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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR TAMARAC AT MOON VALLEY**

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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TAMARAC AT MOON VALLEY**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TAMARAC AT MOON VALLEY is made and entered into this 17<sup>th</sup> day of July, 2017 by the Tamarac at Moon Valley Owners Association (“Association”) and supersedes and restates in its entirety that certain Declaration of Covenants Conditions and Restrictions for Tamarac at Moon Valley recorded on September 27, 1985 in the Official Records of Maricopa County, Arizona at Instrument No. 1985-0459672 (“Original Declaration”) and any other amendments recorded thereafter.

**WITNESSETH:**

**WHEREAS**, that certain real property (“Property”) located in the County of Maricopa, State of Arizona, described on Exhibit “A” attached hereto and by reference made a part hereof (the “Property”) is subject to certain covenants, conditions, restrictions, reservations, liens, easements, and charges as hereinafter set forth.

**WHEREAS**, the Association, by and through its Owners, wishes to completely amend and restate the Original Declaration.

**NOW THEREFORE**, the Association hereby declares that the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, and covenants and conditions, which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property, and which shall run with the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof, the Association and each member of the Association.

**ARTICLE 1**

**DEFINITIONS**

1.1. "Architectural Committee" means the committee established by the Board pursuant to Section 2.4 of this Declaration.

1.2. "Architectural Committee Rules" means the rules adopted by the Architectural Committee.

1.3. "Articles" means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

1.4. "Assessments" means the annual, special and/or supplemental assessments levied and assessed against each Lot pursuant to Article 5 of this Declaration.

1.5. "Association" means the Arizona nonprofit corporation known as "Tamarac at Moon Valley Owners Association" and organized to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein.

1.6. "Association Rules" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

1.7. "Board" means the Board of Directors of the Association.

1.8. "Bylaws" means the bylaws of the Association as such bylaws may be amended from time to time.

1.9. "Common Area" means all real property, and all Improvements located thereon, owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot to a Purchaser is described as follows:

Tracts A, B, C, D, E and F, TAMARAC AT MOON VALLEY, a subdivision according to the plat recorded with the County Recorder of Maricopa County, Arizona, in Book 286 of Maps, Page 44.

1.10. "Declaration" means the covenants, conditions and restrictions herein set forth in this entire document, as same may from time to time be amended.

1.11. "First Mortgage" means any mortgage or deed of trust with first priority over any other mortgage or deed of trust.

1.12. "First Mortgagee" means the holder of any First Mortgage.

1.13. "Improvement" means buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

1.14. "Lot" means any parcel of real property designated as a Lot on the Plat.

1.15. "Member" means any Owner who is a member of the Association pursuant to Section 3.1 herein.

1.16. "Owner" means the record owner, whether one or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (ii) a lessee or tenant

of a Lot. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executor contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the trustor under the deed of trust shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

1.17. "Plat" means the plat of survey of Tamarac At Moon Valley which plat has been recorded with the County Recorder of Maricopa County, in Book 286 of Maps, page 44, and all amendments thereto.

1.18. "Project Documents" means this Declaration and the Articles, Bylaws, Association Rules and Architectural Committee Rules.

1.19. "Property" or "Project" means the real property described on Exhibit A attached to this Declaration with all buildings and other Improvements located thereon, and all easements, rights and appurtenances belonging thereto.

1.20. "Purchaser" means any person who by means of a voluntary transfer becomes the Owner of a Lot.

1.21. "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

1.22. "Single Family Residential Use" means the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

1.23. "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

## **ARTICLE 2**

### **THE ASSOCIATION**

2.1 General Declaration Regarding Tamarac at Moon Valley. All real property

within Tamarac at Moon Valley 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, as amended or modified from time to time. This Declaration is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of Tamarac at Moon Valley and every part thereof. This Declaration shall run with all Lots, parcels and Association land for all purposes and shall be binding upon and inure to the benefit of the Association, all Owners, lessees and residents and their successors in interest

2.2 Rights, Powers and Duties. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in this Declaration. Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

2.3 Board of Directors and Officers. The affairs of the Association shall be conducted by a board of directors and such officers and committees as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

2.4 Association Rules. 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. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

2.5 Architectural Committee. The Board shall establish an Architectural Committee consisting of not less than three (3) members appointed by the Board to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board.

