

Hieroglyphic Trails

Homeowners Association

CC&R's



Hieroglyphic Trails Homeowners Association
P.O. Box 5720
Mesa, AZ 85211

PREFERRED COMMUNITIES
"LOVING WHERE YOU LIVE."



(B)
WHEN RECORDED, RETURN TO:

W. Ralph Pew
W. Ralph Pew, P.C.
10 West Main Street
Mesa, Arizona 85201



OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLE

DATE: 11/21/00 TIME: 1550
FEE : 36.00
PAGES: 31
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**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HIEROGLYPHIC TRAILS**

This Declaration of Covenants, Conditions and Restrictions (hereinafter termed the "Declaration") is made on this 14 day of NOVEMBER, 2000, by Horse Whisperer Properties, L.L.C., an Arizona limited liability company, (hereinafter sometimes termed "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the Owner of the real property located in Pinal County, Arizona, which is described on Exhibit "A" (the "Covered Property") attached hereto.

WHEREAS, the Covered Property shall be developed as a secured community with a "limited access" security gate, private streets, and a perimeter wall/fence.

NOW, THEREFORE, Declarant hereby declares that all of said real property (hereinafter sometimes referred to as Hieroglyphic Trails) shall be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions contained in this Declaration which are for the purpose of protecting the value and desirability of, and which shall run with said real property, and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

Section 1.12. "Lot" shall mean any parcel of real property designated as a Lot on the Plat.

Section 1.13. "Member" shall mean any person, corporation, partnership, joint venture, or other legal entity that is an Owner of a Lot within the Property.

Section 1.14. "Owner" shall mean the record Owner, whether one (1) 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) the Purchaser of a Lot under an executory contract for the sale of real property, (ii) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (iii) a lessee or tenant of a Lot. 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 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 any such trust shall be deemed to be the Owner.

Section 1.15. "Plat" shall mean the Final Plat of the Project, which Plat was recorded with the County Recorder of Pinal County, Arizona on June 14, 2000 as "Hieroglyphic Trails" in the official records of Pinal County in Cabinet C, Slide 134, Records of Pinal County, Arizona.

Section 1.16. "Project Documents" shall mean this Declaration and the Articles, Bylaws, and Association Rules.

Section 1.17. "Property" or "Project" shall mean the real property described on Exhibit A attached to this Declaration.

Section 1.18. "Purchaser" shall mean any person other than the Declarant who by means of a voluntary transfer acquires a legal or equitable interest in a Lot other than (a) a leasehold interest (including renewable options) of less than five (5) years or (b) as security for an obligation.

Section 1.19. "Single Family" shall mean a group of one (1) 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 not to exceed three (3) in number, who maintain a common household in a dwelling.

Section 1.20. "Single Family Residential Use" shall mean 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.

Section 1.21. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is, or would be, visible to a person six (6) 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

Section 2 1. 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.

Section 2.2. 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

Section 2.3. 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.

ARTICLE 3

MEMBERSHIP

Section 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.

Section 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 voided and shall not be reflected upon the books and records of the Association.

ARTICLE 4

VOTING RIGHTS

Section 4.1. Classes of Members. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all owners of Lots, with the exception of the Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B Membership shall be all memberships held by the Declarant. The Declarant shall be entitled to three (3) votes for each Membership held by the Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When Seventy-Five Percent (75%) of the Lots are deeded to Owners;
or
- (b) When the Declarant notifies the Board of Directors of the Association in writing that Declarant expressly converts Declarant's remaining Class B Memberships to Class A Memberships; or

(c) January 1, 2024.

Section 4.2. Joint Ownership. When more than one (1) 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 (1) 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 (1) ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 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 power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership or association shall have the power to vote the membership, and if there is no chief executive officer, then the Board of Directors or general partner of such corporation, partnership or association shall designate who shall have the power to vote the membership.

Section 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 collection and/or attorneys, fees, are brought current, and for a period not to exceed sixty (60) days for any infractions of the Project Documents and for successive sixty (60) day periods if the infraction has not been corrected.

ARTICLE 5

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, 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, and (3) special assessments for capital improvements. The annual, supplemental, and special assessments, together with costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien of assessment is subordinate to the lien of a first mortgage. Each such assessment, together with costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of the Assessments. The assessments levied by the Association shall be used exclusively for the upkeep, maintenance, and improvement of the Common Area and such portions of the Lots, and such portions of the Improvements located thereon, as the Association is obligated to maintain under Sections 9.1 and 9.2 of this Declaration, and for promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property.

Section 5.3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum annual assessment for each Lot shall be Forty-Five and No/100 Dollars (\$45.00). Thereafter Assessment may be increased pursuant to Arizona Revised Statute section 33-1801 pertaining to planned communities.

Section 5.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any litigating the enforcement of the Declaration, construction, reconstruction, repair or replacement of capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such assessment shall have the assent of Members having at least two-thirds (2/3) if the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose, or a two-thirds (2/3) majority of each class as long as there is a Class B vote.

Section 5.5. Uniform Rate of Assessment. Annual, supplemental, and special assessments must be fixed at a uniform rate for all Lots. However, as long as there is a Class B membership, Declarant shall not be subject to assessments for Lots not sold to individual Purchasers, but instead shall be required to subsidize the Association until such

time as Declarant no longer holds any Class B. Memberships. When the Class B Memberships cease as prescribed in Article 4, Section 4.1, Declarant shall become a Class A Member and will be subject to assessment for each Lot owned by Declarant. The Owner of a Lot shall pay twenty-five percent (25%) of the Annual Assessment amount until six (6) months following commencement of construction. The one hundred percent (100%) assessment permanently attaches upon initial occupancy regardless of its state of occupancy thereafter.

Section 5.6. 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 shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. 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.

Section 5.7. Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each person or entity, with the exception of the Declarant, who purchases a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a capital Accumulation Fee of One Hundred and No/100 Dollars (\$100.00) which shall be deposited into the Association's general fund. Payments made pursuant to this Section shall be non-refundable and shall not be offset or credited against or considered as advanced payment of any assessments levied by the Association pursuant to this Declaration.

Section 5.8. Transfer Fee. Each person or entity other than Declarant or a builder who purchases a Lot from a person or entity other than the Declarant or a builder' shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board.

Section 5.9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment, or any installment of an assessment, not paid within thirty (30) days after the assessment, or the installment of the assessment, first became due shall bear a monthly late charge to be set by the Board. 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 lien shall be perfected by the recording of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2) legal description, street address and number of the Lot against which the lien is made, (3) the amount claimed as of the date of the recording of the notice including lien recording fees, late charges and reasonable attorneys' fees, and (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recording of the Notice of Claim of Lien 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 5.1 of this Declaration.

Before recording a lien against any Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent assessments, together with late charges and reasonable attorneys' and collection fees, if any. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. 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, lien fees, late charges and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with lien fees, late charges, reasonable attorneys and collection 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 at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage. 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 or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments that 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.

