golf Course Land must be approved by Declarant.

4.6.3. Operation of Golf Course. To the extent reasonably possible, the manager of any golf course and other facilities located on Golf Course Land shall attempt to operate the golf course and other facilities in such a manner so as not to create an unreasonable nuisance for the Owners and Residents of the Property. Notwithstanding the foregoing, activities and uses permitted on the Golf Course Land shall include all activities normally associated with the operation and maintenance of a golf course and any and all other recreational activities and facilities permitted under subsection 4.6.2 above, approved by Declarant, or permitted by the applicable Tract Declaration, including, but not limited to, the conduct of tournaments, races and other recreational events which may include spectators, television, radio and other media coverage, and various related activities. Notwithstanding other provisions of this Declaration or the Quail Creek Rules restricting parking, members of the public shall have the right to park their vehicles on roadways within the Property at reasonable times before, during and following golf tournaments and other permitted functions held on the Golf Course Land.

Subject to the terms of this Declaration and any Tract Declaration recorded against the Golf Course Land and any applicable binding contractual (or similar) obligations, the Owner of the Golf

Course Land shall have the right, in its sole discretion, to establish rules and regulations governing all aspects of the golf course including, but not limited to, price, hours of operation, tee-time procedures, annual golf fees, use, reciprocal agreements, commitments, subleasing, availability, staffing, quality, equipment and maintenance. The Owner of Golf Course Land shall also have the right, in its sole discretion and at any time, to make the Golf Course Land available to others or the general public to the extent availability exists after taking into account the needs of Owners and Resident of the Property. The Owner of the Golf Course Land, its guests, employees, invitees and clientele shall have, in perpetuity, a right of reasonable access through the Property and the facilities thereon, and reasonable parking privileges, for the purpose of using and operating (where applicable) the golf course, and any golf pro shop, golf cart storage areas and snack bar to be operated by the Owner of the Golf Course Land. Upon request by the Owner of the Golf Course Land (if the Association is not the Owner), the Association shall execute and notarize an instrument to further evidence the rights and privileges provided for herein. Commencing one year after the Transition Date, the Owner of the Golf Course Land (if it is not the Association) shall, on an annual basis, reimburse the Association an amount not to exceed the actual cost directly attributable to the Association for the prior year of the Golf Course Owner's use and operation, if any, of the golf pro shop, golf cart storage areas and snack bar if they are located in a clubhouse conveyed to the Association or on any other property conveyed to the Association and are operated by the Owner of the Golf Course Land.

4.6.4. Golf Balls. Owners, Residents, guests and other persons owning, occupying or using any Lot, Dwelling Unit, Parcel or other area adjoining the Golf Course Land are deemed to have assumed the risks of personal injury and property damage resulting from golf balls hit onto any such Lot, Dwelling Unit, Parcel or other area by persons playing golf on the Golf Course Land. Neither Declarant, nor the Owner of the Golf Course Land (if other than Declarant), nor the Association, is responsible for installing screening devices or trees to limit or prevent errant golf balls from causing injury or damage.

4.7. Covenants, Conditions, Restrictions and Easements Applicable to Membership Lots. The following covenants, conditions, restrictions and reservations of easements and rights shall apply only to Membership Lots and the Owners thereof:

4.7.1. Creation. Membership Lots may be designated from time to time in a subdivision plat recorded or approved by Declarant. Such Membership Lots may be small areas intended as open space, consisting of property which would not satisfy normal requirements for residential lots that could contain Dwelling Units, or may be areas within residential subdivisions which satisfy governmental requirements for developable property but are designated Membership Lots initially to preserve the possibility that development will be restricted on them. For purposes of this Section, the two types of Membership Lots will be differentiated by referring to them as "undevelopable" Membership Lots and "developable" Membership Lots. A Membership Lot shall conclusively be deemed "undevelopable" unless Declarant, in its sole discretion, records a Tract Declaration or other instrument confirming that a Dwelling Unit may be constructed on the Lot. Development of a "developable" Membership Lot is prohibited, and the Membership Lot shall be treated as "undevelopable" for purposes of this Section, unless Declarant records an instrument confirming that a Dwelling Unit may be constructed on the Lot.

If a Dwelling Unit is constructed on a "developable" Membership Lot for which such construction has been permitted by Declarant, the Lot shall no longer constitute a Membership Lot.

4.7.2. Development Restrictions. An undevelopable Membership Lot is not intended for residential purposes and cannot, under any circumstances, be built upon or improved for any kind of residential purposes.

4.7.3. Maintenance. Membership Lots shall be maintained by the Association and an irrevocable and perpetual easement is hereby created in favor of the Association for ingress, egress, and maintenance of the Membership Lots. Costs incurred by the Association in performing any such work shall be treated like the costs of maintaining other vacant Lots pursuant to Section 10.5 hereof.

4.7.4. Division of Ownership. A Membership Lot may be divided into 10 undivided interests and may be conveyed to as many as 10 Owners, and each such ownership interest shall be treated as a Lot and the Owner thereof as an Owner for all purposes of this Declaration.

Under no circumstances shall the Membership Lot be further divided, subdivided or partitioned.

4.8. Variances. Declarant or the Board may, at its option and in extenuating circumstances, grant variances from any or all of the restrictions set forth in Article 4 of this Declaration or in any Tract Declaration if Declarant or the Board determines in its discretion (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner, or (ii) that a change of circumstances since recordation of this Declaration has rendered the restriction obsolete or otherwise inappropriate, and (b) that the activity permitted under the variance will not have any substantial adverse affect on the Owners and Residents of the Property and is consistent with the high quality of life intended for Residents of the Property. The request for a variance must be made in writing and must be accompanied by adequate supporting documentation.

4.9. Grazing Or Agricultural Operations. Declarant reserves the right to use the undeveloped portions of the Property, the Annexable Property and perhaps other real property in the vicinity for grazing or agricultural purposes until they are developed for residential, commercial or other uses. Therefore, notwithstanding anything to the contrary contained in this Section 4 or elsewhere in this Declaration, none of the use restrictions or other provisions of this Declaration shall affect, interfere with or apply to any grazing or agricultural operations, or related operations, that are conducted within the Property with the consent of Declarant, unless Declarant specifies otherwise in writing.

5. ORGANIZATION OF ASSOCIATION

5.1. Formation of Association. The Association shall be a non-profit Arizona corporation. The Association shall serve as the governing body for all the Members and for the future Members, and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws

shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2. Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The Board may also appoint various committees and appoint a manager or managing agent who shall be subject to the direction of the Board and be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager or managing agent and any employees of the Association. The Board's responsibilities shall be to carry out the objectives of the Association which include, but shall not be limited to, the following:

- (a) administering, including providing administrative support required for, the Architectural and Landscape Committee;
- (b) preparing and administering an operational budget that provides for the protection, administration and operation of the Common Areas, the improvements thereon and the property of the Association, for the performance of all of the Association's responsibilities hereunder and under the Articles and Bylaws, and for other uses permitted by Section 9 of this Declaration;
- (c) establishing and administering a reserve fund to the extent that funds are available therefor;
- (d) scheduling and conducting the meetings of Members;
- (e) collecting and enforcing the Assessments and disbursing funds received for the benefit of the Association and its Members;
- (f) maintaining records and books in accordance with Generally Accepted Accounting Principles and performing other necessary accounting functions;
- (g) promulgating and enforcing the Quail Creek Rules;
- (h) maintaining the Common Areas; and
- (i) all other duties imposed upon the Board pursuant to this Declaration, the Bylaws, the Articles and the Quail Creek Rules.

Notwithstanding anything foregoing to the contrary and subject to the rights reserved to Declarant in this Declaration, the Association shall not engage in any real estate sales or marketing activities or allow the use of any clubhouse or other Common Areas for such purposes by any licensed real estate brokerage company or other entity offering comparable services (other than the posting of such signs for the sale of individual Dwelling Units by Owners as may

otherwise be permitted hereunder) without the prior written consent of Declarant, which may be withheld in Declarant's sole and absolute discretion.

5.3. The Quail Creek Rules and Architectural and Landscape Guidelines. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as the Quail Creek Rules. The Quail Creek Rules may restrict and govern the use of the Common Areas by any Member or Resident, by the family of any Member, or by any invitee, licensee or tenant of any Member; provided, however, that the Quail Creek Rules shall not discriminate among Members (other than Declarant) and shall not be inconsistent with this Declaration, the Articles or the Bylaws. In addition, from time to time and subject to the provisions of this Declaration, the Architectural and Landscape Committee shall have the right to adopt, amend and repeal Architectural and Landscape Guidelines for Residential Areas of the Property; provided, however, that such rules and guidelines shall be fair and reasonable, shall be consistent with the provisions of this Declaration, the Articles and Bylaws, and shall be subject to review and revision by the Board. The authority granted herein to develop rules and guidelines by the Board and Architectural and Landscape Committee, and the enforcement powers granted herein, are given for the purpose of ensuring that the Property is developed and used according to the general descriptions and intent as evidenced by the Master Development Plan and Declarant's development plans for the Property, as they from time to time may be amended, and this Declaration. The Board and Architectural and Landscape Committee are responsible specifically for the administration and enforcement of the provisions of this Declaration and the Articles, Bylaws, Quail Creek Rules and Architectural and Landscape Guidelines. The Quail Creek Rules and the Architectural and Landscape Guidelines shall have the same force and effect as if they were set forth in and were a part of this Declaration, except that in the event of any inconsistency between the rules and regulations adopted by the Board and the guidelines adopted by the Architectural and Landscape Committee, the rules and regulations adopted by the Board shall control, and in the event of any inconsistency between the rules, regulations or guidelines and any of the provisions of this Declaration or of the Articles or Bylaws, the provisions of this Declaration, the Articles and the Bylaws shall govern and control.

5.4. Personal Liability. No Board member, committee member, officer or employee of the Association or Declarant shall be personally liable to any Member or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence; provided, however, the limitations set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct. The Association shall indemnify its committee members, directors and officers when acting in good faith on behalf of the Association to the fullest extent permitted by law.

5.5. Ancillary Association. In the event an Ancillary Association is formed by Declarant (or with the written consent of Declarant) for a Parcel, subdivision, area or neighborhood in the Property, articles of incorporation, bylaws and any declaration of restrictions shall serve as the governing documents for an Ancillary Association. The governing documents for an Ancillary Association must specify that the Ancillary Association and the rights of its

members are subject to the provisions of this Declaration and the Articles of the Association. The Board may delegate to an Ancillary Association the responsibility for billing and collecting for some or all of the Assessments.

5.6. Easements. In addition to the easements specifically granted or reserved herein, the Association is authorized and empowered to grant upon, across or under Association Land such permits, licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private purposes, security lines, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance and preservation of the health, safety, convenience and welfare of the Owners within the Property, as determined by the Board.