### ARTICLE 3

#### MEMBERSHIP

3.1 Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

3.2 Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

## ARTICLE 4

### VOTING RIGHTS

4.1 Voting Rights. All Members shall be entitled to one (1) vote for each Lot owned.

4.2 Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint 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 Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

4.3 Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner or chief executive officer of such corporation, partnership or association shall have the power to vote the membership.

4.4 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current, and for a period not to exceed 60 days for any infractions of the Project Documents.

## ARTICLE 5

### COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. The Association hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments, (2)

supplemental assessments, (3) special assessments for capital improvements and (4) any other Assessment set forth in this Declaration. These Assessments, together with late fees, interest, costs, all attorneys' fees incurred by the Association in connection with the enforcement and collection of said amounts or in otherwise enforcing this Declaration whether or not a lawsuit is filed, and interest on said amounts at a rate determined by the Board, shall be a charge and continuing lien upon the Lot against which each such Assessment is made and, in addition, said amounts shall be the personal obligation of the Owner of such Lot at the time when such payment becomes due and payable.

5.2 Annual Assessment. At least thirty (30) days in advance of each annual assessment period, the Board shall prepare and adopt a budget of the estimated common expenses for the next assessment period, including any contribution to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such common expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments and the amount to be generated through Assessments against the Lots. Based on the budget adopted by the Board, the Board shall assess against each Lot an annual assessment.

The Board shall give notice of the annual assessment to each Owner at least thirty (30) days prior to the beginning of each annual assessment period, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from its obligation to pay the annual assessment. If the Board fails to adopt a budget for any annual assessment period, then until and unless such budget is adopted and an annual assessment is levied by the Board for such annual assessment period, the amount of the annual assessment for the immediately preceding annual assessment period shall remain in effect. Unless approval or ratification of the budget or the annual assessment for any annual assessment period is required by law, neither the budget nor the annual assessment shall be required to be ratified or approved by the Members.

5.3 Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the upkeep, maintenance and improvement of the Common Area; for promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property; and for the performance and exercise by the Association of its rights, duties and obligations under the Project Documents.

5.4 Maximum Annual Assessment.

(a) Effective January 1, 2017, the maximum annual assessment for each Lot is twelve hundred dollars (\$1,200.00).

(b) The Board may, without a vote of the membership, increase the maximum annual assessment during each fiscal year of the Association by not more than twenty percent (20%) above the annual assessment established for the previous year.

(c) The maximum annual assessment may be increased by an amount greater than the maximum increase allowed pursuant to (b) above, only by a vote of at least two-thirds

(2/3) of the Members voting in person or by absentee ballot at a meeting duly called for such purpose.

(d) The Board may fix the annual assessment in any amount not in excess of the maximum annual assessment.

5.5 Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the Association, for any reason, including, without limitation, nonpayment of Assessments by the Members, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and prepare a supplemental budget and levy a supplemental assessment against each Lot in such amount as the Board deems necessary in order to obtain the amount of such inadequacies. Notice of any such supplemental assessment shall be given to each Owner. The supplemental assessment shall be paid on such dates and in such installments as may be determined by the Board. No supplemental assessment shall be levied by the Board until such assessment has been approved by Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by absentee ballot at a meeting duly called for such purpose.

5.6 Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by absentee ballot at a meeting duly called for such purpose.

5.7 Notice and Quorum for Any Action Authorized Under Sections 5.3, 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3, 5.4 or 5.5 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members eligible to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.8 Uniform Rate of Assessment. Annual, supplemental and special assessments must be fixed at a uniform rate for all Lots.

5.9 Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board may require that the annual assessment be paid in installments and in such event the Board

shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

5.10 Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment, or any installment of an assessment, not paid within fifteen (15) days after the Assessment, or the installment of the Assessment, first became due shall bear interest at the rate of twelve percent (12%) per annum beginning on the 16<sup>th</sup> day until paid in full. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due in an amount of ten percent (10%) or fifteen dollars (\$15.00), whichever is greater. . Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. The recording of this Declaration constitutes record notice and perfection of the Association's Assessment lien. The Association's lien shall have priority over all liens or claims except for tax liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and the liens which are specifically described in Section 5.11 of this Declaration.

Before enforcing collection of any delinquent amounts owed the Association the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments together with late fees, interest and reasonable attorneys' fees and costs, if any. Said demand shall state the date and amount of the delinquency. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full.

The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving any lien securing any such delinquent Assessments or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

5.11 Subordination of the Lien to Mortgages. The lien of the Association for delinquent Assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

5.12 Exemption of Owner. No Owner of a Lot may exempt himself from liability for annual, supplemental or special assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities or by the abandonment of his Lot.

