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DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR VILLAS OF CAVE CREEK

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR VILLAS OF CAVE CREEK**

This Declaration of Covenants, Conditions and Restrictions for VILLAS OF CAVE CREEK (the "Declaration") is made this 15th day of July, 1996 by SUCCESS DEVELOPMENTS, L.L.C., an Arizona limited liability company ("Declarant").

WHEREAS, Declarant will be marketing and selling certain real property located in the Town of Cave Creek, Arizona, consisting of Lots 1-25, inclusive, and Tracts A-1, A-2, A-3, B, C-1, and C-2 of LAS LOMAS, according to the plat of record in Book 411, page 16, Official Records of Maricopa County, Arizona (collectively, the "Property") and is executing this Declaration with the consent of the fee owner of the Property; and

WHEREAS, Declarant may cause all or any portion of the Additional Property (as defined below) to become part of the Property covered by this Declaration, subject to approval of all persons with a recorded interest in the Additional Property to be annexed to the Property; and

WHEREAS, Declarant intends to establish a common scheme and plan for the use, enjoyment, repair, maintenance, restoration and improvement of the Property, and for the payment of taxes, assessments, insurance premiums and other expenses pertaining thereto.

NOW, THEREFORE, in furtherance of such intent, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the limitations, easements, covenants, conditions and restrictions set forth in this Declaration, as this Declaration may from time to time be further amended, and in such other Rules and Regulations as are instituted pursuant to the provisions of this Declaration, and all of which declarations, easements, limitations, covenants, conditions and restrictions and Rules and Regulations are declared to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability and enjoyment of the Property. All such declarations, easements, limitations, covenants, conditions and restrictions and Rules and Regulations shall constitute covenants running with the land and equitable servitudes and liens, and shall be binding upon and for the benefit of Declarant, and all parties having or acquiring any right, title or interest in the Property including, without limitation, the heirs, executors, administrators, successors and assigns of any such parties and all subsequent Owners and lessees of all or any part of the Property.

ARTICLE 1

DEFINITIONS

The following terms used in this Declaration shall have the following meanings:

1.1 **"Additional Property"** means that certain real property adjacent to the Property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, and any other real property designated by Declarant as Additional Property hereunder as set forth in a Supplement to this Declaration executed and recorded by Declarant. All or any part of the Additional Property may be subjected to this Declaration and annexed to the Property as provided in Paragraph 7.1 below, but no portion thereof shall be subject to this Declaration unless annexed as provided in Paragraph 7.1. The Additional Property will, upon annexation thereof, be deemed part of the Property, as defined and described herein.

1.2 **"Annual Interval Ownership Interest"** means an undivided one-fifty-second (1/52) ownership interest in one (1) Lot of the Property subject to this Declaration, together with the right to occupy a Dedicated Unit and to use and enjoy the Common Furnishings contained in such Unit for one (1) Interval on an annual and recurring basis, the exact Interval to be established each year by reservation, along with the non-exclusive right to use and enjoy the Common Area during such Owner's Use Period, as provided in this Declaration. The number of Annual Interval Ownership Interests available for sale shall not exceed (a) fifty-two (52) times the number of Lots, minus (b) the greater of (x) the number of Biennial Interval Ownership Interests sold for use in even-numbered Use Years, or (y) the number of Biennial Interval Ownership Interests sold for use in odd-numbered Use Years. For convenience in inventory control, conveyancing, and titling, an Annual Interval Ownership Interest is granted in a specific Lot; however, this interest does NOT carry with it the right to use the Unit located on that Lot, only the right to use a Dedicated Unit pursuant to the reservation provisions of this Declaration and the Rules and Regulations.

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

1.4 **"Association"** means Villas of Cave Creek Owners Association, an Arizona non-profit corporation.

1.5 **"Biennial Interval Ownership Interest"** means an undivided one-one-hundred-fourth (1/104th) fee interest in one (1)

Lot of the Property subject to this Declaration together with the right to occupy a Dedicated Unit and to use and enjoy the Common Furnishings contained in such Unit for one (1) Interval on a biennial (every other year) and recurring basis, the exact Interval to be established every other year by reservation, along with the non-exclusive right to use and enjoy the Common Area during such Owner's Use Period, as provided in this Declaration. Each Biennial Interval Ownership Interest will be either an "Even Year" Interval Interest or an "Odd Year" Interval Interest. The number of Biennial Interval Ownership Interests available for sale shall not exceed (a) one hundred four (104) times the number of Lots, minus (b) the total number of Annual Interval Ownership Interests sold. For convenience in inventory control, conveyancing, and titling, a Biennial Interval Ownership Interest is granted in a specific Lot; however, this interest does NOT carry with it the right to use the Unit located on that Lot, only the right to use a Dedicated Unit pursuant to the reservation provisions of this Declaration and the Rules and Regulations.

1.6 **"Board"** means the Board of Directors of the Association.

1.7 **"Bonus Time"** means an Owner's use of a Dedicated Unit pursuant to the provisions of the Rules and Regulations permitting such use (a) which is in addition to such Owner's Use Period under its Annual Interval Ownership Interest or Biennial Interval Ownership Interest, (b) which is subject to availability and a separate charge as provided in the Rules and Regulations, (c) for which the Rules and Regulations governing its use may, from time to time, be changed in the best interest of the membership of the Association in the discretion of the Board. The Rules and Regulations provide that Declarant in its discretion may determine which Owners (and their successors and assignees) shall be entitled to utilize Bonus Time.

1.8 **"Bylaws"** means the Bylaws of the Association, as they may be amended from time to time.

1.9 **"Charges"** means the Maintenance Fees, Special Assessments and Personal Expenses as provided in Article 5 below, and any other amounts due the Association pursuant to the terms of this Declaration.

1.10 **"Common Area"** means Tracts A-1, A-2, A-3, B, C-1 and C-2 shown on the Map, together with any other real property owned by the Association. Promptly after the recordation of this Declaration, Tracts A-1, A-2, A-3, B, C-1 and C-2 shall be conveyed to the Association free and clear of liens. While the building exteriors and other exterior areas located on a Lot are legally part of the Lot and not owned by the Association, they shall be considered to be part of the Common Area for all access, use,

maintenance, repair, insurance and similar purposes under this Declaration.

1.11 **"Common Furnishings"** means all furniture, furnishings, appliances, fixtures, equipment, telephone systems and all other personal property from time to time owned, leased or held by the Association for use by Owners or the Association which are located in or upon the Property.

1.12 **"Declarant"** means Success Developments, L.L.C., an Arizona limited liability company, or any successor-in-interest by express assignment of the rights of the Declarant hereunder in writing.

1.13 **"Declaration"** means this instrument, as this instrument may be amended from time to time in the manner herein provided.

1.14 **"Dedicated Lot"** means any Lot in which Declarant has conveyed an Interval Interest.

1.15 **"Dedicated Unit"** means the Unit located on a Dedicated Lot.

1.16 **"Fiscal Year"** means the one year period set forth from time to time in the Bylaws as the fiscal year for the Association.

1.17 **"Interval"** means a floating period of approximately one week, commencing on a set day of the week at 4:00 p.m., local time, Maricopa County, Arizona, and ending the same day of the following week at 11:00 a.m., local time, Maricopa County, Arizona. An Interval may also be referred to herein as an "Interval Week." The exact dates, and starting and ending day, of each Interval for a particular calendar year may be determined by reference to the Association's chart of Use Periods for that year. The Use Period during which an Owner may use its Interval is determined by reservation made each year. Use Periods correspond to consecutive, chronologically-numbered Use Periods during each Use Year bearing numbers one to fifty-two (a fifty-third Use Period will occur in some years).

1.18 **"Interval Interest"** means an Annual Interval Ownership Interest or a Biennial Interval Ownership Interest. Each Interval Interest will be assigned an "Interval Interest No." by the original deed therefor, and the same shall thereafter be used to identify the Interval Interest. Each Interval Ownership Interest shall bear a number beginning with the Lot number in which the Interval Interest is located followed by a two digit number referring to the specific Interval Interest, and, in the case of a Biennial Interval Ownership Interest, the word "Even" or "Odd", as

applicable. If any Additional Property is hereafter annexed pursuant to Article VII, Declarant may establish new or additional numbering therefor as specified in the Declaration of Annexation or other recorded document.