5.7. Rights of Enforcement. The Association, acting through the Board, shall be and hereby is empowered to decide all questions regarding the enforcement of this Declaration within Residential Areas and to take any and all actions needed, in its sole and absolute judgment, to enforce this Declaration.

5.8. Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and affiliated companies or persons, and no such contract or transaction shall be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee of the Association are employed by or otherwise connected with Declarant or its affiliates, provided that the interest is disclosed or known to the other directors acting upon the contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member, which shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant, its affiliates or any competitor thereof and may vote at any such meeting to authorize any such contract, transaction or approval with like force and effect as if he were not so interested. In addition, from and after the date of this Declaration and until the Transition Date, Declarant or its designee shall have the right, but not the obligation, to serve as the manager of the Association and to receive a management fee from the Association equal to 4% of the Association's total gross revenues from all sources, as reported in the Association's annual financial statements. The management fee shall be in addition to, and not in substitution for, reimbursement by the Association to Declarant or its designee for all direct expenses actually incurred in managing the Association and in addition to the costs and expenses of operating the Association and of paying the employees of the Association. The management fee shall not be payable if Declarant and its designee elect not to serve as manager of the Association.

6. MEMBERSHIP AND VOTING

6.1. Owners of Lots. Every Owner of a Lot, including Declarant, but not including any other Owner of a Lot that constitutes Exempt Property, shall be a Member of the Association. Each such Owner, including Declarant, shall have one Membership for each Lot owned by the

Member. Each Membership shall be appurtenant to and may not be separated from ownership of the Lot to which the Membership is attributable. Except as otherwise provided in any Tract Declaration for a commercial or other Parcel, no Memberships shall be appurtenant to any Commercial Areas. There shall be only one Membership for each Lot, which shall be shared by any joint Owners of, or owners of undivided interests in, the Lot, except that there shall be one Membership for each 1/10 interest in each Membership Lot, which Membership shall be shared by any joint Owners of the 1/10 interest, but not with Owners of other undivided interests in the Membership Lot. Notwithstanding the foregoing provisions of Section 6.1, in the event an Owner of 2 adjoining Lots, or an Owner of a Lot and a portion of an adjoining Lot, combines the areas owned by him for use as one residence, upon approval by Declarant or the Board, the combined Lots or the combined Lot and adjoining property, as the case may be, shall be assessed and treated as one Lot hereunder and shall be entitled to one Membership. Any Tract Declaration may limit or assign all or any of the voting rights otherwise applicable to portions of the Property covered by the Tract Declaration. Without limiting the preceding sentence, any Tract Declaration recorded by Declarant hereafter may assign voting rights to Declarant for such periods of time and on such terms as Declarant may elect, in its sole discretion.

6.2. Tenants. Tenants of Rental Apartments, or other Dwelling Units, and persons holding leases or other interests in Membership Lots less than fee title, shall not be Members of the Association. In the event Rental Apartments are converted to residential Condominiums, then there shall be one Membership in the Association for each residential Condominium Unit owned, commencing when the condominium declaration is recorded.

6.3. Declarant. Notwithstanding anything to the contrary herein, Declarant shall be a Member of the Association for so long as Declarant owns any Lot in the Property.

6.4. Voting. Declarant shall have the right to 3 votes for each Membership held by Declarant on any matter subject to a vote by Members. Subject to Declarant's rights as provided above, each Membership entitles the Member to one vote in all matters requiring a vote of the Members, subject to the authority of the Board to suspend the Member's voting rights for violations of this Declaration as provided herein. Cumulative voting shall not apply. So long as Declarant holds enough votes (either directly or by proxy) to elect a majority of the Board, Declarant shall be entitled to appoint a majority of the Board and the remainder of the Board shall be elected by Members other than Declarant.

6.5. Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of the change and is provided satisfactory proof thereof. The vote for each Membership must be cast as a unit. Fractional votes shall not be allowed. If a Membership is owned by more than one individual or entity and the Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be presumed conclusively that the Member was acting with the authority and consent of all other Owners of the same Membership unless objection thereto is made to the Board in writing at or prior to the time the vote is cast. In the

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event more than one vote is cast for a particular Membership, all such votes shall be deemed void.

6.6. Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Articles, Bylaws, Quail Creek Rules and Architectural and Landscape Guidelines.

6.7. Transfer of Membership. The rights and obligations of a Member in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership of the Owner's Lot or Parcel and then only to the transferee of the Lot or Parcel. Ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record or such other legal process as permitted by Arizona law. Any attempt to make a prohibited transfer of a Membership shall be void. Any transfer of ownership of a Lot or Parcel shall automatically transfer any Membership appurtenant to the Lot or Parcel to the new Owner. Upon the transfer of ownership of any Lot (excluding the initial sale by Declarant), the Board, in its discretion, may assess a reasonable transfer fee to cover administrative costs associated with the transfer of ownership.

6.8. Use of Membership; Designees. Subject to the Association Rules, all of the owners of a Membership may designate one or more non-members (a "Designee") to exercise all of the rights of the Membership under this Declaration except the Member's voting rights, but any such designation shall not relieve the Member of any liabilities or obligations as an Owner or with respect to the Membership. So long as any such designation is in effect, the Member shall be permitted to exercise only his voting rights and the Board may, among other things, in its discretion, set maximum or minimum periods for which such a designation may be in effect and limit the number of individuals who may be so designated by any Member at any one time. The Designee need not be a Resident and need not live on the Property unless the Board adopts rules requiring such residence.

7. COVENANT FOR ASSESSMENT AND CREATION OF LIEN

7.1. Creation of Lien and Personal Obligations for Assessments and Maintenance Charges. Each Owner of a Lot, by acceptance of a deed or execution of a purchase contract therefor (whether or not it shall be so expressed in the deed or purchase contract) or by otherwise acquiring any interest in a Lot, is deemed to covenant and agree to accept and be subject to mandatory Membership in the Association and to pay to the Association the following: (1) Annual Assessments, (2) Special Assessments, (3) Maintenance Charges, (4) Special Use Fees incurred by the Owner or Resident occupying the Owner's Lot or any portion thereof, and (5) Amenities Fee. The Annual Assessments, Special Assessments, Maintenance Charges, Special Use Fees, Amenities Fee and other fees, fines and charges that are the obligation of an Owner hereunder, together with interest, costs, collection agency fees, and reasonable attorneys' fees of the Association incurred in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing lien upon the Lot against which the Annual or Special Assessment, Maintenance Charge, Amenities Fee or other charge is made and against the Lot of an Owner liable for a Special Use Fee or other charge and, in

addition, shall be the personal obligation of the Owner of the Lot at the time the obligation becomes due and payable. The personal obligation for delinquent Assessments and other charges shall not pass to the successors in title of the Owner unless expressly assumed by the successor, but the Lot shall remain subject to the lien of delinquent Assessments except as provided in Section 8.3 below. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein by nonuse of Common Areas, abandonment of the Owner's Lot, as a result of Assessments for any period exceeding common expenses, or otherwise. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution, abatement or set-off shall be allowed by reason of any action or failure to act of the Board, the Association or Declarant.

7.2. Annual Assessments. In order to provide for the uses and purposes specified in Section 9 hereof, including the establishment of replacement and maintenance reserves in the Board's discretion, in each year, commencing with the first Assessment Period, the Board shall prepare and adopt a budget and shall assess against each Lot (except any Exempt Property) an Annual Assessment. Subject to the provisions of Section 7.4, the amount of the Annual Assessment shall be in the sole discretion of the Board but shall be determined with the objective of fulfilling the Association's obligations under this Declaration and providing for the uses and purposes specified in Section 9. ***Nothing within this Section, or elsewhere in this Declaration, shall be construed as placing a requirement upon Declarant or the Board to set up a reserve fund at any time. Further, no such reserve fund will be begun, or contributed to, during any year in which Declarant makes a contribution to the Association in order to subsidize any deficit which the Association may have in that year.***

7.3. Non-Uniform Rate of Annual Assessment. The obligation to pay Assessments shall begin on the date a Lot is purchased from Declarant, as evidenced by the recording of the deed or other conveyance instrument for the Lot, whether or not the Owner actually resides in the Property. If the Lot was sold by Declarant by means of a "contract" as defined in A.R.S. Section 33-741, then for purposes of this Section the purchase date shall be the date the contract is recorded. For purposes of this Declaration, Lots owned or sold by the trustee of a trust of which Declarant is the beneficiary shall be deemed to be owned or sold, as the case may be, by Declarant. The amount of any Annual or Special Assessment against each Lot or Dwelling Unit shall be fixed at a uniform rate per Membership, with the following exceptions:

7.3.1. The Annual Assessments are based on one or two Residents per homesite. If additional persons reside in Dwelling Unit sold by Declarant after the date hereof, the Assessment for each additional person shall be 50% of the Annual Assessment attributable to a Membership, unless any such additional person is physically unable to use the recreational facilities, as determined by the Board in its sole discretion, regardless of whether or not more than 2 residents of the Dwelling Unit actually use the recreational facilities. This Assessment for additional residents shall not count towards the Maximum Annual Assessment described in Section 7.4. The Board, in its sole discretion, shall decide when an additional person is "residing" in a Dwelling Unit. If only one person resides in a Dwelling Unit or only one person is physically able to use the recreational facilities, that Lot or Dwelling Unit shall not be permitted a discount of any kind from the Assessments attributable to that Membership.

7.3.2. If deemed necessary or appropriate by the Board, Assessments (whether Annual or Special) shall be assessed unevenly against the Lots, and specific Lots or Members, groups of Lots or Members, or residential neighborhoods who receive or have available services or benefits that are not available to all Lots or Members, as determined by the Board. Any such specially benefitted Lots or Members may be assessed and required to pay higher Assessments than the base Annual or Special Assessments for which the other Members are responsible. Examples are areas with additional security services, swimming pools, recreational areas or tennis courts that limited to use by certain Members. The Board shall be fair and reasonable in establishing any such unequal Assessments. The additional Annual Assessments, to the extent they exceed the amount of the base Annual Assessments for which all Members are responsible, shall not count towards the Maximum Annual Assessments described in Section 7.4.

7.4. Maximum Annual Assessment. Except as provided in Section 7.3 above, the base Annual Assessment to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Annual Assessment". Until January 1, 2000, the Maximum Annual Assessment for each Membership shall be \$800. The Maximum Annual Assessment for each Membership shall increase by 10% per year, compounded annually on December 31 of each year commencing on December 31, 1999 (i.e. each year, the Maximum Annual Assessment will be 10% higher than the Maximum Annual Assessment for the previous year). However, the Board has no obligation to increase the Annual Assessment each year to the Maximum Annual Assessment. Notwithstanding the foregoing limitation, the Maximum Annual Assessment may be increased by a vote of 2/3 of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose, or, in the Board's discretion and without a vote of the Members, as required by increased utility, fuel and water costs charged to the Association and costs to the Association of complying with governmental statutes, rules and regulations, including but not limited to those relating to environmental matters.