5.13 Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area.

5.14 No Offsets. All Assessments shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

5.15 Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Lot shall pay to the Association, immediately upon becoming the Owner of the Lot, a sum equal to two months' Annual Assessment on his Lot. Such amount shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

## ARTICLE 6

### PERMITTED USES AND RESTRICTIONS

6.1 Residential Use. All Lots shall be used, improved and devoted exclusively to Single Family Residential Use. No trade or business may be conducted on any Lot, except that the Owner, lessee or other resident may conduct a business activity within the residence on the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (b) the business activity is a legal activity and conforms to all applicable zoning ordinances and requirements herein; (c) the business activity does not involve persons coming to the Lot to purchase goods or services or the door-to-door solicitation of Owners, lessees or residents; (d) the use of the residence for trade or business in no way destroys or is incompatible with the residential character of the residence or the surrounding neighborhood; (e) the trade or business is conducted only inside the residence; (g) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or be in excess of what is customary in a residential neighborhood; (h) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (i) the use of the residence for a trade or business does not violate any other provision of the Project Documents.

The terms "business" and "trade" as used in this Section shall be construed to have 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: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is

required for such activity. The leasing of a residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

6.2 Animals. No more than four (4) generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be Visible from Neighboring Property. It shall be the responsibility of such Owner, lessee or guest to remove immediately any droppings from pets. No dog, cat or other pet shall be permitted to run at large, and each dog, cat or other pet shall be confined entirely to an owners' Lot except that a dog, cat or other pet shall be permitted to leave an owner's Lot if such dog, cat or other pet is at all times kept on a leash and is under the direct control of the Owner.

6.3 Antennas. No antenna, satellite television dish antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

6.4 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 or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No structure, landscaping or other Improvement shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities or which may change the direction or flow of drainage channels in such easement areas or which may obstruct or retard the flow of water through drainage channels in such easement areas. Such public utility easement areas, and all improvements thereon, shall be maintained by the Owner of the Lot on which the easement area is located unless such easement area is to be maintained by the utility company or a county, municipality or other public authority.

6.5 Temporary Occupancy. No trailer, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time for a residence on any Lot, either temporary or permanent. Temporary buildings or structures used during the construction or renovation of a residence or other structure on a Lot shall be removed immediately after the completion of construction or renovation.

6.6 Vehicles. Private, non-commercial, passenger automobiles or pickup trucks, which, when including all attachments (including, without limitation, racks and shells), do not exceed 3/4 ton in carrying load or cargo capacity, seven (7) feet in height or eighteen (18) feet in length ("Allowed Vehicles"), shall be parked within a garage wherever and whenever such facility is sufficient to accommodate the number of vehicles on a Lot or shall be parked as allowed herein below. No other vehicle (including, but not limited to, mobile homes, motor homes (mini or standard size), boats, boat trailers, recreational vehicles, tent trailers, trailers, all

terrain vehicles, buses, campers, camper shells, commercial vehicles, or vehicles exceeding  $\frac{3}{4}$  ton in carrying load or cargo capacity, seven (7) feet in height or eighteen (18) feet in length shall be kept, placed, or maintained upon the Property or any roadway adjacent thereto, except: (a) completely parked or maintained within a garage; or (b) in such areas and subject to such rules and regulations as the Board may designate and adopt in its sole discretion (and the Board in its sole discretion may prohibit such other vehicles and equipment completely).

No vehicle (including, but not limited to, those enumerated in the preceding sentences) shall be constructed, reconstructed or repaired on the Property or a Lot, with the exception of emergency vehicle repairs, and no motor vehicle of any kind, which is not in operating condition, shall be parked on the Property or a Lot so as to be Visible From Neighboring Property.

At no time may a vehicle be parked on a driveway or in a manner that blocks a sidewalk or violates any state or local ordinance or law. A non-Allowed Vehicle may not be parked in a garage if it requires the Owner to park a vehicle on the street or elsewhere in the Property. If an Owner owns more than two (2) Allowed Vehicles, the additional Allowed Vehicle must be registered with the Association and may be parked on the Common Area street so long as such Allowed Vehicle is not being stored on the Common Area and only if the Owner's garage is occupied by two (2) Allowed Vehicles. An Allowed Vehicle shall be deemed to be stored on the Common Area street if it: (i) is covered by a car cover, tarp or other material; (ii) has not been moved from its location for seven (7) consecutive days; (iii) lacks an engine or other parts necessary to render the Vehicle operable; (iv) has expired license tags; or (v) has one (1) or more flat tires for any three (3) consecutive days.