1.19 **"Interval Ownership Plan"** means the entire plan for Interval Interest ownership as described and set forth in this Declaration, for the development, improvement and sale of Interval Interests.

1.20 **"Lots"** shall mean and refer to any of Lots 1 through 25 shown on the Map.

1.21 **"Managing Agent"** means the agent engaged by the Board pursuant to Paragraph 4.4 hereof, which Managing Agent may be an affiliate of Declarant.

1.22 **"Map"** shall mean and refer to that subdivision map recorded March 4, 1996, in Book 411, Page 16 of the Official Records of Maricopa County, Arizona, and any subsequently recorded subdivision Map and all amendments thereto which cover the Property or a portion thereof, including Maps of any Additional Property annexed hereto pursuant to Paragraph 7.1 below. The Map is hereby made a part hereof with the same force and effect as if incorporated herein at length.

1.23 **"Owner"** means the Owner or co-Owner of an Interval Interest or a Lot that is not a Dedicated Lot.

1.24 **"Permitted User"** means any person occupying a Unit or utilizing the Common Area with the actual or implied consent of any Owner, including, but not limited to, members of such Owner's family, invitees, guests or licensees.

1.25 **"Project Documents"** include this Declaration, the Map, the Articles, the Bylaws and the Rules and Regulations, and in the event of inconsistency between such documents, priority shall be given to the documents in the order specified above.

1.26 **"Property"** means that certain real property located in Maricopa County, Arizona and described as Lots 1-25 and Tracts A-1, A-2, A-3, B and C-1 and C-2 as shown on the Map, together with all improvements thereon and any rights incident thereto, and the Additional Property to the extent all or any portion thereof is annexed to the Property pursuant to the terms of Paragraph 7.1 of this Declaration.

1.27 **"Rules and Regulations"** means the rules and regulations adopted and promulgated from time to time by the Association relating to the possession, use and enjoyment of the Property.

1.28 "Unit" means the interior portions of the improvements located on a Lot within the Property (or the Additional Property if annexed hereto). There are twenty-five (25) Units within the Property as originally established by this Declaration.

1.29 "Use Period" means the time period or periods for which an Owner is entitled to use and occupy a Unit as set forth in Paragraph 2.1 of this Declaration, and which the Owner has reserved consistent with the type of Interval Interest owned in accordance with the provisions of this Declaration and the Rules and Regulations.

1.30 "Use Year" means each one-year period commencing on the first occurrence of a day of the week, specified by the Association, in January of each calendar year and ending on that day of the week at the end of the fifty-second week thereafter, except for years with fifty-three weeks, in which case the year shall end on the specified day of the week at the end of the fifty-third week. The Use Year for a Biennial Interval Ownership Interest (odd year) shall commence in January of odd-numbered years and the Use Year for a Biennial Interval Ownership Interest (even year) shall commence in January of even-numbered years. The day of the week commencing and ending the Use Year may be changed from time to time by the Association without amendment of this Declaration.

ARTICLE 2

RESERVATION RIGHTS, USE RIGHTS AND USE RESTRICTIONS

2.1 Reservation and Use Rights of Interval Owners. Subject to all of the terms and conditions contained elsewhere in this Declaration, an Interval Owner shall have the right, for each Interval Interest owned (and in the case of Declarant, during all periods not timely reserved by other Interval Owners) to use and occupy, pursuant to the then-current reservation procedures set forth in the Rules and Regulations, a Dedicated Unit, and the Common Furnishings contained within such Unit, and the non-exclusive right to use and enjoy the Common Area for one Interval during each Use Year; provided, however, that such Owner shall have reserved such use and occupancy in accordance with the requirements and procedures for the making of reservations set forth in the then current Rules and Regulations. Owners that did not request a reservation may be assigned space and notified of their Use Period. The timing and details of the reservation procedure are subject to change by the Board in the best interest of the Owners. No use or occupancy by any Owner will be permitted if such Owner is delinquent in the payment of any amounts owed to the Association.

2.2 Occupancy. No Owner shall occupy a Dedicated Unit or the Common Area or exercise any rights of ownership with respect to the Property during any time period other than his Use Period(s) unless expressly authorized by the Owner entitled to such use rights during such time period, except that Declarant in its discretion may determine which Owners (and their successors and assignees) shall be entitled to "day use" of the Common Area by such Owners and their guests in a manner and subject to such requirements as Declarant may specify.

Each Owner shall keep the Unit occupied by him and the Common Furnishings therein in good condition and repair during his Use Period(s), vacate the Unit at the expiration of his Use Period(s), remove all persons and property therefrom, excluding only the Common Furnishings, leaving the Unit and the Common Furnishings therein in good and sanitary condition and repair and otherwise comply with such check-out and other procedures and regulations as may from time to time be contained in the Rules and Regulations. Any Owner may permit a Unit which he is entitled to occupy to be occupied by other persons (not in excess of the number of occupants permitted by the Rules and Regulations) for the purposes permitted by this Declaration during his Use Period(s), but such Owner shall be responsible for any loss, damage, destruction or violation of this Declaration, the Bylaws, the Articles or the Rules and Regulations which occurs during such occupancy as if such Owner were occupying the Unit.

2.3 Holdover User. In the event any Owner or Permitted User occupying a Unit with or without the permission of an Owner fails to vacate a Unit at the expiration of its Use Period in accordance with the provisions hereof, or at such earlier time as may be fixed by the Rules and Regulations adopted by the Association from time to time, such Owner or Permitted User shall be deemed a "Holdover Owner." It shall be the responsibility of the Association or the Managing Agent, if so provided in the Management Agreement, to take all steps necessary to remove the Holdover Owner from a Unit and assist the person entitled to occupy the Unit during the subsequent Use Period to find alternative accommodations during such holdover period, but neither the Association nor the Managing Agent is liable for the acts of a Holdover Owner. Such accommodations should be as comparable as possible to the Unit to which occupancy is denied. A Holdover Owner shall be responsible for the cost of such alternate accommodations, travel expenses incurred by the Owner or Permitted User if an alternate Unit is not available, and any other expense incurred due to the Holdover Owner's failure to vacate. In addition, a Holdover Owner shall be charged an administrative fee, as determined by the Board, of not less than \$200.00 per day, for each day of the holdover period. If the Association is required to contract for a period greater than the actual period of holding over in order to secure alternate accommodations as set forth

above, the expense of the entire period shall be the responsibility of the Holdover Owner, although any daily administrative fee shall cease upon the day following that upon which the Holdover Owner vacates the Unit. The Association shall submit a bill to the Holdover Owner in accordance with this paragraph. In the event the Holdover Owner fails to pay the bill within ten (10) days of the bill's date, the Association shall have a lien against the Holdover Owner's Interval Interest, which may be enforced in accordance with the provisions hereof. The provisions of this paragraph shall not abridge the Association's right to take such other action(s) available to it at law or in equity, including, but not limited to, eviction proceedings.

2.4 Use Restrictions - Owners. A Dedicated Unit shall be used solely for resort or vacation use. Except as required to prevent damage or injury to person or property in an emergency (and excluding actions by Declarant or other Owners of Lots that are not Dedicated Lots as provided in Paragraph 2.13 below), no Owner shall: make or authorize any alterations, additions or improvements to the Dedicated Units, Lots, Common Area or other portions of the Property; repair, tile, paper or otherwise refinish or redecorate the inner surfaces of tile, walls, ceilings, floors, windows or doors bounding a Dedicated Unit or other portions of the Property; remove, alter or replace any portion of the Common Furnishings; or use his Unit in any way which will interfere with, or unreasonably disturb the rights of the other Owners without the prior written consent of the Association. The right to perform all of the foregoing acts with respect to Lots and Dedicated Units has been delegated to the Association by this Declaration. The foregoing prohibitions, however, shall not modify or affect the obligation of each Owner for the prudent care and ordinary maintenance and upkeep of all property subject to his use. No animals shall be allowed or kept in or upon any of the Property.