7.5. Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments authorized above, the Board may levy Special Assessments for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair, operating expenses, or replacements of capital improvements upon the Association Land or Common Areas, including fixtures and personal property related thereto, and for the purpose of defraying other extraordinary expenses. The Board may levy the Special Assessments uniformly to all Members, or to certain Members who receive or have available services or benefits not available to all of the Members, or otherwise as provided in Section 7.3 above. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments or the purposes for which Special Assessments may be made. The amount of any Special Assessments shall not apply towards the Maximum Annual Assessment. Notwithstanding the foregoing, a proposed Special Assessments in excess of \$300 per Lot per calendar year will not become effective if it is disapproved, within 30 days after it is announced by the Board, by 2/3 of those votes eligible to be cast in person or by proxy at an annual meeting of the Members of Association or at a special meeting called for that purpose after proper notice to the Members.

7.6. Amenities Fee. Each Owner who acquires a Lot following the date on which this Declaration is recorded shall pay the Association (in addition to any Annual or Special Assessments or other charges provided for herein) a fee of \$120 per Lot per year (the "Amenities Fee") which will be used by the Association to defray the Association's obligations to Declarant under Section 9.1.2 hereof. The Amenities Fee for each such Lot shall commence on the first full month following the Lot's initial conveyance to a retail buyer and shall be payable thereafter each month so long as the Association's payment obligations under Section 9.1.2 hereof continue.

7.7. Notice and Quorum for Any Action Authorized Under Section 7.4. Written notice of any meeting called for the purpose of a vote of the Members to increase the Maximum Annual Assessments pursuant to the last sentence of Section 7.4 above shall be sent to all Members no less than 10 days nor more than 60 days in advance of the meeting. At any such meeting, the presence of Members, in person or by proxy, entitled to cast more than 20% of all the votes (exclusive of suspended voting rights) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement any time thereafter, except that the requirement for a quorum shall be reduced from 20% of all of the votes to 10% of all of the votes (exclusive of suspended voting rights).

7.8. Establishment of Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence (a) upon the recording of the first Tract Declaration covering Lots, or (b) upon such later date as the Board shall determine, and shall terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by Board resolution specifying the new Assessment Period.

7.9. Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments and other fees and charges provided for herein so long as any such procedures are not inconsistent with the provisions hereof. Annual Assessments may be collected on a monthly, quarterly, annual or other basis as determined by the Board. Special Assessments may be collected as specified by the Board. Amenities Fees shall be paid monthly, unless the Board establishes another payment schedule by notice to Members. The failure of the Association to send a bill to a Member shall not relieve the Member of liability for any Assessment or charge under this Declaration, but the Assessment lien shall not be foreclosed or otherwise enforced until the Member has been given not less than 15 days written notice prior to the foreclosure or enforcement, at the address of the Member on the records of the Association, clearly stating that the Assessment or any installment thereof is or will be due and the amount owing. Such a notice may be given at any time prior to or after the delinquency of any payment. Each Member shall be obligated to inform the Association in writing of any change of address. If appropriate settlements between a buyer and seller are not maintained by the title or escrow company, the Association shall be under no duty to refund any payments received by it even though ownership of a Lot or Parcel (and any appurtenant Membership) changes during an Assessment Period. Successor Members shall be given credit for prepayments, on a prorated basis, made by prior Members. Annual Assessments against any new Member shall be prorated to the date the Membership is acquired and the new Member shall not be liable for any previously levied Special Assessment unless the Special

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Assessment is levied over a period of time, in which case the amount shall be prorated to the date on which the new Membership is acquired. Nothing contained in the preceding sentence shall affect or impair the Association's lien on any Lot, including any Lot acquired by a new Member, for past due Assessments relating to the Lot.

7.10. Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when due shall be deemed delinquent, subject to any provisions of law applicable to such delinquencies. Delinquent amounts shall bear interest from the delinquency date until paid at the rate of 18% per annum, and the Member whose payment is delinquent shall also be liable for all costs, including reasonable attorneys' fees, which may be incurred by the Association in collecting the delinquent amount and related charges. In addition, subject to any limitations imposed by applicable law, the Association may charge a late fee of 25% for a payment not made when due. Any such late fee shall also bear interest at the rate specified above from the date the Assessment or installment thereof becomes delinquent until the Assessment or installment, late charge and interest are paid in full. The Board may post a list of all members whose Assessments (whether Annual or Special Assessments or otherwise) are past due on the clubhouse bulletin board (or on any other similarly prominent location). The Board may also record a Notice of Delinquent Assessment against any Lot with a delinquent Assessment and may establish a fixed fee to compensate the Association for the it's expenses in recording the notice, processing the delinquency, and recording a notice of payment. Any such fee shall be treated as a collection cost, secured by the Assessment Lien. The Association shall not be obligated to release any notice recorded pursuant to this section until all delinquent Assessments, interest and collection costs have been paid in full, whether or not all of the amounts are set forth in the Notice of Delinquency.

7.11. Evidence of Payment of Assessments. Within a reasonable period following receipt of a written request, the Association shall issue to the requesting party a written certificate stating either (a) that all Annual and Special Assessments, Special Use Fees, Maintenance Charges and Amenities Fees (including interest, costs and attorneys' fees, if any, as provided in Section 7.10 above) have been paid with respect to any specified Lot as of the date of the certificate, or (b) the amounts due and payable as of the certificate date. The Association may make a reasonable charge for the issuance of any such certificate, payable at the time the certificate is requested. Such a certificate shall be conclusive and binding on the Association with respect to any matter stated in it for the benefit of a bona fide purchaser, or lender, to whom the certificate is issued.

7.12. Property Exempt from the Annual and Special Assessments. Exempt Property, including property that is Exempt Property pursuant to Section 1.29(f) because it is owned by Declarant or its affiliates, shall be exempt from Annual and Special Assessments and other charges levied by the Association pursuant to this Declaration. However, in the event any change in ownership or use of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the formerly Exempt Property shall become subject to Annual, Special and other Assessments and the Assessment Lien upon the change of ownership or use. The Owner of Exempt Property (with the exception of Declarant with respect to ownership of its Lots) shall not be entitled to any Memberships for the Owner's Exempt Property. The exemptions provided for

herein may be modified or limited in any Tract Declaration by Declarant for portions of the Property subject to the Tract Declaration.

7.13. No Parcel Assessments. Except as otherwise provided in any applicable Tract Declaration, Parcels shall not be subject to any Assessments levied by the Association, and no Memberships shall be attributable to Parcels.

8. ENFORCEMENT OF ASSESSMENTS AND ASSESSMENT LIEN

8.1. Association as Enforcing Body. As provided in Section 12.2, the Association, the Architectural and Landscape Committee, the Members and the other Owners shall have the right to enforce the provisions of this Declaration.

8.2. Association's Remedies to Enforce Payment. If any Member fails to pay the Annual or Special Assessments, Special Use Fees, Maintenance Charges, or Amenities Fees, or other charges payable hereunder, when due, the Association may enforce the payment thereof by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its rights to exercise the other remedy) and/or by exercising any other remedies available at law or in equity:

- (a) Bring an action at law to recover judgment against the Member personally obligated to pay the Annual or Special Assessments, Special Use Fees, Maintenance Charges, Amenities Fees, or other sums;
- (b) Foreclose the Assessment Lien against the Lot or Dwelling Unit in accordance with the then-prevailing Arizona law relating to the foreclosure of realty mortgages (including any right to recover a deficiency), and the Lot or Dwelling Unit may be redeemed after foreclosure sale as provided by law. The Association may bid on the foreclosed property at any such foreclosure sale.

Notwithstanding the subordination of an Assessment Lien as described in Section 8.3 below, the delinquent Member shall remain personally liable for the Assessments and related costs after his Membership is terminated by foreclosure or deed in lieu of foreclosure or otherwise.

8.3. Subordination of Assessment Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with the Lot as security, or the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Notwithstanding the foregoing, sale or transfer of any Lot, whether by foreclosure of a first lien mortgage or otherwise, shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or a deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding

in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such a purchaser or grantee shall take title subject to all Assessments, Special Use Fees, Maintenance Charges, Amenities Fees, and other amounts payable hereunder, and the Assessment Lien therefor, first accruing subsequent to the date on which title is acquired by the purchaser or grantee.

9. USE OF FUNDS; BORROWING POWER

9.1. Purposes for Which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Property, and the Members and Residents, by devoting the funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Property, which in the Board's determination may be necessary, desirable or beneficial to the general common interests of the Property, the Members and the Residents.

9.1.1. General Purposes. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for the common benefit: social interaction among Members and Residents, maintenance of landscaping on Common Areas and public rights-of-way, maintenance of trails, private roadways, washes and drainage areas within and adjoining the Property, recreation, short-term and long-term leases of real and personal property, payments of assessments to community facilities districts and improvement districts, liability insurance, communications, ownership and operation of recreational and other facilities, vehicle storage areas, transportation, health, utilities, public services, security, safety and indemnification of officers and directors of the Association. By way of illustration, but not limitation, the Association shall be responsible for paying any charges arising from use of groundwater (in any portion of the Property subject to the Association's jurisdiction) under that certain Declaration of Reservations, Easements and Covenants Running with Land recorded in the office of the Pima County Recorder on December 20, 1979, in Book 6179, at page 719, as thereafter amended from time to time (the "FICO Covenants"). Subject to this Declaration and the Articles and Bylaws, the Association may expend its funds in any manner permitted under the laws of the State of Arizona.

9.1.2. Amenities Funding. In addition to any other sums authorized by Section 9.1.1 hereof, the Association shall pay Declarant a monthly fee in consideration of any golf course and related amenities constructed and/or transferred by Declarant to the Association or held by Declarant or a trustee in trust for eventual transfer to the Association. The fee shall commence the first month following the first sale of a Lot to a retail buyer by Declarant after this Restated Declaration is recorded. The fee shall consist of \$10 per month for each Lot sold to a retail buyer after the date this Restated Declaration is recorded. For each such Lot, the

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Association shall pay \$10 per month from the month following the date of initial sale and continuing (as to each such Lot) for a period of 40 years. The Association's obligations to Declarant under this Section shall not be dependent upon the payment by Owners of all Amenities Fees required by Section 7 hereof.

9.2. Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate in the discretion of the Board.

9.3. Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in that year (whether by way of Annual or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of an Annual Assessment in any succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year any such surplus as the Board, in its discretion, may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

9.4. Eminent Domain. The term "Taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened Taking of all or any portion of the Association Land, the Members hereby appoint the Board, and such persons as the Board may delegate, to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards made or to be made in connection with the Taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in condemnation action. Any awards received on account of the Taking shall be paid to the Association. In the event of a total or partial Taking, the Board may retain any award in the general funds of the Association to be used to accomplish the purposes of the Association.