Section 5.11. 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.

ARTICLE 6

PERMITTED USES AND RESTRICTIONS

Section 6.1. Scope. Except as otherwise specified, the provisions of this Article shall apply to all of the Property.

Section 6.2. Residential Use. All Lots shall be used, improved, and devoted exclusively to Single Family Residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted on any Lot. Nothing herein shall be deemed to prevent the leasing of a Lot to a Single Family from time to time by the Owner thereof, subject to all of the provisions of the Project Documents. Any Owner who leases his Lot shall promptly notify the Association and shall advise the Association of the term of the lease and the name of each lessee. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property without the prior written approval of the Board.

Section 6.3. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any property 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. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable to the same extent as other restrictions contained in this Declaration.

Section 6.4. Utility Service. Except as approved in writing by the Board, 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 property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Board. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incidental to the construction of buildings or structures approved by the Board.

Section 6.5. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time, on any portion of the Property, for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such property shall be removed immediately after the completion of construction.

Section 6.6. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property, 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 nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such property.

Section 6.7. Trash Containers and Collection. No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style that are approved by the Board. 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. The Board shall have the right to require all Owners to place their garbage or trash containers at a specific location for collection or to require all Owners to subscribe to a trash collection service. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

Section 6.8. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any property so as to be Visible From Neighboring Property.

Section 6.9. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any property except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a residence, appurtenant structures, or other Improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Property.

Section 6.10. Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board.

Section 6.11. Signs. No signs whatsoever (including, but not limited to, commercial advertising and similar signs) shall be erected or maintained anywhere on the Property including but not limited to, the inside or outside of windows in any building located on the Property, except such signs as may be required by legal proceedings or otherwise approved herein. The use of "For Sale" or "For lease" signs is subject to approval by the Board except as provided in Section 6.13 herein.

Section 6.12. Declarant's Exemption. Notwithstanding any other provision of the Project Documents, it shall be expressly permissible for the Declarant or its duly authorized agents, employees, and representatives to maintain during the period of the sale of Lots, such facilities, structures, and signs as are necessary or convenient, in the sole opinion of the Declarant, to the sale of the lots, including, but without limitation, a business office, storage area, construction yards, homes, and sales offices; provided, however, that such use of the Common Area by the Declarant must be reasonable and must not interfere with any Owner's use and enjoyment of the Common Area.

Section 6.13. Mineral Exploration. No property shall be used in any manner to explore for, or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 6.14. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property that shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 6.15. Trash and Debris. Each Owner of a Lot, when installing or constructing Improvements on the Lot, shall provide a place for the daily collection and storage of trash and debris and will remove such trash and debris on a reasonable schedule. No Owner of a Lot will allow any nuisance to occur on his Lot or adjacent to his Lot other than the reasonable result of construction activity. The Board shall be the sole judge as to whether or not undue nuisance is occurring and upon notice from the Board to the Lot Owner, any such nuisances identified by the Board shall be corrected.

Section 6.16. Repair of Building. No building or structure on any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required within this Declaration, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

Section 6.17. Overhead 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 eight (8) feet without the prior written approval of the Board.

Section 6.18. Trucks, Trailers, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding 1-ton, mobile home, travel trailer, motor home, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, all-terrain/off-road vehicles and trailers, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street in Hieroglyphic Trails so as to be Visible From Neighboring Property, the Common Areas or the Streets; provided, however, the provisions of this Section shall not apply to pickup trucks of 1-ton or less capacity with camper shells not exceeding 7 feet in height measured from ground level and mini-motor homes not exceeding 7 feet in height and 18 feet in length which are parked as provided in Subsection 6.20 below and are used on a regular and recurring basis for basic transportation.

Section 6.19. Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or have major repairs upon any Lot or street in Hieroglyphic Trails, and no inoperable vehicle, including but not limited to vehicles with flat tires may be stored or parked on any such Lot or street so as to be visible from Neighboring Property or to be visible from Common Areas or streets; provided however, that the provisions of this section shall not apply to emergency vehicle

repairs; reasonable vehicle maintenance; vehicle repair that is not visible from Neighboring Property or visible from Common Areas or streets; or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved in writing by the Board.

Section 6.20. Parking. It is the intent of the Developer to restrict On-Street parking as much as possible. Vehicles of all Owners, Lessees and Residents, and of their employees, guests and invitees, are to be kept in garages, carports, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot; provided, however, this Section shall not be construed to permit the parking in the above described areas of any vehicle whose parking within Hieroglyphic Trails is otherwise prohibited or the parking of any inoperable or unlicensed vehicle.

Section 6.21. Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot, any member of the Architectural Committee, any member of the Board, or any authorized representative of either of them, shall have the right to enter upon and inspect any Lot, and the improvements thereon, except for the interior portions of any completed residence, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 6.22. Health, Safety and Welfare. In the event additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or residents, the Board may make rules restricting or regulating their presence at Hieroglyphics Trails as part of the Association Rules

Section 6.23. Exterior Paint. The exterior paint and trim color of any residence within the Project may not be changed without the prior written approval of the Architectural Control Committee.

Section 6.24. Landscaping. Each Owner of a Lot shall install and substantially complete the landscape in the front of the Dwelling Unit and any other areas of the Lot which are Visible From Neighboring Property or visible from common areas within three (3) months of occupancy of the Lot. Grass lawns shall be prohibited on the front and sides of the Dwelling Unit and shall be permitted only in the rear of the Dwelling Unit. All landscaping plans shall be submitted to the Architectural Committee for written approval prior to commencement of the landscaping. The landscaping plan shall limit the plants to only those plants that are indigenous to the natural desert environment of the

surrounding area (which may include, but shall not be limited to, cacti, palo verde, mesquite, ironwood, sage and other bushes and shrubbery, and grasses). If any Owner does not install and complete approved landscaping within the three (3) month period described, the Developer, or the Architectural Committee, after giving the Owner thirty (30) days' written notice to cure any such default, shall have the right to cause the necessary landscaping work to be done and the Owner in default shall be responsible for the cost thereof and the parties expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended together with interest thereon at the rate of twelve percent (12%) per annum until paid.

Section 6.25. Sports and Recreation Equipment; Basketball Hoops. No structure, equipment or apparatus Visible From Neighboring Property or from the street shall be permitted without prior approval of the Developer or the Architectural Committee, including but not limited to, sport courts, exercise equipment, and children's playground equipment. Location of any swimming pool, if Visible From Neighboring Property, shall be approved by the Developer or the Architectural Committee. No basketball hoops may be mounted on the roofs or attached to a residence. No basketball hoops may be temporarily placed on any sidewalks, streets or other common areas. Portable basketball hoops may be permitted on the condition that they are stored so as not to be Visible From Neighboring Property when not in immediate use.