2.5 Declarant's Easement for and Right to Conduct Sales, Improvements and Related Matters. Declarant, on behalf of itself, its successors and assigns, and its and their respective agents, employees, contractors, subcontractors, invitees and other authorized personnel, reserves, for a period ending at the later of six (6) months after close of escrow for Declarant's sale of the last Interval Interest or Lot or ten (10) years from the date of the sale of the first Interval Interest, a non-exclusive easement, in, over and through the Dedicated Units and the Common Area, for the purpose of: (1) marketing and selling the Intervals; (2) maintaining customer relations and providing post-sale service to Owners; (3) displaying signs and erecting, maintaining and operating, for sales and administrative purposes, model Units and a customer relations, customer service and sales office complex in the Property; (4) showing the Units and Common Area and arranging for the use of any recreational facilities within the Common Area by prospective purchasers; and (5) making any improvements or

modifications to the Common Area, Lots or Units that Declarant deems necessary or appropriate in its sole discretion, including but not limited to elimination of garage and/or other parking areas and construction of new recreational facilities if and in the manner determined by Declarant in its sole discretion. Declarant will be solely responsible for the costs and liabilities resulting from the exercise of such rights and easements. The use of such easement shall not interfere with or diminish the rights of Owner(s) to use and occupy Units in accordance with this Declaration and the Rules and Regulations.

In addition to such ten (10) year easement, Declarant shall have an easement, subject to the limitations set forth hereinbelow, solely for the purpose of resales of Interval Interests (reacquired by Declarant through foreclosure or deeds in lieu thereof), for an additional three (3) year period after termination of the ten (10) year easement described above. Such additional three (3) year easement shall, however, be limited to a non-exclusive easement in favor of Declarant for ingress and egress in, over and through the Common Area and subject to availability, in, over and through any vacant Dedicated Unit, solely for the purpose of showing such areas to prospective purchasers in connection with such resales.

2.6 Use of Dedicated Units by Declarant. Declarant shall have the right, with respect to all unsold Interval Interests owned by Declarant, to reserve any Dedicated Unit for use and occupancy by prospective purchasers of Interval Interests who have been brought to the Property as a result of the promotional efforts of the Declarant (the "Promotional Program") or for use and occupancy by members of the public as determined by Declarant. Declarant may make such reservations as an Owner and consistent with the established Rules and Regulations for use and occupancy of the Property. The Declarant shall reimburse the Association for actual expenses specifically incurred by and properly allocated to the Association in connection with the Promotional Program or such other use.

2.7 Separate Mortgages. Each Owner shall have the right to mortgage or otherwise encumber all, but not less than all, of his Interval Interest. Any mortgage encumbering an Interval Interest shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, the provisions of this Declaration, shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, deed in lieu of foreclosure or otherwise. Notwithstanding any other provision of this Declaration, no breach of the provisions herein contained, nor the enforcement of any lien created pursuant to the provisions hereof shall defeat or render invalid the lien of any mortgage of any Owner's Interval Interest if such mortgage is recorded in the Office of the County Recorder

of Maricopa County, Arizona, and is given in good faith and for value.

2.8 Transfer of Interest. No Owner may attempt to partition or divide his Interval Interest, but a sale or conveyance of undivided interests in an Interval Interest shall be permitted provided all Owners of all undivided interests in an Interval Interest shall designate one of them as the party to receive notices and to exercise voting and other rights on behalf of all such Owners of that Interval Interest. The transfer of any Interval Interest shall operate to transfer to the new owner of the Interval Interest the interest of the prior Owner in all funds in the hands of the Association even though not expressly mentioned or described in the instrument of transfer and without further instrument of transfer.

2.9 Waiver of Right of Partition and Subordination of Tenancy-In-Common Attributes.

A. It is intended that this Declaration shall govern all rights with respect to the use, possession, enjoyment, management and disposition of the Interval Interests. Accordingly, all rights with respect to the use, possession, enjoyment, management or disposition of an Interval Interest which an Owner might otherwise have as a tenant-in-common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly owned property) are hereby unconditionally and irrevocably waived and subordinated to this Declaration for so long as this Declaration shall remain in effect.

B. Except as provided in Subparagraph 2.9(A) above and Paragraph 8.3 below, every Owner or other person or entity acquiring any right, lien or interest in any of the Property, hereby waives any and all right as a concurrent owner to any common law or statutory right of partition and no such party shall seek or obtain, through any legal procedures, judicial partition of the Property or the sale thereof in lieu of partition. If, however, any Interval Interest is owned by two or more persons as tenants-in-common, joint tenants or community property, nothing herein contained shall prohibit a judicial sale of the Interval Interest in lieu of partition as between such co-tenants.

2.10 Protection of Interest. Except as provided in Paragraph 2.7 above, no Owner shall permit his Interval to be subject to any lien (other than the liens of current real property taxes), claim or charge, the enforcement of which may result in a sale or threatened sale of the Interval Interest of any other Owner or any part thereof or result in any interference in the use or enjoyment thereof by any other Owner. In the event of a threatened sale of the Interval Interest of any Owner or any part thereof, or should the use and enjoyment of any portion thereof by any Interval

Owner be threatened by reason of any lien, claim or charge against the Interval Interest of any other Owner, or should proceedings be instituted to effect any such sale or interference, any Owner acting on his behalf or through the Association or the Association acting on behalf of any one or more Owners (if promptly indemnified to his or its satisfaction) may, but shall not be required to, pay or compromise the lien, claim or charge without inquiry into the proper amount or validity thereof and, in such event, the Owner whose interest was subjected to such lien, claim or charge shall forthwith pay the amount so paid or expended to Owner or the Association, whomsoever shall have paid or compromised the lien, claim or charge, together with such reasonable attorneys' fees and related costs as he or it may have incurred. No Owner shall permit his interest in any funds from time to time in possession of the Association to be subjected to any attachment, lien, claim or charge or other legal process and each Owner shall promptly restore any funds held by the Association in respect of his Interval Interest to the extent depleted by the reason of the assertion of any such attachment, lien, claim, charge or process and shall reimburse the Association for all reasonable attorneys' fees or other costs incurred in respect thereof.

2.11 Association's Easement for Maintenance. The Association, for itself, its successors and assigns, and its and their agents, employees, contractors, subcontractors, and other authorized personnel, shall have the right and is hereby granted, for so long as the Association or its successors and assigns shall be required hereunder to manage and maintain the Property, an exclusive easement in gross in, over and through the Property (excluding any Units which are not Dedicated Units) for the repair and maintenance of the Units, the Common Area and the Common Furnishings; provided, however, that use of such easement shall not unreasonably interfere with or diminish the rights of Owners, Permitted Users, or Declarant to occupy the Units and to use the Common Area and Common Furnishings.

2.12 Owner's Easement. Each Owner is hereby granted a non-exclusive easement over and through the Common Area during such Owner's Use Period, for reasonable use thereof for the intended and customary purpose thereof as may be required for (1) access and ingress and egress to the Unit reserved by such Owner and (2) use of recreational facilities within the Common Area. Further, the Owner shall have the right to use the Common Furnishings in said Unit during his Use Period. Such rights shall extend to the Permitted Users of the Owner. Such easements rights and rights to use the Property and possess the Common Furnishings in the Unit shall be subject to this Declaration, the Articles and Bylaws of the Association and the Rules and Regulations.

2.13 Lots/Units That Are Not Dedicated Lots/Units. As provided in Paragraphs 1.14 and 1.15, a Lot and Unit become a

Dedicated Lot and Dedicated Unit by the conveyance of an Interval Interest in the Lot. Until a Lot and Unit become a Dedicated Lot and Dedicated Unit:

A. The Owner of the Lot/Unit shall be entitled to make any lawful use of the Unit free from any restriction by the Interval Ownership Plan. Without limiting the generality of the foregoing, the Unit shall not be subject to a Use Period of an Interval Interest Owner or Permitted User.

B. The Owner of the Lot/Unit shall be solely entitled and obligated to maintain, repair, decorate, furnish, clean and otherwise deal with the use, operation, care and upkeep of the Unit and furnishings therein and pay taxes for the Lot and Unit, except as provided in Sections 4.2C and 4.2F and Article 6 below, and the Association shall have no rights or responsibilities therefor. The Association shall maintain, repair and replace all exterior portions of the Lot in accordance with this Declaration. There shall be no Common Furnishings in or appurtenant to the Unit.

The provisions of this paragraph shall govern and prevail over all other provisions of this Declaration, with respect to any Lots/Units that are not Dedicated Lots and Dedicated Units, even if such provisions do not distinguish between Dedicated Units/Lots and other Units/Lots.