9.5. Insurance.

9.5.1. Authority to Purchase. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas or upon the other areas maintained by the Association, in a total amount of not less than \$1,000,000. If reasonably available, the Association shall obtain officers and directors liability insurance in an amount deemed prudent by the Board. In addition, the Association may carry any other insurance coverage which the Board, in its sole discretion, deems necessary or desirable. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance.

9.5.2. Individual Responsibility. It shall be the responsibility of each Owner and Resident or other person to provide insurance on his own land, Dwelling Unit, personal property, and other insurable interests within the Property as he desires including, but not limited to, additions and improvements to the land and/or Dwelling Unit, furnishings therein, and personal liability, to the extent not covered by the Association's insurance. The Association shall provide such information about the insurance carried by the Association as any such person may

reasonable request in order to allow the person to determine his personal insurance requirements. No person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable to the Association under the Association's casualty insurance in the event of damage to the improvements or fixtures on the Common Areas. Neither the Association nor any Board member nor the Declarant shall be liable to any person (including, but not limited to, any or mortgagee) if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of insurance is not adequate.

9.5.3. Insurance Claims. The Association is hereby irrevocably appointed and authorized by the Members to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard and may, in its discretion, appoint an authorized representative or committee to enter into an insurance trust agreement wherein the trustee shall have authority to negotiate losses under any policy purchased by the Association. All proceeds from insurance acquired by the Association shall be payable to the Association. Any proceeds resulting from damage to the Common Areas shall be used to repair the damage. Any excess proceeds shall be retained by the Association to accomplish the purposes of the Association.

10. MAINTENANCE

10.1. Common Areas and Public Rights-of-Way.

10.1.1. Areas of Association Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas and improvements thereon. However, the Association shall not be responsible for providing or maintaining the landscaping or structures on any Common Areas that are part of any Lot or Parcel. The Association shall maintain any landscaping and other improvements not located on Lots or Parcels and Dwelling Units that are within the boundaries of the Property and are identified on a recorded instrument as Common Areas intended for the general benefit of the Members and Residents, except the Association shall not be required to maintain (but may elect to maintain) areas that (i) an improvement district or other governmental entity is obligated to maintain, (ii) an Ancillary Association is obligated under a Tract Declaration to maintain, or (iii) are to be maintained by the Owners of a Lot, Dwelling Unit or Parcel pursuant to Section 4.2.4 of this Declaration. Specific areas to be maintained by the Association may be identified on recorded subdivision plats or Tract Declarations executed or approved by Declarant, and/or in deeds from Declarant to the Association or to a transferee of a Lot, but the failure to identify such areas shall not affect the Association's rights or responsibilities with respect to Common Areas or the Association's rights with respect to other areas intended for the general benefit of the Property. Notwithstanding anything to the contrary herein, Declarant or the Board shall have discretion to enter into an agreement with any governmental entity with jurisdiction to permit the Association to upgrade and/or maintain landscaping on property owned by the governmental entity, held on behalf of the governmental entity, or intended to be dedicated to the governmental entity, whether or not the landscaping is within the Property, if Declarant or the Board

determines that such an agreement benefits the Association, its Members or the development of the Property.

10.1.2. Standards of Care. The Board shall use a reasonable standard of care in providing for the repair, operation, management and maintenance of the Common Areas and other properties maintained by the Association, but the Board shall be the sole judge as to the appropriate maintenance of all such areas. The Common Areas shall be used at the risk of the user, and Declarant and the Association shall not be liable to any person for any claim, damage or injury occurring thereon or related to the use thereof.

10.1.3. Delegation of Responsibilities. In the event any subdivision plat, Tract Declaration, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots or Dwelling Units or Members will be responsible for maintenance of certain Common Areas or public right-of-way areas or operation of certain services, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Members and Residents for the Association or for an individual Member or an Ancillary Association to be responsible for the maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Section 10 and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Members and Owners of Lots and Dwelling Units in exchange for the payments of such fees as the Association and the Member or Owner may agree upon or as may be established by the Board.

10.2. Assessment of Certain Maintenance Costs. In the event that the need for maintenance or repair of Common Areas, structures and other property maintained by the Association is caused by the willful or negligent act of any Member, or that Member's family, guests or tenants, the cost of the maintenance or repair shall be added to and become part of the Assessment against the Member and the Member's Lot or Dwelling Unit and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Member pursuant to Section 10.1.3 above, in connection with a contract entered into by the Association with a Member for the performance of a Member's maintenance responsibilities, shall also become a part of the Assessment and shall be secured by the Assessment Lien. Any such charge-back shall not count towards the Maximum Annual Assessment.

10.3. Improper Maintenance and Use of Lots. If any portion of any Lot is maintained or used so as to present a nuisance, or to substantially detract from the appearance or quality of the surrounding Lots and/or other areas of the Property that are substantially affected thereby or related thereto, or any portion of a Lot is being used in a manner that violates this Declaration or any applicable Tract Declaration, or a Member is failing to perform any of the Member's obligations under this Declaration, any Tract Declaration, the Quail Creek Rules or the Architectural and Landscape Guidelines, the Board may by resolution make a finding to that effect, specifying the particular condition or conditions that exist. In that event, the Board shall give notice to the offending Member that, unless corrective action is taken within 14 days, the

Board may cause corrective action to be taken at the Member's cost. If the requisite corrective action has not been taken at the expiration of the 14-day period of time, the Board shall be authorized and empowered to cause the action to be taken and the cost thereof shall be added to and become a part of the Assessment against the offending Member and the Member's Lot, secured by the Assessment Lien.

10.4. Easement for Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Lots and all other areas (except Commercial Areas) in the Property for the purpose of, and to the extent reasonably required for, repairing, maintaining and replacing the Common Areas, Common Area improvements, and other areas maintained by the Association, and for the purpose of performing all of the Association's other rights, duties and obligations hereunder.

10.5. Maintenance of Vacant Lots. To keep vacant Lots that are owned by Members other than Declarant neat, clean and tidy from weeds, trash and other undesirable elements so as to maintain the aesthetic quality of the Property, the Board may, in its sole discretion, assume the responsibility of the upkeep of the vacant Lots. In either case, the Board shall charge the Owners of the Lots being maintained by the Association a fee (the "Lot Maintenance Fee"). The Lot Maintenance Fee shall be fair and reasonable, shall not count towards the Maximum Annual Assessment, and shall be secured by the Assessment Lien.

10.6. Commercial Area Maintenance. Nothing contained in this Declaration shall obligate the Association to keep up or maintain, or grant the Association enforcement rights for the upkeep and maintenance of, Commercial Areas. Except as otherwise provided in applicable Tract Declarations, the maintenance of Commercial Areas shall be the responsibility of the respective Owners of the Commercial Areas.

11. ARCHITECTURAL AND LANDSCAPE COMMITTEE

11.1. Appointment. The Board shall, at a time deemed appropriate by the Board, appoint an Architectural and Landscape Committee (the "Committee"), which shall be composed of such persons as are selected by the Board from time to time or which may consist of the entire Board. The purpose of the Committee shall be to review and evaluate proposals, plans and specifications submitted by Members for the construction, modification and repair of Dwelling Units and other improvements on or to the Lots, to recommend action to the Board, to investigate possible violations of this Declaration, to carry out decisions of the Board and to take such other action as is authorized by the Board. The Board shall select one of the members of the Committee to serve as Chairman of the Committee. The Chairman so selected, when unavailable, shall appoint one of the other members of the Committee to serve as acting Chairman. At least one of the members of the Committee at all times shall be a member of the Board. Members of the Committee shall not be entitled to compensation for their services, unless otherwise approved by the Board.

11.2. Death or Resignation. In the event of the death, disability or resignation of any member of the Committee, the Board shall have full authority to designate a successor. The

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members of the Committee shall serve at the pleasure of the Board and may be removed with or without cause by the Board.

11.3. Approval Requirement. No building, fence, wall, exterior landscaping (except landscaping not Visible from Neighboring Property), awning, sunshade, or other improvement, attached to or detached from other structures, or other work that in any way alters the exterior appearance of any property within Residential Areas, shall be erected, placed, altered, maintained, or performed on any Lot until the plans and specifications, and the plans showing location of the structure, or plot plan, have been approved by the Board, acting through the Committee, as to color, quality of workmanship and materials, harmony with the external design and color of the existing structures, and as to location with respect to topography and finished grade elevation, except any improvements constructed by Declarant or its affiliates or deemed necessary by Declarant.

11.4. Committee Review Fee. The Committee shall be allowed to charge a Member or other party submitting the plans a reasonable charge for reviewing and approving or disapproving the proposed plans. The charge shall be determined by the Board from time to time and shall be collected at the time of submission of the plans. The Committee shall not approve plans that are not accompanied by payment of the required charge.

11.5. Pre-Construction Submissions. Before a Member commences the construction or installation of any building, fence, wall or other structure on any Lot or any exterior alteration of, addition to or extension of any such structure: (a) the Member shall submit to the Chairman of the Committee, or to the acting Chairman of the Committee if the Chairman is absent or unavailable, 5 copies of the plans and specifications for the structure showing the nature, kind, shape, height, materials, color and location (as evidenced by a plot plan) of the proposed improvements, alterations, additions or extensions; and (b) the plans and specifications shall have been approved in writing by the Committee.

11.6. Review Period. The Chairman or acting Chairman of the Committee shall give the applicant a written, dated receipt for any submitted plans and specifications. If the Committee fails to mail or deliver a written approval or disapproval of the plans and specifications to the applicant within 60 days after the plans and specifications have been submitted, and no action has been instituted to enjoin the proposed work, the plans and specifications shall be deemed to have been approved.

11.7. Return of Plans. If the Committee either approves or disapproves the plans and specifications in writing, it shall deliver or mail one set of the plans and specifications to the applicant with its written approval or disapproval and shall retain the other sets. If the Committee fails to mail or deliver its written approval or disapproval to the applicant within the 60-day period hereinabove specified, it shall nevertheless return one set of the plans and specifications to the applicant on demand.

11.8. Review Criteria. The Committee shall have the right to disapprove plans and specifications submitted if, in its opinion (or in the opinion of the Board), the plans and specifications are not in accordance with all of the provisions of this Declaration or are not

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complete or if, in its opinion (or in the opinion of the Board), the design, color scheme or location of the proposed structure or improvement is not in harmony with the general surroundings and topography of the Lot or with other buildings and structures in the vicinity, or if the plans and specifications are incomplete. However, compliance with each stated criteria in this Declaration or in the Architectural and Landscape Guidelines shall not require approval of any plans or specifications and it is expressly acknowledged that the Committee will exercise aesthetic judgment, which cannot be reduced to objective criteria, in reaching its decisions. The Committee shall, in the exercise of its judgment and determination, act reasonably and in good faith. The decision of the Board, acting through the Committee, shall be final. Notwithstanding the foregoing, the Board shall have the right and power to overrule any and all decisions of the Committee.