Section 6.26. Single-Family Dwellings. Single-family dwellings constructed on any Lots shall be of permanent construction. Single-family dwellings shall have a minimum livable square footage (exclusive of carports, breezeways, garages, open patios, and/or porches) of 2,500 square feet. Single-family dwellings constructed on Lots 1 through 18, inclusive, shall be limited to single-story construction and shall be not more than twenty feet (20') in height above the street grade. All other single-family dwellings shall be limited to two-story construction and shall be not more than thirty feet (30') in height above the street grade. All structures shall be constructed of stucco, masonry, or any other material as shall be approved in writing by the Architectural Committee. All roofs shall be mission tile or other material approved in writing by the Architectural Committee. Air conditioning and heating equipment shall not be mounted on roofs. Model homes shall be subject to Architectural Committee approval, and to Pinal County building, and safety rules and regulations. Garages shall be at least 20' X 40' in size.

Section 6.27. Walls or Fences. Walls or Fences may be constructed on dividing lines between Lots and Common Areas, trails or streets, provided that the construction and material of the fence or wall permits visibility to the Lots, complies with the Architectural Guidelines, and provided that such wall or fence is approved in advance by

the Master Architectural Committee. The construction of said walls should not attach or connect in any fashion to the perimeter wall/fence of the Project. Walls and fences are prohibited in the front yard of a single-family dwelling unit. Any special requests for the construction of any type of wall or fence in the front yard, including minor entry walls, is subject to approval in writing by the Architectural Committee. The construction of side yard walls and fences is permitted within the building setback line.

Section 6.28. Model Homes. The provisions of this Declaration which prohibit non-residential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction of residential dwellings in Hieroglyphic Trails and parking incidental to the visiting of such model homes so long as the location and construction of such model homes are approved by the Architectural Committee prior to construction, the opening and closing hours are approved by the Board, and the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of Pinal County and any rules of the Architectural Committee. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or Builder thereof is not actively engaged in the construction and sale of single family residences of Hieroglyphic Trails and no home shall be used as a model home for the sale of homes not located at Hieroglyphic Trails.

Section 6.29. Lighting. Owners shall be permitted to install exterior lighting provided that the lighting is screened, non-mercury and approved in advance in writing by the Architectural Committee and complies with municipal, county and state rules and regulations with respect to the lighting designation for the Property. The Property is designated as a "Dark Sky" area by Pinal County.

Section 6.30 Architectural Control. No improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Property within Hieroglyphic Trails, or the improvements located thereon, from its natural and unimproved state existing on the date this Declaration is first recorded shall be made or done without prior written approval of the Architectural Control Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, or made without the prior written approval of the Architectural Control Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all

changes in the grade of Lots, shall be subject to the prior written approval of the Architectural Control Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Control Committee shall be made without prior written approval of the Architectural Control Committee.

ARTICLE 7

EASEMENTS

Section 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, sewers, gas, telephones, 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 facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

Section 7.2. Easement for Unintended Encroachments. In the event a wall, landscaping, or other approved Improvement on a Lot or the Common Area encroaches upon another Lot or the Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is hereby given and the right to determine whether such encroachment causes a significant adverse impact shall be determined by the Board upon request by either of the parties. When the Board makes such determination, that determination is binding on all parties.

Section 7.3. Wall or Fence Easement. There is hereby created an affirmative easement upon, over and across each Lot affected for reasonable ingress, egress, installation, replacement, maintenance and repair of a perimeter wall, fence or other boundary control for the Property.

Section 7.4. Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Declarant, 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.

Section 7.5. 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 those portions of the Lots which the Association is obligated to maintain under Article 9 of this Declaration.

Section 7.6. Use and Drainage Easements Among Owners. Wherever drainage, as estimated by the Declarant, flows from one (1) Lot under or through one (1) or more other lots, said drainage flow shall not be impeded, diverted, or otherwise changed. These easements shall include, but are not limited to, receiving the runoff from roofs and drainage under and through garden walls.

Section 7.7. Sight Visibility Easement. Specific sight visibility easements are set forth on the Hieroglyphic Trails Final Plat which affect Lots 1-18. Prospective Purchasers are encouraged to consult the Final Plat, which reflects the site visibility easement.

Section 7.8. Revegetation Easement. There is hereby created an affirmative, non-exclusive easement in favor of Declarant, each Builder and the Association, and its contractors and employees, to go upon any Lot to plant or seed, and to provide temporary maintenance for, indigenous vegetation (which may include, but shall not be limited to, cacti, palo verde, mesquite, ironwood, sage and other bushes and shrubbery, and grasses) on any areas of the Lot in order to (a) replant areas that prior to the date hereof were parts of roadways that have been abandoned or are otherwise not in use, or that were cleared, or partially cleared, of vegetation in the past for some other reason, or (b) maintain the aesthetic integrity of the Property; and to provide temporary water to such vegetation at the expense of the party causing the revegetation or restoration to be performed or at the expense of the Owner, as an individual charge, if the area was cleared by the Owner or Occupant of such Owner's Lot.

ARTICLE 8

PROPERTY RIGHTS

Section 8.1. Owners' Easement of Enjoyment. Every 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 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, except that the Board may make a dedication for transfer without consent of the Members, providing such transfer is of minimal value and causes no adverse impact to the Members;
- (c) the right of Declarant and its agents and representatives, in addition to the rights set forth elsewhere in this Declaration, to the non-exclusive use, without charge, of the Common Area for maintenance of sales facilities, and display and exhibit purposes.

Section 8.2. Delegation of Use. Any Owner may delegate, subject to this Declaration and the Association Rules, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times, and in accordance with reasonable Association Rules.

Section 8.3. 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 the Common Area.

ARTICLE 9

MAINTENANCE

Section 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) 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;
- (c) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (d) Do all such other and further acts that the Board deems necessary to preserve and protect the Common and the appearance thereof, in accordance with the general purposes specified in this Declaration.

Section 9.2. Exterior Maintenance By Association. In addition to the maintenance, repair and replacement of the Common Area and the Improvements located thereon, the Association shall maintain, repair and replace the landscaping and other Improvements on any area within, or immediately adjacent to, Hieroglyphic Trails, providing the Board agrees that such maintenance shall be in the best interest of all the Members and agrees to such maintenance in writing.

Section 9.3. Maintenance by Owners. Each Owner shall be solely responsible for that portion of the maintenance, repair and replacement of his Lot and Improvements that are not maintained by the Association as described in Sections 10.1 and 10.2.

Section 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. No Owner shall in any way interfere with the maintenance responsibilities of the Association, including, but not limited to, landscaping, street maintenance, and wall maintenance. Any expenses incurred by the Association by reason of any such act of an Owner, his grantees or assignees, shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor 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.