ARTICLE 3

THE ASSOCIATION

3.1 Association. The Association has been or will be organized to operate and manage the Interval Ownership Plan at the Property.

3.2 Membership in Association. Each Owner (including Declarant as to all Interval Interests not conveyed by Declarant to third parties and all Lots which are not Dedicated Lots) shall be a member of the Association and shall remain a member thereof until he ceases to be an Owner.

3.3 Transfer of Membership. The membership of each Owner in the Association is appurtenant to and inseparable from his ownership of an Interval Interest (or Lot, in the case of any Lot which is not a Dedicated Lot) and shall be automatically transferred upon any authorized transfer or conveyance of the ownership of his Interval Interest or Lot to any transferee or grantee, and said membership apart from the ownership of an Interval Interest or Lot shall be non-transferable whether by gift, bequest, assignment or otherwise.

3.4 Voting. In accordance with the provisions of the Bylaws, the Association shall have two (2) classes of voting membership.

A. Class "A" Memberships. Class "A" Members shall be all Owners, except Declarant, and shall be entitled to two (2) votes for each Annual Interval Ownership Interest owned and one (1) vote for each Biennial Interval Ownership Interest owned and fifty-two (52) votes for each Lot owned that is not a Dedicated Lot; provided, when more than one person or entity owns an Interval Interest or Lot, all such persons and entities shall be members and the vote for such Interval Interest or Lot shall be exercised as they among themselves determine, but in no event shall more than two (2) votes be cast with respect to any Annual Interval Ownership Interest or one (1) vote with respect to any Biennial Interval Ownership Interest or fifty-two (52) votes with respect to any Lot that is not a Dedicated Lot.

B. Class "B" Memberships. Class "B" Member shall be Declarant, who shall be entitled to six (6) votes for each Annual Interval Ownership Interest owned and three (3) votes for each Biennial Interval Ownership Interest owned and three hundred twelve (312) votes for each Lot owned that is not a Dedicated Lot. Said Class "B" Membership shall cease and be converted to Class "A" Membership when the total votes outstanding in the Class "B" Membership fall below twenty percent (20%) of the total voting power of the Association.

Interval Interests owned by the Association shall not have appurtenant voting rights.

3.5 Board of Directors. The affairs and control of the Association shall be governed by the Board in accordance with the Articles and Bylaws. The Board shall initially consist of the persons appointed by Declarant. The initial Board and any replacements thereof shall be appointed by the Declarant without the necessity of any meeting of members and shall serve until the election and qualification of new Directors at the first annual or special meeting of the Association following the end of the Initial Board Term, as defined below. The "Initial Board Term" shall commence upon the incorporation for the Association and terminate no later than the date upon which the Declarant or its successor has sold and conveyed ninety percent (90%) of the maximum number of Interval Interests created by this Declaration, the ninety percent (90%) to be calculated based upon the maximum number of Interval Interests in the Property together with any subsequent phase(s) annexed to the Property. Until the expiration of the Initial Board Term and the election and qualification of new Directors by the members as provided above, the Declarant, in its sole discretion, may appoint, remove and replace any Director and the Board shall consist solely of Directors appointed and determined by the

Declarant. At the first annual or special meeting of the Association following termination of the Initial Board Term, the Board of Directors shall be elected by all then eligible members of the Association pursuant to the election procedures set forth in the Bylaws.

ARTICLE 4

MANAGEMENT

4.1 Powers and Duties Generally. Administration of the Interval Ownership Plan, operation, maintenance, repair and restoration of the Property and the Common Furnishings, and any alterations and additions thereto, shall be vested in the Association. The Association, acting alone (through its Board, its officers, or other duly authorized representatives) may, subject to the provisions of the Articles, the Bylaws and this Declaration, exercise any and all rights and powers herein, and all the rights and powers of a nonprofit corporation under the laws of the State of Arizona.

4.2 Specific Powers and Duties of the Association. The management, operation, maintenance and repair of the Lots, the Dedicated Units and the Common Area, the acquisition (by purchase or lease), maintenance, repair and replacement of the Common Furnishings and the administration of the affairs of Owners, the use and occupancy of the Dedicated Units and payment, as agent, of expenses and costs enumerated in this Declaration shall be under the direction and control of the Association. The Association shall have the duty to maintain and repair the Dedicated Units, the Lots and the Common Area, to acquire (by lease or purchase), maintain, repair and replace Common Furnishings as needed, to administer the Interval Ownership Plan as provided herein and to levy, collect and enforce the Assessments (as provided in Article 5 below) enumerated in this Declaration. Subject to the rights of Declarant under Paragraph 1.8 above, the Association shall have the exclusive possession of each Dedicated Unit when it is not otherwise occupied as permitted in this Declaration. The Association shall have the power to do all things that are required to be done by it pursuant to this Declaration. Without limitation of the foregoing powers and duties, the Association is expressly authorized in its direction and on behalf of the Owners to do any or all of the following:

A. Maintenance and Repair. To repair, maintain, repaint, furnish or refurnish the Dedicated Units, the Lots and the Common Area or any part thereof; to establish reserves for anticipated costs, including the costs of acquisition and replacement of Common Furnishings; and to acquire and pay for materials, supplies, furniture, furnishings, labor or services

which the Association deems necessary or proper for the operation, maintenance and repair of the Property and the Common Furnishings.

B. Taxes and Assessments. As agent and not as principal, to pay all taxes and assessments and other costs affecting or relating to the Property, the Common Furnishings and/or the Common Area (as applicable) excluding those Lots that are not Dedicated Lots, as provided in Paragraph 2.13 above; and to discharge, contest or protest liens or charges affecting the Property (excluding Lots that are not Dedicated Lots). The Association is expressly authorized in its discretion and on behalf of each Owner to represent each Owner in any tax appeal process (excluding Lots that are not Dedicated Lots).

C. Utilities. To obtain and pay the costs of electrical, telephone, gas and other utility services for the Property.

D. Rules and Regulations. To adopt, publish and enforce, from time to time, Rules and Regulations relating to the possession, use and enjoyment of the Property, which Rules and Regulations shall be consistent with the provisions of this Declaration.

E. Legal and Accounting. To obtain and pay the cost of legal and accounting services necessary or proper in the operation, maintenance and repair of the Property and the enforcement of this Declaration, the Bylaws and the Rules and Regulations.

F. Insurance. To obtain and pay the cost of:

(1) Insurance against property damage as a result of fire and other hazards commonly insured against, covering all real and personal property comprising the Property in an amount not less than one hundred percent (100%) of the full replacement value, naming the Association, as agent for each of the Owners, as a coinsured party under such policy;

(2) Liability insurance against death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Units, Lots and Common Area. Such insurance shall be in such amounts and with such coverage as shall be required by the Board of Directors. Such insurance policy shall provide that all Owners as a class are named as additional insureds in the policy issued to the Association. The policy shall also include a waiver by the insurer of its right to subrogation under the policy against any Owner or member of a Owner's household. Lastly, the policy shall provide that no act of an

individual Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or operate as a condition to the recovery under the policy by any other Person; and

(3) Any other insurance, including but not limited to worker's compensation insurance, deemed necessary or desirable by the Board.

G. Levy and Collection of Charges. To levy, collect and enforce Charges against the Owners in the manner provided in Article 5 hereof in order to pay the expenses of the Association, including the expenses of the Interval Ownership Plan and the fee of the Managing Agent; and to do all things necessary to enforce each Owner's obligations hereunder.

H. Bank Accounts. To deposit: (a) all funds collected from Owners pursuant to Article 5 hereof and Paragraph 2.3, and (b) all other amounts collected by the Association in connection with its rights and duties provided herein, as follows:

(1) All funds shall be deposited in a separate account or accounts (the "General Account") with a bank or savings and loan association located in the State of Arizona selected by the Association. Funds deposited in the General Account(s) may be used by the Association only for the purposes which such funds have been collected.

(2) Funds which the Association shall collect for "Reserve Expenses" (as defined pursuant to Paragraph 5.1) shall, within ten (10) days after deposit in the General Account, be deposited in an interest bearing account with a bank or savings and loan association selected by the Association or invested in Treasury Bills or Certificates of Deposit (said interest bearing bank or savings and loan account or Treasury Bills or Certificates of Deposit are all herein collectively referred to as the "Reserve Account"), and the Association shall keep accurate books and records reflecting the amount in the Reserve Account attributable to each Owner. Funds deposited in the Reserve Account shall be held in trust and may be used by the Association only for the specific purposes for which such funds have been collected.