11.9. Deviation of Plans; Liability. No changes or deviation in or from the plans and specifications approved by the Committee shall be made without the prior written consent of the Committee. Neither the Board, nor the Association, nor the Committee, nor any members of the Committee shall be responsible in any way for any defects in any plans and specifications approved by the Committee, or for any structure or improvement erected, placed or maintained according to those plans or other specifications. By approving plans and specifications, the Board and the Committee do not assume any liability or responsibility for compliance with building or zoning ordinances, or for other applicable requirements of governmental authorities or industry standards.

11.10. Not Applicable to Declarant. Notwithstanding any of the provisions in this Section 11, the provisions and restrictions contained in this Section 11 shall not apply to Declarant until all Lots are sold and residences are constructed thereon.

11.11. Liability. Neither the Committee, nor any member of the Committee, nor the Board shall be liable to any Member or to any other party for any damage, loss or prejudice suffered or claimed on account of:

- (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective;
- (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- (c) the development of any land within the Property;
- (d) the execution of any estoppel certificate, whether or not the facts therein are correct; or
- (e) the enforcement of this Declaration or of the Committee's guidelines or the granting of variances from the Committee's guidelines;

provided, however, that the person seeking the protection of this Section has acted in good faith on the basis of such information as may be possessed by him. The approval by the Committee of any plans, specifications or other matter shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, specifications or other matter subsequently submitted for approval.

12. RIGHTS AND POWERS OF ASSOCIATION

12.1. Association's Rights and Powers As Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws, which shall include all rights and powers as may be reasonably necessary in order to effect the purposes of the Association as set forth herein. A copy of the Articles and Bylaws of the Association shall be available for inspection by Owners, prospective purchasers, mortgagees and other persons or entities with an interest in the Property at the office of the Association during reasonable business hours.

12.2. Enforcement of Provisions of This and Other Instruments. The Association, as agent and representative of the Owners, shall have the right (without obligation) to enforce, by any proceeding at law or in equity, the terms of this Declaration, the Articles, Bylaws, Quail Creek Rules, the Architectural and Landscape Guidelines and any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in this Declaration or in any contract, deed, declaration or other instrument that (a) has been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise indicates that the provisions of the instrument are intended to be enforced by the Association. The Association is authorized to impose sanctions for violations without court approval. Such sanctions may include reasonable monetary fines and suspension of the right to vote or use any recreational facilities on the Common Area as provided in Section 3.1((b)). In the event suit is brought or arbitration is instituted or an attorney is retained by the Association to enforce the terms of this Declaration or another document described in this Section 12.2 and the Association prevails, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including but not limited to the Association's administrative costs and fees. Such fees, costs and expenses shall be the personal liability of the breaching Member and shall also be secured by the Assessment Lien against the Member's Lot. If the Association fails or refuses to enforce this Declaration or any provision hereof for an unreasonable period of time after written request by an Owner to do so, then any Owner may enforce the provision of the Declaration at his own expense by any appropriate action, whether in law or in equity, but regardless of the outcome, no expenses of the action shall be paid for by the Association.

12.3. Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise

connected with Declarant or its affiliates, provided that the interest is disclosed or known to the other directors acting upon the contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant, its affiliated companies or any competitor thereof and may vote at the meeting to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

12.4. Procedure for Change of Use of Common Areas. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then-present use of a designated part of the Association Land or of the Association's interest in other Common Areas is no longer in the best interests of the Members and Residents, (b) the approval of the resolution by Declarant, and (c) if after the Transition Date, the approval of the resolution by a majority of the votes entitled to be cast by the Members voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use of such property (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided the new use (i) is for the benefit of the Members and Residents, as determined by the Board, and (ii) is consistent with any deed restrictions, zoning and other municipal regulations restricting or limiting the use of the land. Alternatively, after the Transition Date and upon satisfaction of subsections (a) and (b) above, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary if the Board notifies all Members in writing of the proposed change of use and of their right to object and no more than 10% of the total votes eligible to be cast object in writing within 30 days after the delivery of the notice .

12.5. Procedure for Transfer of Common Areas. The Association shall have the right to dedicate or transfer all or any part of the Common Areas owned by the Association to any public authority or utility as provided in Section 3.1((c)). In addition, the Association shall have the right to change the size, shape or location of the Common Areas, to exchange the Association's interest in Common Areas for other property or interests which become Common Areas, and to abandon or otherwise transfer the Association's interest in Common Areas (to a nonpublic authority) upon (a) the adoption of a resolution by the Board stating that, in the opinion of the Board, the change proposed benefits the Members and Residents and does not substantially and adversely affect them, (b) the approval of the resolution by Declarant, and (c) the approval of the resolution by a majority of the votes entitled to be cast by Members voting in person or by proxy at a meeting called for that purpose. Alternatively, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary if the Board satisfies subsections (a) and (b) above and then notifies all Members in writing of the proposed transaction and of their right to object and no more than 10% of the total votes eligible to be cast object in writing within 30 days after delivery of the notice.

12.6. Use of Effluent. Sewage effluent may be used on the Common Areas and Golf Course Land provided the effluent is adequately treated for such use.

13. DURATION AND AMENDMENTS

13.1. Duration. This Declaration and the Covenants and other provisions hereof (as amended from time to time) run with the land and shall bind all persons having any interest in it, all Owners, and their heirs, legal representatives, successors and assigns until January 1, 2035. Thereafter, this Declaration and the Covenants and other provisions hereof shall be extended automatically for successive periods of 5 years each, unless not less than 30 days prior to the end of the initial term or any successive 5-year period, they are amended or changed to provide otherwise or are terminated. Any vote to terminate this Declaration shall require the affirmative vote, in person or by proxy, of 90% of the total votes eligible to be cast at a meeting of the Members held within 6 months prior to end of the then-current term, the written consent of Declarant if Declarant or an affiliate then owns any part of the Property, and the written approval (within the period from 6 months prior to the Members' vote to 6 months following the Members' vote) of mortgagees holding at least 75% of the mortgages or deeds of trust to which the Assessment Lien is subordinate. If the necessary votes and approvals are obtained, the Association shall record in the office of the Pima County Recorder a Certificate of Termination signed by the President or Vice President of the Association and attested by the Secretary or Assistant Secretary of the Association, with their signatures notarized. Upon recording the Certificate of Termination, or upon such later date as the Certificate may specify, this Declaration shall terminate. The Association shall be dissolved promptly following any termination of this Declaration.

13.2. Amendments. Except as otherwise provided in this Section, amendments must be approved by Declarant (so long as Declarant or any of its affiliates owns any portion of the Property or any interest therein) and by Owners casting 2/3 of the votes cast at an election held for such purposes, with or without a meeting of the Owners. Except as otherwise provided in this Section, amendments shall be effected only by instruments in recordable form executed by Declarant and by the President or Vice President and the Secretary or Assistant Secretary of the Association and shall be recorded in the office of the Pima County Recorder. Any amendment of a Tract Declaration shall require compliance with the requirements of Section 4.1, unless the Tract Declaration specifies different requirements.

13.3. Limitation on Amendments. Any amendment to this Declaration which limits or terminates membership in the Association must also be signed by 2/3 of the members of the Board.

13.4. Non-Retroactive Clause. Each person who acquires any interest in the Property after the date hereof agrees to look for performance of, or relief deemed equitable for the enforcement of, this Declaration and the Covenants and other terms contained herein, only to those who are Owners when performance and/or relief is sought, except as otherwise provided in Section 7.

13.5. Requested Amendment. Anything in this Section 13 notwithstanding:

13.5.1. Governmental or Financing Requirements. Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be

requested by "Governmental Mortgage Agencies" or by any other federal, state or local governmental agency that requests such an amendment as a condition precedent to the agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot or Dwelling Unit or any portions of the Property. Any such amendment shall be effected by the Declarant recording a Certificate of Amendment duly signed by or on behalf of the authorized agents, or authorized officers of Declarant, as applicable, with their signatures notarized, specifying the Governmental Mortgage Agency, the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendment requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for the amendment, and the Certificate, when recorded, shall be binding upon all of the Property and all persons having an interest therein. For purposes of this subsection 13.5, "Governmental Mortgage Agency" means the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association or the Federal National Mortgage Association or any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase mortgage loans.

13.5.2. Substitute Control Amendment. It is the desire of Declarant to retain substantial control of the Association and its activities during the anticipated period of planning and development until the Transition Date. If any amendment requested pursuant to the provisions of this Section 13.5 deletes, materially diminishes or materially alters that control, Declarant shall have the right to prepare, provide for and adopt an amendment implementing other and different provisions to achieve comparable control, by executing and recording an amendment hereto without the approval or vote of any other person.

13.5.3. Housing for Older Persons. Residential Areas of the Property are intended to provide housing for persons 55 years of age and older as an age-restricted community in compliance with all state and federal laws. Subject to the Requirements for Exemption set forth below, all occupied Dwelling Units must be occupied by at least one person who is 40 years of age or older and no person under 19 years of age may reside permanently at the Property. The Board, in its sole discretion, shall have the right and power to establish Quail Creek Rules allowing for limited periods of occupancy by persons under the age of 19. By way of illustration, but not limitation, of the preceding sentence, Quail Creek Rules may limit (i) the number of days consecutively, (ii) the number of days within a period such as a month, and (iii) the number of times within a period such as a year, in which occupancy by any person under the age of 19 will be permitted.

- Title VIII of the Civil Rights of 1968 (as amended, the "Fair Housing Act") prohibits discrimination in the sale, rental and financing of dwellings based on familial status; that is, discrimination based on the domicile of individuals under 18 years of age. However, the Fair Housing Act provides that a community is exempt from this restriction if the community meets certain standards. The standards for exemption were provided for in the federal Housing for Older Persons Act of 1995 (as amended, "HOPA").

- HOPA and regulations promulgated thereunder provide an exemption from the familial discrimination provisions of the Fair Housing Act when the following requirements ("Requirements for Exemption") are satisfied: (i) the community is intended for occupancy by persons aged 55 and older, (ii) at least 80% of the occupied dwelling units are occupied by at least one person 55 or older, and (iii) the community publishes policies and procedures that demonstrates its intent to qualify for the exemption.

- Declarant intends that the Residential Areas of the Property comply with the Requirements for Exemption. Therefore, (i) at least one occupant in each occupied Dwelling Unit must be 55 or older, except as provided below; (ii) the Board is directed to publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 and older, and (iii) the Board is directed to comply with rules issued by the Secretary for Housing and Urban Development for verification of occupancy requirements.