The Board shall have the right and power to adopt rules and regulations governing vehicles and the parking of vehicles on Lots and the Common Area and implementing the provisions of this Section. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board, the provision of this Section shall control.

The Board shall have the right to have any vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of this Declaration or Association Rules towed away at the sole cost and expense of the owner of the vehicle or equipment. If the owner of a towed vehicle is not an Owner in the Association and the Association directly incurs any expense because such towing charges were not collected from the vehicle owner for any reason, the Association may seek reimbursement for such expenses from the Owner whose occupant, guest, lessee, or invitee improperly parked the towed vehicle. Any expense incurred by the Association in connection with the towing of any vehicle shall be paid to the Association upon demand to the owner of the vehicle. If the vehicle is owned by an Owner, any amounts payable to the Association shall be secured by the Assessment lien, and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments.

6.7 Nuisances. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupant. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles,

bells or other sound devices, except fire detection and security devices used exclusively for such purposes, shall be located, used or placed on any property.

6.8 Repair of Buildings. No building, landscaping or other Improvement upon any Lot shall be permitted to fall into disrepair, and each such building, landscaping or other Improvement shall at all times be kept in good condition and repair by the Owner thereof.

6.9 Trash Containers and Collection. No garbage, rubbish or trash shall be placed or kept on any Lot except in covered containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No incinerators shall be kept or maintained on any Lot.

6.10 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot unless they are erected, placed or maintained in such a manner as to not be Visible From Neighboring Property.

6.11 Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of twelve (12) feet.

6.12 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a residence, appurtenant structures, or other Improvements or approved by the Architectural Committee.

6.13 Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner.

6.14 Signs. No signs whatsoever (including, but without limitation, commercial, political, "for sale," "for rent" and similar signs) shall be erected or maintained on any Lot except:

- (a) One residential identification sign with a total face area of eighty square inches or less;
- (b) Such signs as may be required by legal proceedings;
- (c) One "for sale" or "for rent" sign with a total face area of three square feet or less; and

- (d) Any other sign allowed pursuant to Arizona Revised Statute §33-1808.

6.15 Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals or any kind, gravel, earth, or any earth substance of any kind and no derrick or other equipment designed or intended for any such activity shall be erected, placed, constructed or maintained on any Lot.

6.16 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property which could induce, breed or harbor infectious plant diseases or noxious insects.

6.17 Improvements and Alterations. All Improvements constructed on Lots within the Project shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot. No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, from their appearance on the date the Lot was conveyed by the Declarant to a Purchaser shall be made or done without the prior written approval of the Architectural Committee. Any Owner desiring approval of the Architectural Committee for any addition, alteration, repair, change or other work which alters the exterior appearance of his Lot, or the Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within sixty (60) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval will not be required and this Section will be deemed to have been complied with by the Owner who had requested approval of such plans. The approval by the Architectural Committee of any addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar addition, alteration, repair, change or other work subsequently submitted for approval. Upon receipt of approval from the Architectural Committee for any addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

6.18 Common Walls. The rights and duties of Owners of Lots with respect to common walls shall be as follows:

- (a) The Owners of contiguous Lots who have a common wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

(b) In the event that any common wall is damaged or destroyed through the act of an Owner, it shall be the obligation of such Owner to rebuild and repair the common wall without cost to the other Owner or Owners;

(c) In the event any such common wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense

(d) Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes any common wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title;

(f) In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the adjoining Owners;

(g) In the event any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots which share such common wall.

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

6.20 Fuel Tanks. No fuel tanks of any kind shall be erected, placed or maintained on the Property except for propane or similar fuel tanks permitted under the ordinances of the City of Phoenix, Arizona.

6.21 Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows of any residence or other structure without the prior written approval of the Architectural Committee. No enclosures, drapes, blinds, shades, screens, awnings or other items affecting the exterior appearance of a residence or other structure shall be constructed or installed in any residence or other structure without the prior written consent of the Architectural Committee.

6.22 HVAC and Solar Panels. No heating, air conditioning, evaporative cooling, or water heating units shall be placed, constructed or maintained upon any Lot in such a manner as to be Visible From Neighboring Property. The Association may adopt reasonable rules and

regulations regarding the placement of solar energy devices in conformance with Arizona Revised Statute §33-1816. These rules and regulations may govern the color, shape and design of any solar energy device.