I. Statements of Status. Upon the request of any Owner, purchaser or other prospective transferee of an Interval Interest or Lot, to issue a written statement setting forth any amounts unpaid with respect to the Interval Interest or Lot, the use entitlement for the remainder of the Use Year and the reservation status respecting such Interval Interest.

J. Cleaning and Maid Service. To provide for cleaning and maid service upon the departure of each Owner or other occupant of a Dedicated Unit so that the Units are maintained in good order and repair. In addition to cleaning and maid service that is normally provided to each Dedicated Unit, to provide such cleaning and maid services as shall reasonably be requested and paid for by an Owner.

K. Right to Entry. During any reasonable time, upon giving reasonable notice, if a Dedicated Unit is occupied, to enter the Dedicated Unit for the purpose of cleaning, maid service, painting, maintenance and repair, and to enter upon and within any Unit, at any reasonable time, whether or not in the presence of an Owner, for the purpose of (i) making emergency repairs therein, (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit, (iii) protecting property rights and welfare of the other Owners, or (iv) for any other purpose reasonably related to the performance by the Association of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and/or enjoyment of the Owner, his Permitted User or other occupant of such Unit and shall be preceded by reasonable notice to the Owner or occupant thereof whenever the circumstances permit.

L. Relocation of Easements. To execute and cause to be recorded any and all documents and instruments required, in the discretion of the Association, to relocate utility easements within the Property to assure the use and enjoyment of the Common Area and the Units by all Owners with the least possible interference by the holders of such easements, and each Owner, by accepting the conveyance of an Interval Interest, hereby confers upon the Association, as trustee for all Owners, the power and authority to relocate such easements on behalf of all Owners.

M. Bonus Time and Arrangements With Other Interval Ownership Projects. To create and administer a Bonus Time program consistent with Paragraph 1.8 above. Further, the Association may enter into arrangements with other interval ownership projects whereby owners in such other projects make reservations, on a space-available basis, in Units (excluding any Units which are not Dedicated Units) and Owners hereunder may make similar reservations in such other projects, provided the same does not interfere with the Association's use of the Property as necessary to perform its duties and obligations hereunder and pursuant to the Rules and Regulations. Declarant in its discretion may determine which Owner (and their successors and assignees) shall be entitled to participate in such programs.

4.3 Books and Records; Financial Information. The Association shall maintain complete and current copies of the Declaration, the Articles, the Bylaws, the Rules and Regulations, and all amendments to any of the foregoing, and the books, records, budget and financial statements of the Association, and, upon the prior written request to the Association by any Owner, shall make the same available for inspection at reasonable times and under reasonable circumstances by such Owner.

4.4 Authority and Duty to Engage Managing Agent. The Association shall have the authority to engage and maintain a Managing Agent, which Managing Agent may be an affiliate of Declarant, for the Interval Ownership Plan and the performance of the Association's other responsibilities, pursuant to a written agreement (the "Management Agreement") and to provide for compensation to be paid to the Managing Agent. Pursuant to the Management Agreement, the Association may delegate to the Managing Agent the power to perform all the duties and obligations of the Association specified in Paragraph 4.2 above. The Managing Agent will be terminated in accordance with the provisions of the Management Agreement. Each Owner, his heirs, successors and assigns, by acquiring title to an Interval Interest or Lot, shall be deemed to:

A. adopt, ratify, confirm and consent to the execution of such Management Agreement by the Association;

B. adopt, ratify, confirm and approve each and every provision of such Management Agreement and acknowledge all of the terms and provisions thereof are reasonable;

C. covenant and promise to perform each and every covenant, promise and undertaking to be performed by Owners as provided in that Management Agreement;

D. recognize that some or all of the persons comprising the original Board are or may be stockholders, officers and directors of the Declarant or the Managing Agent, and acknowledge that such circumstances shall not and can not be construed or considered as a breach of their duties and obligations to the Association, nor as possible grounds to invalidate such Management Agreement, either in whole or in part;

E. agree that the persons acting as officers and directors of the Association entering into such Management Agreement have not breached any of their duties or obligations to the Association; and

F. adopt, ratify, confirm and consent to the acts of the persons acting as officers and directors of the Association in entering into the Management Agreement.

ARTICLE 5

CHARGES

5.1 Creation of Personal Obligations for Maintenance Fees.

A. Maintenance Fees for Interval Interests. Each Owner of an Interval Interest, except Declarant, by acceptance of a deed for the Interval Interest and by virtue of such ownership is deemed to covenant and agree to pay its Proportionate Share (as defined below) of the Association's Basic Expenses (which amount shall be the Interval Interest Owner's "Maintenance Fees"). As used herein, "Basic Expenses means the estimated aggregate amount of expenses to be incurred by the Association during the applicable Fiscal Year (i) to operate, manage, maintain, improve and repair the Property including the Dedicated Units, the Lots and the Common Furnishings, and to administer the Interval Ownership Plan; (ii) to provide for reserves to ensure payment when due of the cost of capital expenditures relating to the repair or restoration of the Dedicated Units, the Lots, and the Common Area and the repair and replacement of Common Furnishings, and for such other purposes as are required by good business practice (the "Reserve Expenses"); (iii) to provide for a fund to account for the possibility that some Assessments may not be paid on a current basis; (iv) to pay all real and personal property taxes on the Property (excluding Lots that are not Dedicated Lots) and the Common Furnishings; and (v) to provide for the payment of the fee of the Managing Agent. Without limiting the generality of the foregoing, Basic Expenses shall include: all charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration and operation of the Dedicated Units; assessments and other similar governmental charges levied on or attributable to the Property (excluding Lots that area not Dedicated Lots), including, without limitation, any hotel or bed tax or any governmental charge levied in lieu of such hotel or bed tax; insurance, including fire and other casualty and liability insurance, obtained pursuant to this Declaration; and liability whatsoever for loss or damage arising out of or in connection with the Property or any fire, accident, or nuisance therein; cost of repair, reinstatement, rebuilding and replacement of the Property, or the Common Furnishings therein; the cost of all basic utility services, including water, electricity, garbage disposal, telephone and any other similar service attributable to the Units and the Common Areas; the unpaid share of any Charges levied during the previous Fiscal Year against any Owner who has defaulted in payment thereof to the extent that the same becomes uncollectible; wages, accounting and legal fees, management fees, maid service, and cleaning fees, and other necessary expenses of upkeep, maintenance, management and operation actually incurred with respect to the Property. Basic Expenses shall not include any expenses constituting Personal Expenses as

defined below. The Maintenance Fees for each Interval Interest shall commence, and be due and payable for, the year in which the Owner has the first right to use its Interval in a manner prescribed by the Association or Declarant, unless the Owner agrees at Closing to commence payment at an earlier date. Subsequent annual Maintenance Fees shall be due and payable on January 1 of each year unless otherwise specified by the Association which may establish a different due date or installment due dates. No Owner may waive or otherwise avoid liability for the Maintenance Fees by non-use of his Interval Interest or any part thereof or any abandonment thereof. "Proportionate Share" for Owners of an Annual Interval Ownership Interest shall be determined by dividing the total Basic Expenses attributable to such Fiscal Year, less the whole Unit Expenses (as defined below) allocated to Lots that are not Dedicated Lots, by the product of (a) fifty-two (52) times (b) the number of Dedicated Units included in the Property (the "Annual Interval Maintenance Fee"). "Proportionate Share" for each Owner of a Biennial Interval Ownership Interest shall be fifty percent (50%) of the Annual Interval Maintenance Fee plus a bookkeeping fee established by the Association to reasonably compensate it for handling the extra work involved in assessing and collecting Maintenance Fees from the Owners of Biennial Interval Ownership Interests.