- The Requirements for Exemption contemplate that up to 20% of the occupied units in a community may be occupied by persons who are under the age of 55 without loss of the exemption and that the 80% requirement does not apply until 25% of the units in the community are occupied. Accordingly, the Board, upon application by an Owner, tenant, purchaser or proposed lessee, shall have the right and option, in the Board's sole and absolute discretion, to allow a Dwelling Unit to be occupied by persons who are all under the age of 55 provided at least one occupant of the Dwelling Unit is at least 40 and further provided that the Board takes appropriate action to comply with the Requirements for Exemption. The Board shall exercise its discretion based upon criteria that the Board shall determine, which shall include (by way of illustration and not limitation) information then known to the Board concerning potential or pending changes in occupancy of other Dwelling Units, if any, and the ages of any likely remaining occupants of any such Dwelling Units, proximity to the age of 55 of those occupants of other Dwelling Units then under the age of 55, and any other information known to and deemed relevant by the Board in its sole discretion. The Board shall have the right and power to promulgate rules and requirements as a part of the Quail Creek Rules to the extent necessary or convenient to comply with the Requirements for Exemption.

- Declarant may, in any Tract Declaration, specify that the portions of the Property subject to the particular Tract Declaration will not be included in the portions of the community intended to be housing for older persons or to be subject to the Requirements for Exemption.

13.6. Rule Against Perpetuities. If any of the provisions, privileges, Covenants or rights created by or set forth in this Declaration is unlawful, void or voidable for violation of the rule against perpetuities, then the provision shall continue until 21 years after the death of the survivor of the now living descendants of Edward J. Robson and the now living descendants of Arizona Senator John McCain.

14. ANNEXATION AND DE-ANNEXATION OF PROPERTY

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14.1. Right of Annexation. Declarant expressly reserves the right at any time to expand the Property, without the consent of any Owner, Member, mortgagee or any other person, by annexing all or any portion of the Annexable Property. The annexation of any or all of the Annexable Property shall be accomplished by Declarant recording a Tract Declaration in the office of the Pima County Recorder which subjects the annexed property to this Declaration and includes the legal description of the Annexable Property being annexed. Any such Tract Declaration may, in Declarant's discretion, establish the Land Use Classification of the Annexed Property. Declarant shall not be obligated to annex all or any portion of the Annexable Property. Declarant may annex noncontiguous portions of the Annexable Property. A Tract Declaration annexing property as permitted hereunder may contain such complementary additions and modifications of the Covenants and other provisions contained in this Declaration as may be necessary or appropriate, in Declarant's sole discretion, to reflect the different character, if any, of the annexed property and as are not materially inconsistent with this Declaration.

14.2. De-annexation of Parcels. Declarant expressly reserves the right at any time to de-annex any Parcel from the Property and from the scope of this Declaration, without the consent of any Owner, Member, mortgagee or other person, other than the Owner of the Parcel being de-annexed. The de-annexation of a Parcel shall be accomplished by Declarant recording in the office of the Pima County Recorder a certificate of de-annexation executed by Declarant and the Owner of the Parcel (if other than Declarant).

15. MISCELLANEOUS

15.1. Exemption of Declarant from Restrictions. Notwithstanding anything to the contrary in this Declaration, none of the Covenants or other provisions in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents and contractors, or parties designated by it in connection with the construction, completion, marketing and sale of any portion of the Property.

15.2. Limitation on Declarant's Liability. Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting any interest in any portion of the Property and becoming an Owner, acknowledges and agrees that neither Declarant (including without limitation any assignee of the interest of Declarant hereunder), nor any partner, officer, director or shareholder of Declarant (or any partner or shareholder in any such assignee), shall have any personal liability to the Association, or any Owner, Member or any other person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or the Association except, in the case of Declarant (or its assignee), to the extent of its interest in the property served by the Association. In the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets or be a lien upon such other assets of the judgment debtor.

15.3. Use of Recreational Facilities. Declarant and its employees, guests and designees may use the clubhouse and other recreational facilities, and if there is more than one, all clubhouses and recreational facilities, located in the Property for sales, promotional and other purposes, as long as Declarant is the owner of any real property located within the Property,

regardless of whether or not legal title to one or more of the Common Areas passes to the Association. No portion of the facilities and amenities located within Property and commonly known as a "clubhouse" shall be used by anyone other than Declarant for the purpose of soliciting any prospective purchaser being escorted or shown through or viewing the clubhouse at the invitation of Declarant, its salesman or employees. No one, other than Declarant, its sales agents or employees, shall use any part of a clubhouse to consummate the purchase or sale of any property whatsoever. Nothing herein shall be construed to prevent anyone from showing a clubhouse or any other part of the Association facilities or Common Areas to any prospect or customer.

15.4. Blanket Easement. Declarant shall have the right to grant or create easements over, across or under the Common Areas, roadways, open spaces, Golf Course Land or any other part of the Property (other than Lots conveyed to other parties) which, in its sole discretion, are required or convenient for development purposes.

15.5. Cable TV, Telephone and Security Systems Easement. There is hereby reserved to Declarant (or its nominee) a perpetual easement and right-of-way across and upon all Common Areas for the maintenance, construction and repair of a cable television system, telephone system and/or security system and appurtenant facilities. Declarant or its nominee shall have the right to excavate, have, place, lay, construct, operate, use, maintain, repair, replace, reconstruct, enlarge, improve, add to, relocate and/or remove at any time and from time to time underground structures with required appurtenances necessary or convenient for the operation of any such cable television system, telephone system and/or security system and all miscellaneous equipment and material connected therewith. Declarant or its nominee shall have the right of ingress to and egress from the easement by a practical route or routes upon, over and across the Common Areas or any portion or portions thereof, together with the right to clear and keep clear the easement and rights-of-way of materials, buildings and other structures, implements or obstructions. Without limiting the generality of the foregoing, Declarant or its nominee shall have the right to trim and cut trees, foliage, and roots upon and from within the above described easement and rights-of-way whenever, in its judgment, the work is necessary for the convenient and safe exercise of the rights herein reserved. All cable television system equipment and telephone and/or security system equipment installed by Declarant or its nominee shall remain the personal property of Declarant or its nominee and shall not be deemed a part of the real property. Declarant or its nominee shall have the right, directly or indirectly, to assign its rights to this easement. Neither Declarant, its nominee, or the Association shall be obligated to provide a cable television system and/or security system in the Property. If a cable television system and/or security system is built by Declarant or its nominee, the type and quality of the system and the fees and charges to be paid by users of the systems, shall be at the absolute discretion of Declarant or its nominee.

15.6. Private Roadways and Guard Gates. Except as otherwise provided in an applicable plat, Tract Declaration or easement executed by Declarant, use of the private roadways within the Property, if any, shall be limited to Declarant, Owners, Members and Residents, tenants of Commercial Areas, their employees, guests and invitees, applicable governmental agencies and entities, and those who are entitled to use the Golf Course Land. The

Board shall have the right to assess the Members for the repair, reconstruction, replacement and maintenance of the private roadways, curbs and gutters, the electricity for street lighting and the operation and maintenance of guard gates, guard stations and guard service pursuant to Section 7 of this Declaration. Neither Declarant nor any Owner of the Golf Course shall be assessed or charged in any way for normal wear and tear on the private roadways caused by its guests, customers, agents, employees, subcontractors, or other persons entitled to use the Golf Course Land. Declarant reserves the right, in its sole discretion, to cause title to all or any part of the private roadways to be conveyed to the Association or an Ancillary Association at any time. Until private roadways are conveyed to the Association or an Ancillary Association, Declarant reserves the right to cause all or any part of the private roadways to be dedicated to the public.

15.7. Transfer of Title to the Common Areas. Declarant shall transfer the Common Areas to the Association on the Transition Date, or shall transfer all or any part of the Common Areas to the Association sooner at Declarant's sole discretion. The condition of the facilities at the time of transfer shall be subject to normal wear and tear. The Common Areas may, upon transfer, be subject to mortgages or encumbrances securing indebtedness of the Association, provided the indebtedness was incurred for the operation of the Association or payment of the debts or obligations of the Association. Declarant shall have no obligation to the Association or to any Member or other person to pay any such indebtedness or the interest thereon.

15.8. Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration that are applicable to Residential Areas. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of this Declaration that are applicable to Residential Areas shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants.

15.9. Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

15.10. Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

15.11. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association (through its Board and committees) shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided the rules and regulations are not materially inconsistent with the provisions of this Declaration.

15.12. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the Pima County Recorder, Declarant makes no warranties or representations whatsoever that the plans presently envisioned or the complete development of the Property can or will be carried out, or that any land now owned or hereafter

acquired by Declarant is or will be subjected to this Declaration or any other declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, that use will continue in effect. Without limiting the generality of the foregoing, Declarant expressly reserves the right at any time and from time to time to amend the Master Development Plan.

15.13. No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any Covenants contained in this Declaration. Any Owner acquiring a Lot or Parcel in the Property shall assume all risks of the validity and enforceability hereof and, by acquiring any Lot or Parcel, agrees that Declarant shall have no liability therefor.

15.14. References to the Covenants in Deeds. Deeds or any instruments affecting any part of the Property may contain a reference to the Covenants herein set forth; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee Owner or other person claiming through any such instrument and his heirs, executors, administrators, successors and assigns.

15.15. Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders, words used in the neuter gender shall include the masculine and feminine genders, words in the singular shall include the plural, and words in the plural shall include the singular.

15.16. Captions and Titles. All captions, titles or headings of the Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

15.17. Notices. If notice of any action or proposed action by the Board or of any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner, Member or Resident then, unless otherwise specified herein or in the resolution of the Board, the notice requirement shall be deemed satisfied if notice is published once in any newspaper in general circulation within the Property. This Section shall not be construed to require that any notice be given if not otherwise required, and shall not prohibit satisfaction of any notice requirement in any other manner. If notice is made by mail, it shall be deemed to have been delivered and received 24 hours after a copy has been deposited in the United States mail, postage prepaid, addressed to the address given to the Association for the purpose of service of notice, or to the address of the Lot, Parcel or Dwelling Unit owned by the person if no other address has been given. Notice to the Board shall be delivered or sent certified mail to the office of the Association.

15.18. Litigation. After the Transition Date, no judicial or administrative proceedings shall be commenced or prosecuted by the Association unless approved by Members holding 75% percent of the outstanding votes eligible to be cast. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as

provided in Section 7 hereof, (c) proceedings involving challenges to taxation, or (d) counterclaims and other claims brought by the Association in suits instituted against it. This Section shall not be amended unless the amendment is made by Declarant or is approved by the percentage votes necessary to institute proceedings as provided above.

15.19. Use of the Words "Quail Creek". No person other than Declarant shall use the words "Quail Creek" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, Members may use the term "Quail Creek" in printed or promotional material where the term is used solely to specify that the particular property is located within the Property.

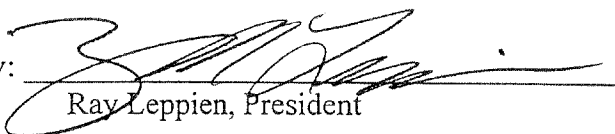
15.20. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Arizona.