Section 9.5. Non-Performance by Owners. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of Hieroglyphic Trails which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates the Project Documents, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents with respect to the maintenance repair or replacement of the Improvements located on such Lot, the Board may, by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give written notice thereof to the Owner by mail to the mailing address of the Lot and make demand that corrective action be taken within fourteen (14) calendar days of the day of the notice. If at the expiration of the said fourteen (14) day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken, including but not limited to the hiring of an attorney to take action on behalf of the Board, whether by informal pre-suit action or by formal legal proceedings. The costs of any action taken by the Board as set forth herein, including but not limited to incidental and taxable costs, attorneys fees, and any fines assessed against any Owner shall be added to and become a part of the assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the assessment lien.

ARTICLE 10

ARCHITECTURAL AND LANDSCAPE CONTROL

Section 10.1. Establishment of Architectural Control Committee. The Declarant shall establish an Architectural Control Committee to perform the functions of the Architectural Control Committee set forth in this Declaration and shall adopt the procedural rules and regulations for the performance of such duties by the Architectural Control Committee, including procedures for the preparation, submission and determination of the application for any approvals required by this Declaration or any amendment thereto. The Architectural Control Committee shall consist of such number of regular members and alternate members as the Declarant may designate and such members shall be appointed by the Declarant. The appointees need not be architects, Owners, or Residents and do not need to possess any special qualifications of any type except such as the Declarant may, in its discretion, require. The Architectural Control Committee shall hold regular meetings, a quorum for such meeting shall consist of fifty percent (50%) of the regular members, and the concurrence of a majority of the quorum present, shall be necessary for any decision of the Architectural Control Committee. An alternate member, approved by the Declarant, may participate at any meeting at which there is not a quorum of regular members present, may constitute a quorum by his (their)

presence and shall have all of the authority of a regular member while so participating. The Architectural Control Committee shall promulgate architectural guidelines and standards to be used in rendering its decisions ("Architectural Guidelines"). Subject to the provisions of Subsection 2 of this Section, the decision of the Architectural Control Committee shall be final on all matters submitted to it pursuant to this Declaration.

Section 10.2. General Provisions.

- (a) The Architectural Control Committee may assess reasonable fees in connection with its review of drawings and specifications.
- (b) The Architectural Control Committee may delegate its review responsibilities for drawings and specifications, except final review and approval as may be required by the Architectural Guidelines, to one or more of its members or to the architectural consultants retained by the Architectural Control Committee. Upon such delegation, the interim approval or disapproval of drawings and specifications shall be equivalent to interim approval or disapproval by the entire Architectural Control Committee.
- (c) Any consent or approval of the Architectural Control Committee which is required under the Declaration shall not be effective unless it is in writing and signed by the Architectural Control Committee or the person to whom responsibility for the particular consent or approval has been delegated under this Section.

Section 10.3. Approval and Conformity of Drawings and Specifications.
No building, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained upon the Property, nor shall there be any addition to or change to the exterior of any residence or other structure or improvement upon a Lot, or to the landscaping, grading or drainage ways thereof, including, but not limited to, the painting (other than painting with the same color and type of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with drawings and specifications therefore which have been submitted to and approved by the Architectural Control Committee in accordance with the Architectural Guidelines as to harmony of external design and location in relation to surrounding structures and topography.

Section 10.4 Non-Liability for Approval of Drawings and Specifications.
DRAWINGS AND SPECIFICATIONS SHALL BE APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE AS TO STYLE, EXTERIOR DESIGN,

APPEARANCE AND LOCATION, AND ARE NOT APPROVED FOR ENGINEERING DESIGN OR FOR COMPLIANCE WITH ZONING AND BUILDING ORDINANCES. BY APPROVING SUCH DRAWINGS AND SPECIFICATIONS NEITHER THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER THEREOF, NOR ANY MEMBER, NOR THE BOARD, NOR ANY OFFICER OR DIRECTOR OF THE ASSOCIATION, NOR DECLARANT ASSUMES ANY LIABILITY OR RESPONSIBILITY THEREFOR, OR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH DRAWINGS AND SPECIFICATIONS. NEITHER THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER THEREOF, NOR THE ASSOCIATION, NOR ANY MEMBER, NOR THE BOARD, NOR ANY OFFICER OF THE ASSOCIATION, NOR DECLARANT SHALL BE LIABLE TO ANY OWNER OR OTHER PERSON FOR ANY DAMAGE, LOSS OR PREJUDICE SUFFERED OR CLAIMED ON ACCOUNTS OF (A) THE APPROVAL OR DISAPPROVAL OF ANY DRAWINGS AND SPECIFICATIONS, WHETHER OR NOT DEFECTIVE, (B) THE CONSTRUCTION OR PERFORMANCE OF ANY WORK, WHETHER OR NOT PURSUANT TO APPROVED DRAWINGS AND SPECIFICATIONS, (C) THE CHANGE IN THE SIZE, CONFIGURATION OR LOCATION OF ANY BUILDING OR THE CHANGING OF THE NATURAL GRADE OF ANY LOT, OR (D) THE EXECUTION AND FILING OF AN ESTOPPEL CERTIFICATE PURSUANT TO THE ARCHITECTURAL GUIDELINES, WHETHER OR NOT THE FACTS THEREIN ARE CORRECT; PROVIDED, HOWEVER, THAT SUCH ACTION, WITH THE ACTUAL KNOWLEDGE POSSESSED BY THE INDIVIDUAL ACTING, WAS TAKEN IN GOOD FAITH. APPROVAL OF DRAWINGS AND SPECIFICATIONS BY THE ARCHITECTURAL CONTROL COMMITTEE, OR THE APPROVAL OF ANY CHANGE IN THE SIZE, CONFIGURATION OR LOCATION OF ANY BUILDING, OR A CHANGE IN THE NATURAL GRADE OF ANY LOT IS NOT, AND SHALL NOT BE DEEMED TO BE, A REPRESENTATION OR WARRANTY THAT SAID DRAWINGS, SPECIFICATIONS OR CHANGES COMPLY WITH APPLICABLE GOVERNMENTAL ORDINANCES OR REGULATIONS INCLUDING, BUT NOT LIMITED TO, ZONING ORDINANCES AND BUILDING CODES.

Section 10.5. Additional Powers of the Architectural Committee. The Architectural Control Committee may promulgate as a part of the Architectural Guidelines such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with the Declaration or the Bylaws.

WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE ARCHITECTURAL CONTROL COMMITTEE MAY FIX A FINE OF UP TO \$10,000 FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM

THE ARCHITECTURAL CONTROL COMMITTEE OR FAILURE TO COMPLY WITH THE REQUIREMENTS OF SUCH APPROVALS OR SECTION 6.30 OF THE DECLARATION AND MAY REQUIRE SECURITY DEPOSITS TO ASSURE COMPLIANCE WITH DESERT RESTORATION AND OTHER REQUIREMENTS.