B. Maintenance Fees for Lots that are not Dedicated Lots. Each Owner of a Lot that is not a Dedicated Lot, except Declarant, by acceptance of a deed therefor and by virtue of such ownership is deemed to covenant and agree to pay its Proportionate Share of (a) Basic Expenses, less (b) that part of Basic Expenses incurred due to the operation of the Interval Ownership Plan (the "Whole Unit Expenses"), which amount shall be the Lot Owner's "Maintenance Fees". Without limiting the foregoing, the Whole Unit Expenses shall not include any portion of the costs to the Association for Common Furnishings within or appurtenant to Dedicated Units, including taxes and insurance thereon or in connection therewith; for decoration, redecoration, maid service, cleaning or other services inside Units that are not provided to Units that are not Dedicated Units; and the portion of management costs and expenses related to the special services provided to Dedicated Lots, Dedicated Units, Interval Interest Owners and Permitted Users that are not provided to other Lots/Units and Owners. No Owner may waive or otherwise avoid liability for the Whole Unit Maintenance Fees by nonuse of his Lot/Unit or the Common Area or any abandonment thereof. "Proportionate Share" for the owners of a Lot which is not a Dedicated Lot shall be determined by dividing Whole Unit Expenses by the number of Lots in the Property.

C. Establishment of Maintenance Fees. The Board of the Association shall annually set the Maintenance Fees per Interval Interest and per Lot pursuant to the preceding provisions.

Maintenance Fees shall be payable annually, semiannually, quarterly or on such other basis as the Board may specify from time to time.

5.2 Special Assessments. If the Maintenance Fees are, or will become, inadequate to meet all expenses incurred by the Association hereunder (other than for items constituting Personal Expenses) for any reason, including non-payment by any Owner of its Proportionate Share of the Maintenance Fees on a current basis, the Association shall immediately determine the approximate amount of such inadequacy, prepare and distribute a supplemental budget and levy a special assessment (the "Special Assessment") in an amount sufficient to provide for such inadequacy. Any Special Assessment shall be payable in one lump sum or periodically, as determined by the Association, and shall be payable within thirty (30) days after receipt of a statement therefor. The amount of Special Assessments payable by an Owner shall be based upon whether it falls into Basic Expenses or Whole Unit Expenses and the Owner's Proportionate Share, all as determined consistently with Paragraph 5.1 above.

5.3 Personal Expenses. Each Owner of any Interval, by acceptance of a deed for an Interval Interest and by virtue of such ownership, is deemed to covenant and agree to pay all Personal Expenses. The term "Personal Expenses" means any expense resulting from the act or omission of any Owner, or Permitted User, including, without limitation: the cost of long-distance telephone charges or telephone message unit charges, any optional maid service and other special services or supplies attributable to the occupancy of the Unit during such Owner's Use Period; the cost to repair any damage to the Unit, to repair or replace any Common Furnishings located therein or within the Common Area on account of loss or damage occurring during such Owner's Use Period; the cost to satisfy any expenses to any other Owner(s) or to the Association due to any intentional or negligent act or omission of such Owner, or a Permitted User relating to, and all expenses necessary to reimburse the Association for costs incurred in bringing the Owner into compliance with, the provisions of this Declaration, the Bylaws or the Rules and Regulations, specifically including, but not limited to, charges pursuant to Paragraph 2.3 of this Declaration.

5.4 Purpose of Charges. Charges shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, to operate, maintain and improve the Property, and to pay for the administration of the Interval Ownership Plan and reimbursement of expenses incurred by the Association and other expenditures incurred in the performance of the duties of the Association as set forth in this Declaration.

5.5 Declarant's Exemption. The Declarant shall not be required to pay any Maintenance Fees or Special Assessments for any Interval Interest or Lot owned by the Declarant within the

Property. However, the Declarant shall subsidize the Association by paying the lesser of: (a) the amount necessary to make up any short-fall between actual Association expenses (but not including reserve contributions) and actual amount received from other Owners based on the Maintenance Fees and the Special Assessments; or (b) the amount which would otherwise be payable as an individual Owner's Maintenance Fees and Special Assessments for the Interval Interests and/or Lots owned by the Declarant.

5.6 Increased or Decreased Expenses Due to Annexation of Additional Property. In the event of annexation of all or any portion of the Additional Property pursuant to Article VII, the Board shall, not later than sixty (60) days following the date of such annexation (the "Annexation Date"), cause to be prepared a supplemental budget showing any increase or decrease in the Basic Expenses and/or Whole Unit Expenses for the applicable Fiscal Year, prorated for the remainder of the Fiscal Year from the Annexation Date with appropriate adjustment of the Maintenance Fees as a result thereof; provided, however, that no increase in the Maintenance Fees due to annexation of all or any portion of the Additional Property shall exceed twenty percent (20%) of the Maintenance Fees for the preceding Fiscal Year unless a majority of the voting power of the Association, residing in members other than Declarant, participating in an annual or special meeting of the Association, shall consent thereto by vote or written assent prior to or at such meeting.

5.7 Unpaid Association Charges; Lien. All Association Charges, including Maintenance Fees, Special Assessments and Personal Expenses, which remain unpaid for a period of ten (10) days after the due date shall bear interest at the rate of eighteen percent (18%) per annum from the due date until paid. The Maintenance Fees, Special Assessments and Personal Expenses, together with interest, costs and reasonable attorneys' fees shall be a lien on the Interval Interest (or Lot which is not a Dedicated Lot) and all tangible personal property owned by the Owner and located in a Unit, and such lien shall be deemed effected upon the filing in the office of the Recorder of Maricopa County, Arizona, of a notice of claim of lien, in such form as the Association may deem appropriate. The Maintenance Fees, Special Assessments and Personal Expenses shall also be the personal obligation of the Owner of such Interval Interest or Lot at the time such Charges were levied or expenses were incurred. The lien may be foreclosed by appropriate action in court or in the manner provided by law with respect to the exercise of powers of sale in deeds of trust or in any other manner provided by law. The Association shall be entitled to bid at any sale held pursuant to foreclosure of such lien, and to apply as a cash credit against its bid all sums due as provided herein and covered by the lien to be enforced. The lien against an Owner shall be limited to the Interval Interest or Lot owned by that Owner and shall not encumber

the property, real or personal, of any other Owner. No use or occupancy by any Owner will be permitted if such Owner is delinquent in the payment of any Charges.

5.8 Subordination of Lien. The lien provided for in Section 5.7 above shall be subordinate to the lien of any first mortgage or deed of trust made in good faith and for value, and recorded in the office of the Recorder for Maricopa County, Arizona, prior to the recordation of a notice of claim of lien hereunder ("Prior Mortgage"). The sale or transfer of any Interval Interest or Lot shall not defeat or affect the Charges lien provided for herein; provided, however, that the sale or transfer of any Interval Interest or Lot which is subject to any Prior Mortgage pursuant to a foreclosure or any proceeding or deed in lieu of foreclosure under such Prior Mortgage shall extinguish the lien provided for herein as to payments which become due prior to such sale or transfer. No such sale or transfer shall relieve any Owner from liability for any Charges thereafter becoming due or from the lien thereof. No breach of the covenants, conditions or restrictions contained herein nor the enforcement of any lien provisions herein shall affect, impair, defeat or render invalid the lien or charge of any mortgage made in good faith and for value encumbering any Interval Interest or Lot, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or a trustee's sale or otherwise, with respect to an Interval Interest or Lot. It is intended that any loan to facilitate the resale of any Interval Interest or Lot after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all the rights and protections afforded to other mortgagees. Nothing in this section shall be construed to release any Owner from his personal obligation to pay the Charges levied pursuant to this Declaration.

ARTICLE 6

DAMAGE, DESTRUCTION, AND CONDEMNATION

6.1 In General. In the event of any damage or destruction whether resulting from an insured casualty, uninsured casualty or a partial taking in eminent domain proceedings to the Property and/or the Common Furnishings other than by ordinary wear and tear, the Association shall, subject to the provisions of Paragraph 6.2, forthwith cause such damage or destruction to be repaired and shall use any available insurance or condemnation proceeds for such purpose. If the damage is not covered by condemnation proceeds or by insurance proceeds, or if the available insurance or condemnation proceeds are insufficient, the Association shall, subject to the provisions of Paragraph 6.2, levy a Special Assessment at a uniform rate against all affected Owners

for the amount required to meet the cost of such repair or restoration. In the event the damage or destruction was caused by the intentional or negligent act or omission of an Owner or his Permitted User(s), the cost of such repair or the amount of such deficiency shall be a Personal Expense and paid by such Owner as provided in Paragraph 5.3 above.