6.23 Garages and Driveways. The interior of all garages or carports situated on any Lot shall be maintained in a neat, clean and sightly condition. Garages and carports shall be used only for parking of vehicles and the storage of normal household supplies and materials and shall not be used or converted for living quarters or recreational activities without the prior written approval of the Architectural Committee. All driveways shall be concrete construction. Garage doors shall be left open only as needed for ingress and egress.

## ARTICLE 7

### EASEMENTS

7.1 Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary poles and other necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

7.2 Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Owners, and their family, guests, tenants and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

7.3 Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any Lot, excluding the interior of any residence located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Committee Rules are being complied with by the Owner of said Lot.

7.4 Association's Easement For Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and for performing all of the Association's other rights, duties and obligations under the Project Documents.

## ARTICLE 8

### PROPERTY RIGHTS

8.1 Owners' Easement of Enjoyment. Every Owner, and each person residing with such Owner, shall have a right and easement of enjoyment in and to the Common Area. Said easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) the right of the Association to adopt reasonable rules and regulations governing the use of the Common Area and all facilities located thereon;

(b) the right of the Association to charge reasonable admission and other fees for the use of any clubhouse or recreational facility situated upon the Common Area;

(c) the right of the Association to suspend the voting rights and the rights of an Owner to use the recreational facilities located on the Common Area for any period during which any Assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Project Documents;

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no such dedication or transfer shall be effective unless evidenced by an instrument signed by at least two-thirds (2/3) of each class of Members;

8.2 Lessees. If a Lot is leased or rented by the Owner thereof, the lessee and the members of his family and individuals residing with such lessee shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

8.3 Guests and Invitees. The guests and invitees of any Member or other person entitled to use the Common Area pursuant to Section 8.1 above or of any lessee who is entitled to use the Common Area pursuant to Section 8.2 above may use the Common Area provided they are accompanied by a Member, lessee or other person entitled to use the Common Area pursuant to Section 8.1 or 8.2 above. The Board shall have the right to limit the number of guests and invitees who may use the Common Area at any one time and may restrict the use of the Common Area by guests and invitees to certain specified times.

8.4 Limitations. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement of enjoyment.

## ARTICLE 9

### MAINTENANCE

9.1 Maintenance of Common Area by the Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area):

(b) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area:

(c) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(d) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

9.2 Exterior Maintenance By Association. The Association shall maintain, repair and replace (a) the front yard of each Lot with the exception of the planted area between the entry sidewalk and the side of the home; (b) the grass, plants, trees, granite and sprinkler systems in the aforementioned front yard areas on each Lot; and (c) the exterior paint on the buildings located on the Lots. In the event the need for maintenance, repair or replacement of any portion of the Lots which are being maintained by the Association pursuant to this Section is caused by the willful or negligent act of an Owner, his family, guests, invitees or animals for whom he is legally responsible under Arizona law, the Owner shall be legally responsible to cause the necessary maintenance or repairs to be performed within thirty (30) days. In the event the necessary maintenance or repairs are not made, the Association shall cause the maintenance or repair to be performed, and the cost of such maintenance or repair shall be levied against such Owner, and his Lot, by the Association and may be collected in the manner provided for elsewhere in this Declaration for the collection of Assessments.

9.3 Maintenance of Lots by Owners. Each Owner shall be solely responsible for the maintenance, repair and replacement of his Lot, and the residence and all Improvements located thereon (including, but not limited to, the roofs of the residence and other structures situated on his Lot) except for those landscaping improvements which the Association is obligated to maintain pursuant to Section 9.2 of this Declaration.

9.4 Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefore under Arizona law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.5 Nonperformance by Owners. In the event any portion of any Lot is maintained so as to present a nuisance, or substantially detract from or affect the appearance or quality of any neighboring Lot or other area, or is used in a manner which violates this Declaration, or in the event the Owner of any Lot fails to perform its obligation under this Declaration or Association Rule, the Board may give notice to the Owner of such Lot that unless specified corrective action is taken within a specified time period the Board may take, at such Owner's cost, whatever action is appropriate to compel compliance including, without limitation, appropriate legal action. The Association shall also have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner. If at the expiration of the specified time period the requisite corrective action has not been taken, the Board shall be authorized and empowered, at its sole discretion, to cause corrective action to be taken or to commence appropriate legal action and the cost of any such action taken or work performed, including any court costs or attorney's fees incurred by the Association, shall be paid for by the Owner of the Lot, upon demand from the Association, and such amounts shall be an Assessment and secured by a lien upon the Owner's Lot and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

9.6 Payment of Utility Charges. Each Lot shall be separately metered for water, sewer and electrical service and all charges for such services shall be the sole obligation and responsibility of the Owner of each Lot. The cost of water, sewer and electrical service to the Common Area shall be a common expense of the Association and shall be included in the budget of the Association.