Prior to fixing such fine, the Architectural Control Committee shall notify the Owner by registered mail of its intent to fix the fine and provide Owner with twenty (20) days to request an opportunity to be heard before the Architectural Control Committee.

Section 10.6. Appeal. Any Owner or other Resident aggrieved by a decision of the Architectural Control Committee may appeal the decision to the Board in accordance with procedures to be established by the Board. Such procedures would include the requirement that the Applicant has modified the requested action or has new information, which would, in the opinion of a majority of the Board warrant reconsideration. If the Board fails to allow an appeal or if the Board, after appeal, rules in a manner aggrieving the Applicant, the decision of the Board is final.

Section 10.7. Appointment of Architectural Control Committee Members. Architectural Control Committee members are appointed by the Declarant and may be replaced at the discretion of the Declarant. Declarant's right to appoint Architectural Control Committee members shall cease and the Board shall be vested with that right and all other rights of the Declarant pertaining to the Architectural Control Committee as stated herein, on the date on which the Class B vote expires, at such time Declarant no longer owns any property at Hieroglyphic Trails, or when such right is expressly relinquished by Declarant to the Board in writing, whichever condition occurs first.

ARTICLE 11

INSURANCE

Section 11.1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to an individual Owner other than the Declarant, the Association shall maintain adequate insurance for Common Area liability to extend to those areas the Association may agree to maintain pursuant to Article 9 herein, officers and directors liability, committees appointed by the Board, property, fidelity and any other coverage deemed necessary by the Board.

Section 11.2. 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 canceled 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.

Section 11.3. 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.

Section 11.4. Owner's Responsibility. It is the responsibility of each Owner of a Lot to maintain insurance on his Lot and Improvements thereon.

ARTICLE 12

GENERAL PROVISIONS

Section 12.1. 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.

Section 12.2. Severability. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions that shall remain in full force and effect.

Section 12.3. 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.

Section 12.4. Amendment by Owners. This Declaration may be amended during the first twenty- (20) year period by an instrument signed by Owners representing not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners representing not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded.

Section 12.5. Amendment by Board. Notwithstanding anything to the contrary in this Declaration, the Board shall have the right, but not the obligation, to amend this Declaration, without obtaining the approval or consent of any other Owner or mortgagee, in order to conform the Declaration 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 other government or government approved agencies when such modification is required to qualify for the use of the services, insurance, or other guarantees provided by such agencies.

Section 12.6. 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 Declarant, the Association or any Owner.

Section 12.7. 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.

Section 12.8. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

Section 12.9. 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 (24) hours after a copy of it has been deposited in the United States mail, postage prepaid. 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.

Section 12.10. 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. Declarant, 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.

Section 12.11. Management Agreements. Any agreement for professional management of the Association, the Project, or any other contract providing for services of the Declarant, or other developer, sponsor or builder of the Project shall not exceed one (1) year.

Section 12.12. 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.

Section 12.13. 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.

Section 12.14. 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 incidental thereto.

Section 12.15. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, or Association Rules, the provisions of this Declaration shall prevail.

Section 12.16. Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Declaration, shall be joint and several.

Section 12.17. 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 offending Owner or other person or entity shall pay to the Association, upon demand, all attorney fees and court costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the assessment lien.

Section 12.18. Declarant's Right To Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one (1) or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

Section 12.19. FHA/VA Approval. If this Declaration has been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made on property in Hieroglyphic Trails which are insured or guaranteed by FHA or VA, then as long as there is a Class B membership, the following actions may require the prior approval of the FHA or VA, based on the then existing guidelines and procedures of FHA or VA or, unless the need for such approval has been waived by FHA or VA: (i) annexation of additional properties, (ii) mortgaging of the Common Area, and (iii) dedication of the Common Area except as required by zoning stipulations effective prior to the date hereof.

IN WITNESS WHEREOF, Horse Whisperer Properties, L.L.C., an Arizona limited liability company, has hereunto signed this instrument the date first written above.

Horse Whisperer Properties, L.L.C.
An Arizona Limited Liability Company

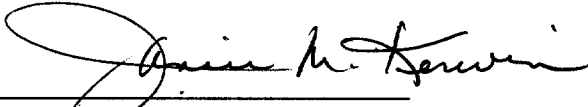
By: * Sue Birmingham member
By: Edward J Birmingham

State of ARIZONA)

) ss.

County of Pinal)

The foregoing instrument was acknowledged before me this 15 day of NOVEMBER 2000, by SUED. BIRMINGHAM AND [★] the Members of Horse Whisperer Properties, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.



Notary Signature

★ EDWARD J. BIRMINGHAM



Legal Description

EXHIBIT "A"

Lots 1 through 24, inclusive, Tracts A through G, inclusive, HIEROGLYPHIC TRAILS, according to Cabinet C, Slide 134, records of Pinal County, Arizona

OLD REPUBLIC TITLE AGENCY

WHEN RECORDED, RETURN TO:

③ Jamie A. Brody, Esq.
ANDERSON, BRODY, LEVINSON,
WEISER & HORWITZ, P.A.
4600 E. Shea Boulevard; Suite 100
Phoenix, Arizona 85028



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLE**

DATE/TIME: 02/19/04 1042
FEE: \$14.00
PAGES: 3
FEE NUMBER: 2004-011308

4722001284

**FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
HIEROGLYPHIC TRAILS, L.L.C.,
AN ARIZONA LIMITED LIABILITY COMPANY**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS is made and entered into as of this 30 day of January, 2004, by HIEROGLYPHICS TRAILS, L.L.C., an Arizona limited liability company, the successor-in-interest to HORSE WHISPERER PROPERTIES, L.L.C. (the "Declarant") and shall amend, supplement and modify those certain Declaration of Covenants, Conditions and Restrictions dated November 14, 2000, and recorded at Pinal County Recorder's office on November 21, 2000 at Recorder No. 2000-048502 (the "Declaration").

RECITALS:

WHEREAS, the Declaration was recorded on November 21, 2000 at Pinal County Recorder's Fee No. 2000-048502;

WHEREAS, Hieroglyphic Trails, L.L.C., an Arizona limited liability company, is the successor-in-interest to Horse Whisperer Properties, L.L.C., pursuant to a Purchase Agreement, dated July 30, 2003;

WHEREAS, the Declaration may be amended as the Owner of 90% of the Lots pursuant to Section 12.4 of the Declaration.