6.2 Extensive Damage or Destruction. In the event the amount of the Special Assessment which is required to be levied pursuant to Paragraph 6.1 above is subject to the vote requirements of Paragraph 5.2 and is not so approved or if no action is taken with respect to such Special Assessment within one-hundred eighty (180) days following the date of such damage or destruction, such disapproval or inaction shall be deemed to be an election to terminate this Declaration, in which event this Declaration shall terminate pursuant to the recordation of an amendment stating that the Declaration has been terminated in accordance with the provisions of Paragraph 8.3. The proceeds arising from such sale, together with any insurance proceeds or condemnation proceeds received as a result of such damage or destruction, shall be distributed by the Association to each Owner (subject to the rights of each Owner's mortgagee) in accordance with the interest in the Property owned by each Owner; provided, however, that there shall be deducted from the amount due any Owner the amount, if any, of all sums due to the Association from such Owner.

6.3 Excess Insurance Proceeds. Any excess insurance or condemnation proceeds over the cost of repair or restoration or any insurance or condemnation proceeds available in the event the Property or the Common Furnishings are not rebuilt, restored, repaired or replaced pursuant to the provisions of this Declaration, shall be placed in the Reserve Account and/or distributed to the Owners (subject to the rights of such Owners' mortgagees) in accordance with the interest in the Property owned by each Owner, as determined by the Board, provided, however that there shall be deducted from the amount due any Owner, the amount, if any, of all sums due to the Association from such Owner.

ARTICLE 7

ANNEXATION

7.1 Annexation of Additional Property. Declarant or any successor Declarant owning all or any portion of the Additional Property may, at any time and from time to time, subject to this Declaration all or any portion of the Additional Property owned by such party without the consent of any Owner; provided, however, that any Lot/Unit which is dedicated must be dedicated in its entirety. The annexation of all or any portion of the Additional Property shall be effective by recording in the office of the

County Recorder of Maricopa, Arizona, a Declaration of Annexation executed and acknowledged by Declarant.

Any Additional Property annexed to this Declaration may be (a) a subdivision created by Map providing for Lots and Common Area as defined herein, (b) a condominium which provides for Condominium Units (which shall be "Units" for all purposes hereunder) and Common Area (even though undivided interests in such Common Area are included in the Interval Interests/Condominium Units conveyed to the Owners buying within the annexed Additional Property that contains the Condominium Units), or (c) a single undivided tract of property on which are constructed dwelling units (which shall be "Units" for all purposes hereunder) and common facilities (which shall be "Common Area" for all purposes hereunder).

Declarant or its successor annexing said Additional Property may include in the Declaration of Annexation or such separate document as it may determine to be appropriate such additional provisions as it may deem necessary or appropriate to reflect the different nature of the annexed Additional Property including condominium provisions relating to the Additional Property to comply with Arizona law or as otherwise appropriate, if a condominium is created therefor. While the Owners who acquire title to Interval Interests and/or Lots (or Condominium Units, if applicable) within the Additional Property will own such property and the Owners owning the original Property will own the Lots within the original Property, all of the Property (both original Property and the annexed Additional Property) will be fully subject to the use rights of all Owners under Section 2.1. Further, any Interval Interests created by Declarant or its successor in the Additional Property shall be Interval Interests for all purposes hereunder notwithstanding the different legal interest involved (i.e., an undivided interest in a Condominium Unit or in a tract of property, instead of a Lot); provided, however, that if the Units within the annexed Additional Property are materially different from the original Units, Declarant or its successor may create separate categories of Units and use rights therefor and establish Proportionate Shares therefor under Article V that reflect such differences.

7.2 Deannexation. Declarant may delete all or any portion of the Additional Property which is annexed to the Property pursuant to Paragraph 7.1 from coverage of this Declaration and jurisdiction of the Association, so long as Declarant is the owner of such portion of the Additional Property, and provided that a Declaration of Termination is recorded in the office of the Maricopa County Recorder, in the same manner as this Declaration was recorded, and provided that no escrow is pending or has closed for the sale of any Interval Interest or Lot affecting the annexed portion of the Additional Property. The lienholder under a Prior

Mortgage or any other party holding title as the result of the sale or transfer of any Lot or Common Area pursuant to a foreclosure or any proceeding or deed in lieu of foreclosure under such Prior Mortgage may delete such Lot(s) or Common Area annexed pursuant to Paragraph 7.1 from coverage of this Declaration and jurisdiction of the Association, so long as such party is the owner of such Lot(s) or Common Area, and provided that a Declaration of Termination is recorded in the office of the Maricopa County Recorder, in the same manner as this Declaration was recorded, and provided that no escrow is pending or has closed for the sale of any Interval Interest or Lot affecting such portion of the Additional Property.

ARTICLE 8

MISCELLANEOUS

8.1 Amendment by Declarant. This Declaration may be amended by the Declarant by a written instrument in recordable form:

A. Any time prior to the recordation of a deed conveying a Lot or an Interval Interest in the Lot or Lots to be affected by the amendment; or

B. Any time following the recordation of a deed conveying an Interval Interest or Lot, when necessary to correct errors or eliminate ambiguities; or

C. When necessary to comply with state or federal law, or regulations of any housing authority and agency which purchases, guarantees or insures mortgage loans; or

D. At any time that the Declarant holds not less than twenty percent (20%) of the total votes of the Association, the Declarant being given a three to one weighted voting advantage as set forth above.

However, if, at the time of any such amendment under Subparagraph A or D, there is outstanding a mortgage or deed of trust against Declarant's interest in any of the Property, the amendment shall not be effective without the written, recorded consent of the mortgagee or deed of trust beneficiary.

8.2 Other Amendments. This Declaration may be amended, at any time, by the vote or written assent of fifty one percent (51%) of the voting power of the members of the Association.

8.3 Termination. Subject to the provisions of Paragraph 6.2 and the provisions of this paragraph, this Declaration shall remain in effect for a period of fifty (50) years from the date of recordation thereof, and thereafter shall be automatically renewed

and remain in effect for successive periods of ten (10) years each. This Declaration may be terminated at any time after thirty (30) years after the date of recordation of this Declaration by the vote or written consent of seventy five percent (75%) of the members of the Association electing to terminate the Declaration and authorizing the Association to sell the Property and the Additional Property, if subsequently annexed; in which event, this Declaration shall terminate upon the consummation of such sale and the recordation of an amendment stating that this Declaration is terminated pursuant to this paragraph. Each Owner, by accepting the conveyance of an Interval Interest or Lot, hereby constitutes and appoints the Association his attorney-in-fact in his name, place and stead, and for his use and benefit, to execute, acknowledge and deliver on behalf of each Owner any instrument or document which is required in order to effect a sale, conveyance, or transfer of the Property pursuant to this paragraph. Each Owner does further give and grant unto the Association, as his attorney-in-fact, full power and authority to do and perform any act necessary and proper to be done in the exercise of the foregoing power including, without limitation, the power and authority to sell and convey, and to petition for sale in lieu of partition if necessary to effect such conveyance, as fully as each Owner might or could do. The power of attorney is coupled with an interest, irrevocable and binding on the successors and assigns of each Owner. Proceeds obtained from such sale, conveyance or transfer shall be paid to each Owner (subject to the rights of each Owner's mortgagee) in the same proportion as the interest of each Owner bears to the aggregate of all interests in the Property; provided, however, that there shall be deducted from the amount due any Owner, the amount, if any, of all sums due to the Association from such Owner. Declarant may terminate the Declaration at any time prior to the conveyance of the first Interval Interest. Notwithstanding any provision to the contrary above, if, at the time of termination by Declarant, there is outstanding a mortgage or deed of trust against any of the Property, the termination shall not be effective without the written, recorded consent of the mortgagee or deed of trust beneficiary.

8.4 Notices. Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given when delivered personally at or mailed to the appropriate address set forth below. Such notice shall be deemed effective only upon delivery of the same or forty eight (48) hours after deposit of same in any United States post office box, postage prepaid, addressed as set forth below. Any notice to an Owner required under this Declaration shall be addressed to the Owner at the last address for such Owner appearing in the records of the Association or, if there be none, at the address of the Property. Notices to the Association shall be addressed to the address designated by the Association by written notice to all Owners. Notices to the

Managing Agent shall be addressed to the address designated by the Managing Agent by written notice to Owners.