15.21. Declarant Controls. *IN ORDER TO PROMOTE THE QUALITY AND CONSISTENCY OF MANAGEMENT AND MAINTENANCE OF ALL COMMON AREAS, THIS DECLARATION ENABLES DECLARANT TO (1) MAINTAIN CONTROL OF THE ASSOCIATION UNTIL THE TRANSITION DATE AND (2) MANAGE THE ASSOCIATION UNTIL THE TRANSITION DATE, AND (3) RECEIVE A MANAGEMENT FEE FROM THE ASSOCIATION IN THE AMOUNT OF 4% OF THE TOTAL GROSS REVENUE OF THE ASSOCIATION FROM ALL SOURCES.*

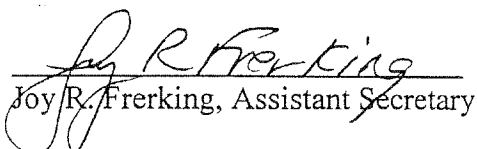
CERTIFICATION

Pursuant to Section 14.2 of the Original Declaration, the undersigned certifies that the foregoing Amended and Restated Declaration was adopted, at an election duly called and held pursuant to the provisions of the Articles and Bylaws, by Members casting at least 2/3 of the total votes cast, in person or by proxy.

QUAIL CREEK COUNTRY CLUB PROPERTY OWNERS ASSOCIATION

By: 
Ray Leppien, President

ATTEST:


Joy R. Frerking, Assistant Secretary

COLE

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 12th day of October, 1999, by Ray Leppien, the President of the Quail Creek Country Club Property Owners Association, Inc., an Arizona non-profit corporation, on behalf thereof.

Mark A. Lewis

Notary Public

My Commission expires:



STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 12th day of October, 1999, by Joy R. Frerking, the Assistant Secretary of the Quail Creek Country Club Property Owners Association, Inc., an Arizona non-profit corporation, on behalf thereof.

Mark A. Lewis

Notary Public

My Commission expires:



CONSENT:

Lawyers Title of Arizona, as Trustee under Trust 7916-T (the "Trust") hereby ratifies and consents to the foregoing Amended and Restated Declaration insofar as it affects real property held in the Trust for the benefit of Declarant.

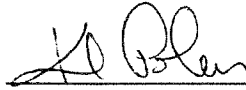
Lawyers Title Of Arizona, As Trustee Under Trust 7916-T

By: Joy R. Frerking
Its: ASST. TRUST OFFICER

Robson Ranch Quail Creek, LLC, as the "Declarant" named in the foregoing instrument and as the sole beneficiary of Trust 7916-T with Lawyers Title of Arizona, hereby ratifies and consents to the foregoing Amended and Restated Declaration.

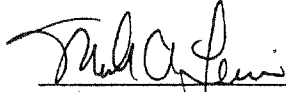
Robson Ranch Quail Creek, LLC,
a Delaware limited liability company

By Arlington Property Management
Company, an Arizona corporation,
its Manager

By 
Karl Polen, Vice President

STATE OF ARIZONA)
) ss.
County of ~~Maricopa~~ PIMA)

The foregoing Consent was acknowledged before me this 12th day of October, 1999, by DORIS J. CLARK, the ASST. TRUST OFFICER of Lawyers Title Of Arizona, As Trustee Under Trust 7916-T, on behalf thereof.


Notary Public

My Commission expires:



BANK ONE

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Consent was acknowledged before me this 12th day of October, 1999, by Karl Polen, the Vice President of Arlington Property Management Company, an Arizona corporation, Manager of Robson Ranch Quail Creek, LLC, a Delaware limited liability company, on behalf thereof.

Mark A Lewis
Notary Public

My Commission expires:



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EXHIBIT A
LEGAL DESCRIPTION

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89003-129
January 25, 1990

EXHIBIT "A"

All that portion of Sections 5, 6, 7, and 8, Township 18 South, Range 14 East, Gila and Salt River Meridian, Pima County, Arizona, more particularly described as follows:

COMMENCING at the northwest corner of said Section 5,
Thence S 89°24'40" E, along the north line thereof, 328.16 feet to the northeast corner of excepted Parcel "A", also known as Saddle Creek Ranch Parcel 3, as recorded in Docket 8438 at Page 1828, Records of Pima County, Arizona, and the POINT OF BEGINNING;

THENCE continuing S 89°24'40" E, along the north line of said Section 5, 2302.94 feet to the north quarter corner thereof;

THENCE S 89°26'12" E, along the north line of said Section 5, 2628.94 feet to the northeast corner thereof;

THENCE S 00°33'46" E, along the east line of said Section 5, 2600.25 to the east quarter corner thereof;

THENCE S 00°29'09" E, along the east line of said Section 5, 2612.56 feet to the southeast corner thereof, and the northeast corner of said Section 8;

THENCE S 00°19'00" E, along the east line of said Section 8, 2611.81 feet to the east quarter corner thereof;

THENCE S 00°19'53" E, along the east line of said Section 8, 651.86 feet;

THENCE S 89°15'28" W, 2642.16 feet;

THENCE S 89°16'11" W, 1319.79 feet;

THENCE N 00°28'48" W, 655.34 feet to the south line of the northwest quarter of said Section 8;

THENCE S 89°18'44" W, along said south line, 1320.32 feet to the west quarter corner thereof, and the east quarter corner of said Section 7;

THENCE N 89°58'30" W, along the south line of the northeast quarter of said Section 7, 1320.38 feet;

THENCE S 00°31'37" E, 1311.64 feet to the southeast corner of Lot 3 of said Section 7;

THENCE N 89°55' 51" W, along the south line of said Lot 3, 692.48 feet to the east line of the San Ignacio De La Canoa Land Grant;

THENCE N 22°54'18" E, along said east line, 810.76 feet to the northeast corner thereof;

THENCE N 59°28'16" W, along the north line of said San Ignacio De La Canoa Grant, 1385.45 feet to a point on a curve of the southerly line of excepted Parcel "C", also known as Saddle Creek Ranch Parcel 6, through which a radial line bears N 53°12'47" W;

THENCE northeasterly along said curve concave to the southeast, having a radius of 2000.00 feet and a central angle of 42°35'36", an arc distance of 1486.79 feet to a point of tangency;

THENCE N 79°22'49" E, along said southerly line, 420.00 feet;

THENCE northerly along the east line of said parcel, N 12°52'00" W, 4337.12 feet;

THENCE continuing N 17°46'29" W, along said east line, 820.00 feet to the northerly line of that 75.00 public right of way recorded in Docket 8653 at Page 510, Records of Pima County, Arizona;

THENCE along said northerly line the following courses and distances:

N 74°45'29" E, 595.00 feet to a point of curvature;

Northeasterly along a curve concave to the southeast, having a radius of 5000.00 feet and a central angle of 06°15'30", an arc distance of 546.14 feet to a point of compound curvature;

Southeasterly along a curve concave to the southwest, having a radius of 1800.00 feet and a central angle of 30°21'17", an arc distance of 953.62 feet;

THENCE leaving said northerly line, N 21°22'16" E along a radial line, 1903.96 feet to the POINT OF BEGINNING.

CONTAINING 1306.42 acres of land more or less.

PREPARED BY:

ANDERSON, PASSARELLI & ASSOCIATES, INC.



Michael K. Amerson, R.L.S.

OLD TUCSON-NOGALES HWY.

N 1/4
SEC. 6

P.O.B.

PARCEL "A"
SADDLECREEK RANCH
(PARCEL 3)

N 1/4
SEC. 5

N'LY LINE OF A 75.00'
RIGHT-OF-WAY
DKT. 8653, PG. 492

PARCEL "C"
SADDLECREEK RANCH
(PARCEL 6)

E 1/4
SEC. 5



SAN IGANCIO DE LA
CANOA LAND GRANT



A SKETCH OF A PORTION
OF SECTIONS 5, 6, 7 AND 8
T-18-S, R-14-E
G. & SRM, PIMA CO., ARIZONA

8716 1388



ENGINEERS - SURVEYORS - PLANNERS

By: [Signature] Date: [Blank]

EXHIBIT "B"

ANNEXABLE PROPERTY

None at this time, but nothing contained in this Exhibit limits the right of Declarant to annex property in accordance with this Declaration

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: HEM
DEPUTY RECORDER
2057 ROOE



DOCKET: 11150
PAGE: 1154
NO. OF PAGES: 12
SEQUENCE: 19991960406
10/12/1999
AMEN 14:57
MAIL
AMOUNT PAID \$ 17.00

W
LEGAL DEPARTMENT
ROBSON COMMUNITIES INC
9532 E RIGGS RD
SUN LAKE AZ 85248-7411

Sun Lakes, Arizona 85248-7411

AMENDED AND RESTATED TRACT DECLARATION NO. 1
FOR
QUAIL CREEK COUNTRY CLUB

This Amended and Restated Tract Declaration (the "Restated Tract Declaration") is made as of the 12th day of October, 1999.

RECITALS:

A. On January 31, 1990, a "Tract Declaration No. 1 for Quail Creek Country Club" dated January 25, 1990 (the "Original Tract Declaration") was recorded in the official records of Pima County, Arizona, in Docket 8716, at page 1390 for the real property described on Exhibit "A" hereto (the "Tract").

B. The Original Tract Declaration was recorded pursuant to, and under the authority of that certain "Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Quail Creek Country Club" dated January 25, 1990, and recorded in the official records of Pima County, Arizona, on December 30, 1990, in Docket 8716, at page 1334 (the "Original Declaration"). The Original Declaration has been amended and restated and entirely replaced by that certain "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Quail Creek Country Club" dated October 12, 1999, and recorded in the Official Records of Pima County, Arizona, on October 12, 1999, in Docket 11150, at page 108 (the "Declaration").

C. Pursuant to the Declaration, the Original Tract Declaration may be amended by the "Declarant" (so long as the Declarant owns any portion of the "Property" subject to the Declaration) and Owners of the "Lots" that are subject to the Original Tract Declaration casting 2/3 of the votes cast in an election held for such purposes.

D. Robson Ranch Quail Creek, LLC, a Delaware limited liability company, is the successor to the "Declarant" named in the Original Declaration and the Original Tract Declaration. For purposes of this Restated Tract Declaration, any references to the "Declarant" shall mean and refer to Robson Ranch Quail Creek, LLC, its successors and assigns.

E. Declarant owns a portion of the Tract and the required vote of other Owners of Lots subject to the Original Tract Declaration has been obtained.

F. This Restated Tract Declaration is intended to amend and restate (and entirely replace) the Original Tract Declaration.

G. Defined terms used in this Restated Tract Declaration shall have the first letter of each word in the term capitalized. If not otherwise provided, defined terms shall have the meanings given to them in the Declaration.

DECLARATIONS:

Now, therefore, the Original Tract Declaration is hereby amended and superceded (and entirely replaced) with the following (with respect to the Tract):

1. Construed with Declaration. This Restated Tract Declaration shall be (a) considered to be a part of the Declaration, (b) construed with the Declaration as if these provisions were set forth therein, and (c) enforceable in accordance with and as a part of the Declaration.