NOW, THEREFORE, the Declaration shall be amended as follows:

AGREEMENTS:

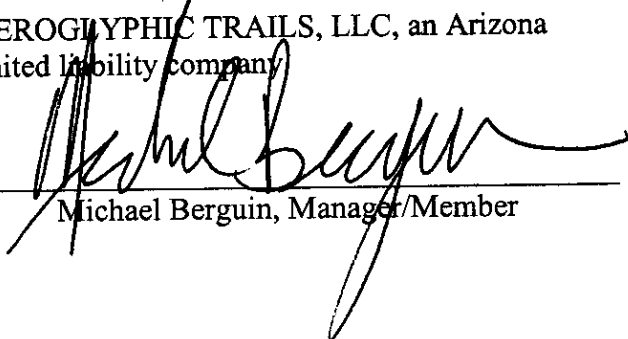
FIRST, Section 6.26 shall be amended to provide that the minimum livable square footage shall be 1,800 sq. ft.

**COURTESY RECORDING
NO TITLE CO. LIABILITY**

SECOND, except as amended, supplemented, and modified hereby, the Declaration of Covenants, Conditions, and Restrictions shall remain in full force and effect.

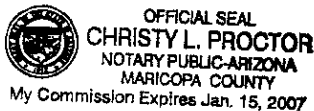
HIEROGLYPHIC TRAILS, LLC, an Arizona
limited liability company

By


Michael Berguin, Manager/Member

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 30th day of January, 2004, before me, a Notary Public, personally appeared Michael Berguin, the Manager/Member of Hieroglyphic Trails, LLC, an Arizona limited liability company, being authorized so to do, executed the foregoing instrument for the purposed therein contained.




Notary Public

My Commission Expires:

Jan. 15, 2007
337157\10344.54821

DESCRIPTION OF LAND:

Lots 1 through 7 inclusive, and 9 through 24, inclusive and Tracts A through G inclusive, HIEROGLYPHIC TRAILS, according to Cabinet C of Maps, Slide 134, records of Pinal County, Arizona.



OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLE

WHEN RECORDED, RETURN TO:

Donna Y. Ong
Anderson, Brody, Levinson, Weiser & Horwitz P.A.
4600 East Shea Blvd., Suite 100
Phoenix, Arizona 85028

DATE/TIME: 09/08/04 1558
FEE: \$36.00
PAGES: 27
FEE NUMBER: 2004-070455

**AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR HIEROGLYPHIC TRAILS**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hieroglyphic Trails (hereinafter termed the "**Restated Declaration**") is made on this 23rd day of August, 2004, by Hieroglyphic Trails, L.L.C., an Arizona limited liability company (hereinafter sometimes termed "**Declarant**").

WITNESSETH:

WHEREAS, the real property described on Exhibit "A" attached hereto is subject to that certain Declaration of Covenants, Conditions and Restrictions for Hieroglyphic Trails dated November 14, 2000 (the "**Original Declaration**"), and recorded in the Official Records of the Pinal County Recorder as Fee No. 2000-048502; and

WHEREAS, the Original Declaration as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions of Hieroglyphic Trails, L.L.C., an Arizona limited liability company, dated January 30, 2004 (the "**First Amendment**"), and recorded in the Official Records of the Pinal County Recorder as Fee Number 2004-011308 (the Original Declaration and the First Amendment are, from time to time, collectively known as the "**Declaration**"); and

WHEREAS, the Declarant is the Owner of a majority of the real property on Exhibit "A" attached hereto; and

WHEREAS, pursuant to Section 12.4 of the Original Declaration, the Declaration may be amended by Owners representing not less than ninety percent (90%) of the Lots; and

WHEREAS, the Declarant is the owner of more than 90% of the Lots; and

WHEREAS, Declarant desires to amend and restate the Original Declaration and the First Amendment in their entirety in order to clarify and modify certain of the terms and conditions of the Declaration; and

WHEREAS, the Property shall be developed as a secured community with a "limited access" security gate, private streets, and a perimeter wall/fence.

NOW, THEREFORE, Declarant hereby declares that the covenants, conditions, restrictions and terms of the Declaration are hereby amended and superceded in their entirety by the provisions of this Restated Declaration, and that all of said real property (hereinafter sometimes referred to as Hieroglyphic Trails) shall be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions contained in this Restated Declaration which are for the purpose of protecting the value and desirability of, and which shall run with said real property, and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I **DEFINITIONS**

Section 1.1 "Articles" shall mean 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.

Section 1.2 "Architectural Control Committee" shall mean the committee of the Association to be created pursuant to Article 10.

Section 1.3 "Association" shall mean "Hieroglyphic Trails Homeowners Association, Inc., an Arizona non-profit corporation".

Section 1.4 "Association Rules" shall mean the rules and regulations adopted by the Association, as the same may be amended from time to time.

Section 1.5 "Board" shall mean the Board of Directors of the Association.

Section 1.6 "Builder" shall mean a person or entity who is engaged in residential real estate development and who purchases one or more Lots from the Declarant for the purpose of constructing Improvements thereon for sale or lease.

Section 1.7 "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.8 "Common Area" shall mean all real property, and all Improvements located thereon, owned by the Association for the common use and enjoyment of the Owners.

Section 1.9 "Declarant" shall mean Hieroglyphic Trails, L.L.C., an Arizona limited liability company, its successors and any person or entity to whom it may expressly assign its rights under this Restated Declaration.

Section 1.10 "Declaration" shall mean the Original Declaration and the First Amendment, collectively.

Section 1.11 "Improvement" shall mean 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.

Section 1.12 "Lot" shall mean any parcel of real property designated as a Lot on the Plat.

Section 1.13 "Member" shall mean any person, corporation, partnership, joint venture, or other legal entity that is an Owner of a Lot within the Property.

Section 1.14 "Owner" shall mean the record Owner, whether one (1) 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) the Purchaser of a Lot under an executory contract for the sale of real property, (ii) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (iii) a lessee or tenant of a Lot. 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 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 any such trust shall be deemed to be the Owner.

Section 1.15 "Plat" shall mean the Final Plat of the Project, which Plat was recorded with the County Recorder of Pinal County, Arizona on June 14, 2000 as "Hieroglyphic Trails" in the official records of Pinal County in Cabinet C, Slide 134, Records of Pinal County, Arizona.

Section 1.16 "Project Documents" shall mean this Restated Declaration and the Articles, Bylaws, and Association Rules.

Section 1.17 "Property" or "Project" shall mean the real property described on Exhibit "A" attached to this Restated Declaration.

Section 1.18 "Purchaser" shall mean any person other than the Declarant who by means of a voluntary transfer acquires a legal or equitable interest in a Lot other than (a) a leasehold interest (including renewable options) of less than five (5) years, or (b) as security for an obligation.

Section 1.19 "Restated Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as same may from time to time be amended.

Section 1.20 "Single Family" shall mean a group of one (1) 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 not to exceed three (3) in number, who maintain a common household in a dwelling.

Section 1.21 "Single Family Residential Use" shall mean the occupation or use of a residence by a single family in conformity with this Restated Declaration and the requirements imposed by applicable zoning laws or other state, county, or municipal rules and regulations.

Section 1.22 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is, or would be, visible to a person six (6) 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**

Section 2.1 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 Restated 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 Restated Declaration.