8.5. Notification of Sale of Interval Interest or Lot. No later than thirty (30) days prior to the sale or transfer of any Interval Interest or Lot under circumstances whereby the transferee becomes the Owner thereof, the transferor shall notify the Association in writing and in whatever form, if any, required by the Association of such pending sale or transfer. Such notice shall set forth the name and address of the transferee and transferor, and the date on which such sale or transfer is to be consummated. Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purpose, and any action taken by the transferor as an Owner may not be recognized by the Association. Prior to receipt of any such notification by the Association or the Managing Agent, any and all communications required or permitted to be given by the Association shall be deemed duly given and made to the transferee if duly and timely made and given to such transferee's transferor.

8.6 Severability. If any provision of this Declaration, or any section, sentence, clause, phrase, or word or the application thereof in any circumstances, shall be held invalid, the validity of the remainder of this Declaration and of the application of such provision, sentence, clause, phrase or word under any other circumstances shall not be affected thereby.

8.7 Successors. The provisions of this Declaration shall be binding upon all parties having or acquiring any Interval Interest or Lot or any right, title, or interest therein and shall be for the benefit of each Owner and his heirs, successors and assigns. Each Owner (including Declarant) shall be fully discharged and relieved of liability on the covenants herein insofar as such covenants relate to each Interval Interest or Lot upon ceasing to own such Interval Interest or Lot and paying all sums and performing all obligations hereunder insofar as the same relate to each Interval Interest or Lot up to the time his ownership interest terminated.

8.8 Violation or Nuisance. Every act or omission whereby any provision of this Declaration, the Bylaws or the Rules and Regulations is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner.

8.9 Interpretation. The captions of the Articles, paragraphs and subparagraphs hereof are for convenience only and shall not be considered to expand, modify or aid in the interpretation, construction or meaning of this Declaration. As

used herein the singular shall include the plural and the masculine shall include the feminine and neuter.

8.10 Enforcement; No Waiver; Attorneys' Fees and Costs; Jurisdiction and Venue. The Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, and covenants now or hereafter imposed by the Declaration and the other Project Documents. The failure to enforce any provision of this Declaration shall not constitute a waiver thereof or of the right to enforce such provision thereafter. Any nondefaulting or prevailing party shall have the right to recover from the defaulting party all costs and reasonable attorneys' fees incurred in enforcing the Project Documents whether or not suit is commenced, and the same shall be included in any judgment or award obtained. This Declaration shall be governed solely by the internal laws of the State of Arizona without reference to any choice of law provisions or doctrines. Any action or proceeding relating in any manner to this Declaration, or to the interpretation, enforcement or violation hereof, shall be brought, commenced and continued exclusively in the Maricopa County, Arizona Superior Court and/or other courts located in Maricopa County, Arizona with jurisdiction thereof, and all Owners and other parties holding any interest in the Property consent and submit to the exclusive jurisdiction of such courts therefor.

8.11 Waiver of Homestead Protections. Each Owner, to the extent permitted by law, shall and hereby waives any protections of any homestead or homestead exemption available to said Owner under the laws of the State of Arizona.

8.12 Disclaimer of Representations and Warranties. Declarant specifically disclaims any intent to have made any representations or warranties in connection with the Property or the Interval Interests or Lots except as specifically set forth herein, and no person shall rely upon any representation or warranty not specifically made herein.

8.13 Approval of Declaration. Owners of Interval Interests and/or Lots, by virtue of their execution of a purchase contract and/or by acceptance of a deed to an Interval Interest or Lot, approve all of the terms and conditions, duties and obligations of this Declaration, and agree to be bound thereby. Each Owner shall be responsible for compliance with this Declaration by that Owner's agents, guests, invitees, lessees, licensees, and their respective servants and employees, as this Declaration may be amended from time to time. The Owner's failure to so ensure compliance by any such person shall be grounds for the same action available to the Association as though by reason of said Owner's non-compliance.

8.14 Joint and Several Liability. In the case of joint ownership of an Interval Interest or Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration shall be joint and several.

8.15 Time is of the Essence. Time is of the essence as to the payment of Assessments and the performance of all other obligations set forth herein.

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

SUCCESS DEVELOPMENTS, L.L.C.,
an Arizona limited liability
company

By David E. Bruce
Its Member

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 22nd day of JULY, 1996, by DAVID E. BRUCE, who acknowledged himself to be the MEMBER of SUCCESS DEVELOPMENTS, L.L.C., an Arizona limited liability company, for and on behalf of the company.

Mary A. Flynn
Notary Public

My Commission Expires:
12-1-97



CONSENT TO RECORDATION OF DECLARATION

LAS LOMAS, L.L.C., an Arizona limited liability company, which is the owner of the Property described in the foregoing Declaration, hereby acknowledges that it has read the Declaration, and agrees that the Property shall be fully subject to the Declaration.

Dated this 12 day of July, 1996.

LAS LOMAS, L.L.C., an Arizona limited liability company

By Michael Stein
Its Member

By Bonita Stein
Its Member

STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 12th day of July, 1996, by Michael Stein, and Bonita Stein, the Members of LAS LOMAS, L.L.C., an Arizona limited liability company, for and on behalf of said company.

Linda D. Mandoske
Notary Public

My Commission Expires:

July 20, 1998

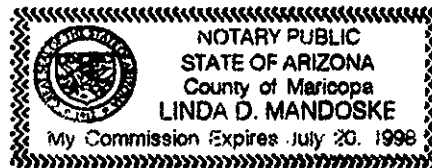


EXHIBIT "A"
SCHEDULE A

LEGAL DESCRIPTION for file: 9663012296

The land referred to in this report is situated in the County of Maricopa,
State of Arizona, and is described as follows:

That portion of the Southwest quarter of Section Twenty-seven (27), Township Six (6) North, Range Four (4) East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section 27, thence North along the West Section line of said Section, 990.75 feet; thence East 250 feet to the True Point of Beginning; thence South 340 feet; thence North 80 degrees 55 minutes West 219.74 feet; thence South 90 feet; thence East 342 feet; thence North 390 feet; thence West 125 feet to the True Point of Beginning.

EXHIBIT A

A PARCEL OF LAND DESIGNATED AS TRACT 31 A, BEING A PORTION OF THE SOUTHWEST ONE QUARTER OF SECTION 27, TOWNSHIP 6 NORTH, RANGE 4 EAST, GILA AND SALT RIVER BASE AND MERIDIAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER, A POINT ON THE EASTERLY 40 FOOT RIGHT-OF-WAY LIEN OF SCHOOL HOUSE ROAD;

THENCE ALONG THE EASTERLY 40 FOOT RIGHT-OF-WAY LINE OF SCHOOL HOUSE ROAD, NORTH $00^{\circ} 05' 51''$ EAST 376.45 FEET TO THE NORTHWEST CORNER, A POINT ON THE SOUTHERLY 55 FOOT RIGHT-OF-WAY LINE OF CAVE CREEK ROAD; THENCE ALONG THE SOUTHERLY 55 FOOT RIGHT-OF-WAY LINE OF CAVE CREEK ROAD, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF $21^{\circ} 37' 09''$, A RADIUS OF 1200.92 FEET, AN ARC OF 453.14 FEET TO A POINT OF TANGENCY;

THENCE NORTH $62^{\circ} 41' 23''$ EAST 194.88 FEET ALONG THE SOUTHERLY 55 FOOT RIGHT-OF-WAY LINE OF CAVE CREEK ROAD TO A POINT OF CURVATURE; THENCE ALONG THE SOUTHERLY 55 FOOT RIGHT-OF-WAY LINE OF CAVE CREEK ROAD ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF $01^{\circ} 23' 07''$, A RADIUS OF 1090.92 FEET, AN ARC OF 26.38 FEET TO THE NORTHEAST CORNER;

THENCE SOUTH $00^{\circ} 01' 44''$ WEST 204.44 FEET TO A POINT;

THENCE SOUTH $88^{\circ} 06' 06''$ EAST 110.00 FEET TO A POINT;

THENCE SOUTH $00^{\circ} 05' 53''$ WEST 396.45 FEET TO A 1/2 INCH IRON PIPE FOUND IN PLACE, THE SOUTHEAST CORNER;

THENCE SOUTH $89^{\circ} 55' 22''$ WEST 738.27 FEET TO THE SOUTHWEST CORNER, THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 7.7226 ACRES, MORE OR LESS.