## **ARTICLE 10**

### **INSURANCE**

10.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a person, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%)

of the current. replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy;

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner and provide coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party;

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(d) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

(e) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(1) That there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household;

(2) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;

(3) That the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;

(4) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;

(5) The Association shall be named as the Insured;

(6) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

(f) If there is a steam boiler in connection with the Common Area, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location;

(g) If the Property is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended;

(h) "Agreed Amount" and "Inflation Guard" endorsements.

10.2 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

10.3 Fidelity Bonds. (a) The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of fidelity bond maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, (iii) the sum equal to three months assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

(i) The fidelity bonds shall name the Association as an obligee;

(ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;

(iii) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association and each First Mortgagee.

(b) The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to Subsection (a) of this Section. The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

10.4 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association.

10.5 Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for his own benefit and at his own expense covering his Lot, and all Improvements and personal property located thereon. Each Owner shall also be responsible for obtaining at his expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of his Lot.

10.6 Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 10.7 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area. With respect to any loss to any Lot, or the Improvements located thereon, which is covered by property insurance obtained by the Association, the loss shall be adjusted with the Owner of said Lot and the proceeds shall be payable to said Owner and any holders of liens on said Lot as their interest may appear.

10.7 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

## ARTICLE 11

### GENERAL PROVISIONS

11.1 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

11.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be terminated at any time by the written approval or the affirmative vote of Owners representing not less than ninety percent (90%) of the Lots. Any termination of this Declaration shall be evidenced by a Declaration of Termination signed by the President or Vice President of the Association and recorded with the County Recorder of Maricopa County, Arizona.

11.4 Amendment.

(a) Except for amendments which may be executed by the Board pursuant to Subsection (b) of this Section, the Declaration or the Plat may only be amended by the written approval, the affirmative vote, or a combination of both of a majority of Owners of the Lots.

(b) The Board may amend this Declaration or the Plat, without obtaining the approval or consent of any Owner, in order to conform this Declaration or the Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required by law.

(c) Any amendment approved pursuant to Subsection (a) above or by the Board pursuant to Subsection (b) above shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Maricopa County, Arizona. Any such amendment shall certify that the amendment has been approved as required by this Section.

11.5 Violations and Nuisance. Every act or omission whereby any provision of this Declaration 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 the Association or any Owner.

11.6 Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

11.7 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

11.8 Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to an Owner, to the address of his Lot or to any other address last furnished by the Owner to the Association; provided, however, that any such address may be changed at any time by the party concerned by recording a written

notice of change of address and delivering a copy thereof to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

11.9 Binding Effect. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. The Association, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

11.10 Management Agreements. Any agreement for professional management of the Association shall not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or less written notice.

11.11 Gender. The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

11.12 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or this Declaration.

11.13 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with such membership and the covenants and obligations incident thereto.

11.14 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, the provisions of this Declaration shall prevail.

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

11.16 Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year first above written. The undersigned hereby certifies that the foregoing Declaration has been approved by the required percentage of Owners as set forth in the Original Declaration.

DATED this 24th day of July, 2017.

TAMARAC AT MOON VALLEY OWNERS ASSOCIATION, an Arizona nonprofit corporation

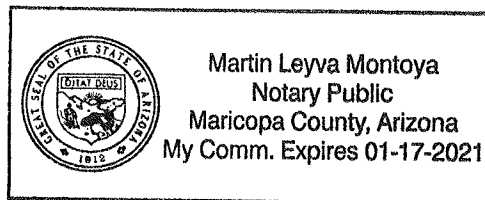
By: M. E. Bartlett  
Title: President

State of Arizona        )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this 24<sup>TH</sup> day of July, 2017, by Mary Earline Bartlett, the President of the Tamarac at Moon Valley Owners Association, an Arizona nonprofit corporation, on behalf of the Association.

Martin Leyva Montoya  
Notary Public

My Commission Expires: 01/17/2021



## **EXHIBIT A**

Lots 1 through 121 and Tracts A, B, C, D, E and F, TAMARAC AT MOON VALLEY, according to the plat recorded in Book 286 of Maps, page 44, records of Maricopa County, Arizona.