Section 2.2 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.

SECTION 2.3 ASSOCIATION Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Restated 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 Restated 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.

ARTICLE 3 **MEMBERSHIP**

Section 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.

Section 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 voided and shall not be reflected upon the books and records of the Association.

ARTICLE 4 **VOTING RIGHTS**

Section 4.1 CLASSES OF MEMBERS. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all owners of Lots, with the exception of the Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B Membership shall be all memberships held by the Declarant. The Declarant shall be entitled to three (3) votes for each Membership held by the Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When Seventy-Five Percent (75%) of the Lots are deeded to Owners; or
- (b) When the Declarant notifies the Board of Directors of the Association in writing that Declarant expressly converts Declarant's remaining Class B Memberships to Class A Memberships; or
- (c) January 1, 2024.

Section 4.2 JOINT OWNERSHIP. When more than one (1) 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 (1) 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 (1) ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 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 power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership or association shall have the power to vote the membership, and if there is no chief executive

officer, then the Board of Directors or general partner of such corporation, partnership or association shall designate who shall have the power to vote the membership.

Section 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 collection and/or attorneys' fees, are brought current, and for a period not to exceed sixty (60) days for any infractions of the Project Documents and for successive sixty (60) day periods if the infraction has not been corrected.

ARTICLE 5

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned by it, 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, and (3) special assessments for capital improvements. The annual, supplemental, and special assessments, together with costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien of assessment is subordinate to the lien of a first mortgage or deed of trust, a second mortgage or deed of trust, and/or a home equity line of credit secured by the Lot. Each such assessment together with costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 5.2 PURPOSE OF THE ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the upkeep, maintenance, and improvement of the Common Area and such portions of the Lots, and such portions of the Improvements located thereon, as the Association is obligated to maintain under **Sections 9.1 and 9.2** of this Restated Declaration, and for promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property.

Section 5.3 MAXIMUM ANNUAL ASSESSMENT. Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum monthly assessment for each Lot shall be Thirty and No/100 Dollars (\$30.00). Thereafter, the assessment may be increased pursuant to Arizona Revised Statutes § 33-1801 pertaining to planned communities. The assessment described herein shall be due and payable in two (2) semi-annual payments on January 1 and July 1 of each calendar year, or in such other manner as the Board may require as set forth in **Section 5.6** below.

Section 5.4 SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that

fiscal year only for the purpose of defraying, in whole or in part, the cost of any litigating the enforcement of the Restated Declaration, construction, reconstruction, repair or replacement of capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such 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 proxy at a meeting duly called for such purpose, or a two-thirds (2/3) majority of each class as long as there is a Class B vote.

Section 5.5 UNIFORM RATE OF ASSESSMENT. Annual, supplemental, and special assessments must be fixed at a uniform rate for all Lots. However, as long as there is a Class B membership, Declarant shall not be subject to assessments for Lots not sold to individual Purchasers, but instead shall be required to subsidize the Association until such time as Declarant no longer holds any Class B Memberships. When the Class B Memberships cease as prescribed in Article 4, **Section 4.1**, Declarant shall become a Class A Member and will be subject to assessment for each Lot owned by Declarant.

Section 5.6 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 shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. 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.

Section 5.7 WORKING CAPITAL FUND. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each person or entity, with the exception of the Declarant, who purchases a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a capital Accumulation Fee of Two Hundred Fifty and No/100 Dollars (\$250.00) which shall be deposited into the Association's general fund. Payments made pursuant to this **Section 5.7** shall be nonrefundable and shall not be offset or credited against or considered as advanced payment of any assessments levied by the Association pursuant to this Restated Declaration.

Section 5.8 TRANSFER FEE. Each person or entity other than Declarant or a builder who purchases a Lot from a person or entity other than the Declarant or a builder shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board. In addition, any management company hired by the Association to manage the Association may also charge a transfer fee in such amount as is established by the management company, subject to the Board's prior approval.

Section 5.9 EFFECT OF NONPAYMENT OF ASSESSMENTS, REMEDIES OF THE ASSOCIATION. Any assessment, or any installment of an assessment not paid within thirty (30) days after the assessment, or the installment of the assessment, first became due shall bear a monthly late charge to be set by the Board, but not greater than the maximum amount permitted under Arizona law. 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 lien shall be perfected by the recording of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2) the legal description, street address and number of the Lot against which the lien is made, (3) the amount claimed as of the date of the recording of the notice including lien recording fees, late charges and reasonable attorneys' fees, and (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recording of the Notice of Claim of Lien 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 5.1** of this Restated Declaration.

Before recording a lien against any Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent assessments, together with late charges and reasonable attorneys' and collection fees, if any. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. 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 5.9** until all delinquent assessments, lien fees, late charges and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with lien fees, late charges, reasonable attorneys' and collection 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 at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 5.10 SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for in this Restated Declaration shall be subordinate to the lien of any first mortgage or deed of trust, second mortgage or deed of trust, or home equity line of credit secured by the Lot. 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 or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments that 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.

Section 5.11 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.

ARTICLE 6
PERMITTED USES AND RESTRICTIONS

Section 6.1 SCOPE. Except as otherwise specified, the provisions of this Article shall apply to all of the Property.

Section 6.2 RESIDENTIAL USE. All Lots shall be used, improved, and devoted exclusively to Single Family Residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted on any Lot. Nothing herein shall be deemed to prevent the leasing of a Lot to a Single Family from time to time by the Owner thereof, subject to all of the provisions of the Project Documents. Any Owner who leases his Lot shall promptly notify the Association and shall advise the Association of the term of the lease and the name of each lessee. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property without the prior written approval of the Board.

Section 6.3 ANIMALS. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any property and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No breeding of any animals shall be permitted. 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. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this **Section 6.3**, a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable to the same extent as other restrictions contained in this Restated Declaration.

Section 6.4 UTILITY SERVICE. Except as approved in writing by the Board, no lines, wires, or other devices for the communication of transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Board. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incidental to the construction of buildings or structures approved by the Board.

Section 6.5 TEMPORARY OCCUPANCY. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time, on any portion of the Property, for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such property shall be removed immediately after the completion of construction.

Section 6.6 NUISANCES. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property, 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 nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such property.

Section 6.7 TRASH CONTAINERS AND COLLECTION. No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style that are approved by the Board. 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. The Board shall have the right to require all Owners to place their garbage or trash containers at a specific location for collection or to require all Owners to subscribe to a trash collection service. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

Section 6.8 CLOTHES DRYING FACILITIES. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any property so as to be Visible From Neighboring Property.

Section 6.9 MACHINERY AND EQUIPMENT. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any property except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a residence, appurtenant structures, or other Improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Property.

Section 6.10 RESTRICTION ON FURTHER SUBDIVISION. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board.