2. Land Use Classifications. The Land Use Classifications for the various portions of the Tract are set forth on Exhibit "B". Each portion of the Tract shall hereafter be subject to the Land Use Classification assigned to that portion on Exhibit "B".

3. Minimum Sizes and Requirements.

(a) No Dwelling Unit containing less than 1,000 square feet of enclosed living area floor space shall be erected on Lots 40 through 47, 49 through 61, 64 through 78, 81 through 85, 87 through 100, 102 through 107, 109 through 123, 189 through 198, 201 through 207, 209 through 224, 227 through 240, 242, and 253 through 256.

(b) No Dwelling Unit containing less than 1,200 square feet of enclosed living area floor space shall be erected on Lots 2 through 38, 127 through 149, 151 through 159, 161, 163, 165, 167, 169, 171 through 173, 176 through 185, 243 through 246, 248 through 252, and 261 through 296.

(c) Membership Lots M160, M162, M164, M166, M168, M170, M186 and M208 potentially are "developable" as that term is used in Section 4.7 of the Declaration. However, unless and until Declarant records an instrument confirming that houses may be constructed on such Membership Lots, such Membership Lots shall be considered "undevelopable" for purposes of Section 4.7 of the Declaration. If Declarant records an instrument confirming that houses may be constructed on such Membership Lots, then no Dwelling Unit containing less than 1,200 square feet of enclosed living area floor space shall be erected on any such Membership Lot.

(d) No Dwelling Unit shall be erected on Membership Lots M1, M39, M48, M62, M63, M79, M80, M86, M101, M108, M124 through M126, M150, M174, M175, M187, M188, M199, M200, M225, M226, M241, M247, M257 through M260, M297 through M305. These Lots are deemed "undevelopable".

(e) The term "living area floor space" used in this Section is exclusive of floor space in porches, pergolas, basements and garages.

(f) All Dwelling Units shall be constructed of brick, cement block or other substantial construction, or insulated frame construction, and must contain a wet pipe residential automatic fire sprinkler system if required by governmental authorities having jurisdiction.

(g) No more than one Dwelling Unit may be constructed on any one Lot.

(h) Any reference to Lots, Common Area Tracts, or other portions of the real property described on Exhibit "A" shall be construed to mean those areas depicted on the plat of subdivision recorded in the official records of Pima County, Arizona, in Book 43 of Maps, at page 39 (as amended from time to time, the "Plat"). Declarant shall have the right to amend the Plat to remove any restriction on the construction of houses on any or all of the Membership Lots specified in subparagraph (c) above.

4. Declarant Rights; Limitations. Notwithstanding the provisions of the Declaration with respect to housing for older persons, Declarant shall have the right to convey Dwelling Units owned by Declarant (or a trustee) to purchasers who intend that the Dwelling Units be occupied only by persons under 55, but for so long as the Fair Housing Act and Housing for Older Persons Act are in effect, Declarant must take reasonable action to adhere to policies to comply with the Requirements for Exemption. Each Dwelling Unit, at the first change of occupancy of that Dwelling Unit, shall thereafter be subject to the requirement that at least one occupant be 55 or over, unless waived by the Board pursuant to the provisions of the Declaration.

5. Notice to the Association. In the event there is a change in the occupancy of any Dwelling Unit, such as (by way of example but not limitation) by reason of a death or divorce, such that there is not at least one occupant of the Dwelling Unit who is 55 or older, the Owner must immediately notify the Association of such change in writing.

6. No Liability. Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that although it is the intent of the Declarant and the Association that the Residential Areas of the Property be exempt from the familial status provisions of the Fair Housing Act and that persons 18 or younger be prohibited from residing permanently at the Property, no representation or warranty is given that the Property will comply with the Requirements for Exemption. If, for any reason, the Residential Areas of the Property are not exempt from the familial status provisions of the Fair Housing Act and, therefore, it is unlawful to discriminate in such areas on the basis of familial status, neither Declarant nor the Association shall have any liability in connection therewith.


7. Amendments. This Tract Declaration and the plat of the Property may be amended, modified or revoked only as provided in the Declaration.

-END-

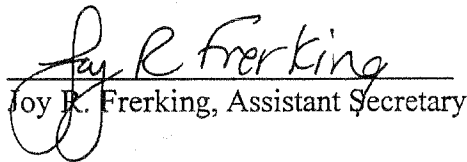
CERTIFICATION

Pursuant to Section 4.1 of the Declaration, the undersigned certifies that the foregoing Restated Tract Declaration was adopted, at an election duly called and held pursuant to the provisions of the Articles and Bylaws, by Owners of Lots subject to the Original Tract Declaration casting at least 2/3 of the total votes cast, in person or by proxy.

QUAIL CREEK COUNTRY CLUB PROPERTY OWNERS ASSOCIATION


By 
Ray Leppien, President

ATTEST:

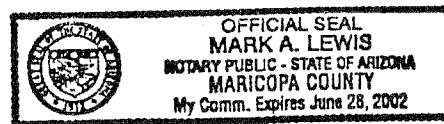

Joy R. Frerking, Assistant Secretary

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 12th day of October, 1999, by Ray Leppien, the President of the Quail Creek Country Club Property Owners Association, Inc., an Arizona non-profit corporation, on behalf thereof.


Notary Public

My Commission expires:



COPIES MADE FROM ORIGINAL

EXHIBIT "A"
LEGAL DESCRIPTION
THE TRACT

11/11/11 11:11 AM

LEGAL DESCRIPTION - QUAIL CREEK UNIT 1

All that portion of Section 5 and Section 6, Township 18 South, Range 14 East, Gila and Salt River Meridian, Pima County, Arizona, more particularly described as follows:

COMMENCING at the northwest corner of said Section 5;

THENCE S 89°24'40" E along the north line thereof, 328.16 feet;

THENCE S 21°22'16" W along a radial line, 1978.97 feet to a curve of the southwesterly line of that 150 foot wide roadway and utility easement recorded in Docket 8208 at Page 1641, and the POINT OF BEGINNING;

THENCE southeasterly along said curve, concave to the southwest, having a radius of 1725.00 feet and a central angle of 42°21'26", an arc length of 1275.25 feet to a point of compound curvature;

THENCE leaving said southwesterly line, along a curve concave to the west, having a radius of 50.00 feet and a central angle of 91°42'38", an arc length of 80.03 feet to a point of tangency;

THENCE S 65°26'20" W, 99.25 feet;

THENCE S 54°07'44" W, 152.97 feet;

THENCE S 65°26'20" W, 345.75 feet to a point of curvature;

THENCE southwesterly along a curve concave to the southeast, having a radius of 645.00 feet and a central angle of 45°36'20", an arc length of 513.40 feet to a point of tangency;

THENCE S 19°50'00" W, 519.59 feet;

THENCE N 88°00'00" W, 123.62 feet;

THENCE N 26°12'32" W along a radial line, 154.07 feet;

THENCE northeasterly along a curve concave to the northwest, having a radius of 204.88 feet and a central angle of 06°51'30", an arc length of 24.52 feet;

THENCE leaving said curve along a non-tangent line, N 33°04'01" W, 109.04 feet;

THENCE N 45°20'00" E, 220.00 feet;

THENCE N 32°43'06" E, 70.00 feet;

THENCE N 14°30'00" E, 84.50 feet;

THENCE N 75°30'00" W, 240.00 feet;

THENCE S 50°00'00" W, 193.94 feet;

THENCE S 71°30'00" W, 701.42 feet;

THENCE S 42°00'00" W, 52.50 feet;

THENCE S 15°00'00" W, 50.00 feet;

THENCE S 22°39'38" E, 45.05 feet;

THENCE N 85°16'22" W, 296.51 feet;

THENCE N 12°52'00" W, 1037.57 feet;

THENCE N 17°46'29" W, 744.93 feet to the southerly line of said 150 foot wide roadway and utility easement;

THENCE easterly along said southerly line the following courses and distances:

N 74°45'29" E, 299.00 feet to hereinafter mentioned Point "A";

N 74°45'29" E, 292.68 feet to a point of curvature;

Easterly along a curve concave to the south, having a radius of 4925.00 feet and a central angle of 06°15'30", an arc length of 537.95 feet to a point of compound curvature;

Easterly along a curve concave to the south, having a radius of 1725.00 feet and a central angle of 30°21'17", an arc length of 913.89 feet to the POINT OF BEGINNING;

Excepting therefrom the following described parcel of land:

BEGINNING at aforementioned Point "A", THENCE easterly along the southerly line of that 150 foot wide roadway and utility easement recorded in Docket 8208 at Page 1641, the following courses and distances:

N 74°45'29" E, 292.68 feet to a point of curvature;

Easterly along a curve concave to the south, having a radius of 4,925.00 feet and a central angle of 06°15'30", an arc length of 537.95 feet to a point of compound curvature;

Easterly along a curve concave to the south, having a radius of 1725.00 feet and a central angle of 11°38'26", an arc length of 350.46 feet;

THENCE leaving said southerly line, along a radial line, S 02°39'25" W, 158.00 feet;

THENCE S 84°34'26" E, 75.90 feet;

THENCE S 69°35'00" E, 799.72 feet;

THENCE S 42°10'00" E, 678.55 feet;

THENCE S 13°33'53" E, 45.10 feet;

THENCE S 06°00'00" W, 118.16 feet;

THENCE S 65°26'20" W, 180.00 feet;

THENCE N 42°40'00" W, 695.00 feet;

THENCE N 59°00'00" W, 807.23 feet;

THENCE S 67°46'09" W, 119.87 feet;

THENCE S 62°00'00" W, 229.84 feet;

THENCE S 67°00'19" W, 125.28 feet;

THENCE S 28°15'20" W, 65.00 feet;

THENCE S 21°25'00" E, 111.05 feet;

THENCE S 11°40'00" E, 232.52 feet;

THENCE S 42°20'00" E, 789.03 feet;

THENCE S 06°00'00" E, 41.16 feet;

THENCE S 43°00'00" W, 68.96 feet;

THENCE N 85°00'00" W, 55.00 feet;

THENCE N 53°00'00" W, 818.56 feet;
THENCE N 35°42'29" W, 72.45 feet;
THENCE N 34°40'00" W, 683.00 feet;
THENCE N 11°30'00" W, 71.07 feet;
THENCE N 27°30'00" W, 140.66 feet to the POINT OF BEGINNING;
Containing 64.611 acres of land, more or less.

Prepared by:

ANDERSON, PASSARELLI & ASSOCIATES, INC.

Michael Amerson, R.L.S.



EXHIBIT "B"
LAND USE CLASSIFICATIONS

- A. The Land Use Classification of all Lots and Membership Lots is "Single Family Residential Use", except Lot 306 which is "Utility or Well Site".

- B. The Land Use Classification of Common Area Tracts is "Association Use". In no event shall signage be placed upon this Tract without the prior written consent of Declarant or the Association, other than normal traffic control signage required by governmental entities or agencies with jurisdiction over the Tract.