Section 6.11 SIGNS. No signs whatsoever (including, but not limited to, commercial advertising and similar signs) shall be erected or maintained anywhere on the Property including but not limited to, the inside or outside of windows in any building located on the Property, except such signs as may be required by legal proceedings or otherwise approved herein. The use of "For Sale" or "For lease" signs is subject to approval by the Board except as provided in **Section 6.12** herein.

Section 6.12 DECLARANT'S EXEMPTION. Notwithstanding any other provision of the Project Documents, it shall be expressly permissible for the Declarant or its duly authorized agents, employees, and representatives to maintain during the period of the sale of Lots, such

facilities, structures, and signs as are necessary or convenient, in the sole opinion of the Declarant, to the sale of the lots, including, but without limitation, a business office, storage area, construction yards, homes, and sales offices; provided, however, that such use of the Common Area by the Declarant must be reasonable and must not interfere with any Owner's use and enjoyment of the Common Area.

Section 6.13 MINERAL EXPLORATION. No property shall be used in any manner to explore for, or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 6.14 DISEASES AND INSECTS. No Owner shall permit any thing or condition to exist upon any property that shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 6.15 TRASH AND DEBRIS. Each Owner of a Lot, when installing or constructing Improvements on the Lot, shall provide a place for the daily collection and storage of trash and debris and will remove such trash and debris on a reasonable schedule. No Owner of a Lot will allow any nuisance to occur on his Lot or adjacent to his Lot other than the reasonable result of construction activity. The Board shall be the sole judge as to whether or not undue nuisance is occurring and upon notice from the Board to the Lot Owner, any such nuisances identified by the Board shall be corrected.

Section 6.16 REPAIR OF BUILDING. No building or structure on any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required within this Restated Declaration, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

Section 6.17 OVERHEAD 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 eight (8) feet without the prior written approval of the Board.

Section 6.18 TRUCKS, TRAILERS, CAMPERS AND BOATS. No motor vehicle classed by manufacturer rating as exceeding 1-ton, mobile home, travel trailer, motor home, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, all-terrain/off-road vehicles and trailers, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street in Hieroglyphic Trails so as to be Visible From Neighboring Property, the Common Areas or the streets; provided, however, the provisions of this **Section 6.18** shall not apply to pickup trucks of 1-ton or less capacity with camper shells not exceeding seven (7) feet in height measured from ground level and mini-motor homes not exceeding seven (7) feet in height and eighteen (18) feet in length which are parked as provided in **Section 6.20** below and are used on a regular and recurring basis for basic transportation.

Section 6.19 MOTOR VEHICLES. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or have major repairs upon any Lot or street in Hieroglyphic Trails, and no inoperable vehicle, including but not limited to vehicles with flat tires, unlicensed vehicles, or vehicles with expired tags may be stored or parked on any such Lot or street so as to be Visible From Neighboring Property or to be visible from Common Areas or streets; provided however, that the provisions of this **Section 6.19** shall not apply to emergency vehicle repairs; reasonable vehicle maintenance; vehicle repair that is not Visible From Neighboring Property or visible from Common Areas or streets; or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved in writing by the Board.

Section 6.20 PARKING. It is the intent of the Developer to restrict on-street parking as much as possible. Vehicles of all Owners, lessees and residents, and of their employees, guests and invitees, are to be kept in garages, carports, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot; provided, however, this **Section 6.20** shall not be construed to permit the parking in the above described areas of any vehicle whose parking within Hieroglyphic Trails is otherwise prohibited or the parking of any inoperable or unlicensed vehicle.

Section 6.21 RIGHT OF ENTRY. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot, any member of the Architectural Control Committee, any member of the Board, or any authorized representative of either of them, shall have the right to enter upon and inspect the front yards of any Lot, and the improvements thereon, except for the interior portions of any completed residence and the back yards of any Lot, for the purpose of ascertaining whether or not the provisions of this Restated Declaration have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 6.22 HEALTH, SAFETY AND WELFARE. In the event additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or residents, the Board may make rules restricting or regulating their presence at Hieroglyphic Trails as part of the Association Rules.

Section 6.23 EXTERIOR PAINT. The exterior paint and trim color of any residence within the Project may not be changed without the prior written approval of the Architectural Control Committee.

Section 6.24 LANDSCAPING. Each Owner of a Lot shall install and substantially complete the landscape in the front of the Dwelling Unit and any other areas of the Lot which are Visible From Neighboring Property or visible from the Common Area within three (3) months of occupancy of the Lot. Grass lawns shall be prohibited on the front and sides of the Dwelling Unit and shall be permitted only in the rear of the Dwelling Unit. All landscaping plans shall be submitted to the Architectural Control Committee for written approval prior to commencement of the landscaping. The landscaping plan shall limit the plants to only those plants that are indigenous to the natural desert environment of the surrounding area (which may include, but shall not be limited to, cacti, palo verde, mesquite, ironwood, sage and other bushes and

shrubby, and grasses). If any Owner does not install and complete approved landscaping within the three (3) month period described, the Developer, or the Architectural Control Committee, after giving the Owner thirty (30) days' written notice to cure any such default, shall have the right to cause the necessary landscaping work to be done and the Owner in default shall be responsible for the cost thereof and the parties expending funds for such work shall have a lien on the defaulting Owner's Lot for the funds expended, together with interest thereon at the rate of twelve percent (12%) per annum until paid.

Section 6.25 SPORTS AND RECREATION EQUIPMENT; BASKETBALL HOOPS. No structure, equipment or apparatus Visible From Neighboring Property or from the street shall be permitted without prior approval of the Developer or the Architectural Control Committee, including but not limited to, sport courts, exercise equipment, and children's playground equipment. Location of any swimming pool, if Visible From Neighboring Property, shall be approved by the Developer or the Architectural Control Committee. No basketball hoops may be mounted on the roofs or attached to a residence. No basketball hoops may be temporarily placed on any sidewalks, streets or other common areas. Portable basketball hoops may be permitted on the condition that they are stored so as not to be Visible From Neighboring Property when not in immediate use.

Section 6.26 SINGLE-FAMILY DWELLINGS. Single-family dwellings constructed on any Lots shall be of permanent construction. Single-family dwellings shall have a minimum livable square footage (exclusive of carports, breezeways, garages, open patios, and/or porches) of 1,800 square feet. Single-family dwellings constructed on Lots 1 through 16, inclusive, shall be limited to single-story construction and shall be not more than twenty feet (20') in height above the street grade. All other single-family dwellings shall be limited to two-story construction and shall be not more than thirty feet (30') in height above the street grade. All structures shall be constructed of stucco, masonry, or any other material as shall be approved in writing by the Architectural Control Committee. All roofs shall be mission tile or other material approved in writing by the Architectural Control Committee. Air conditioning and heating equipment shall not be mounted on roofs. Model homes shall be subject to Architectural Control Committee approval, and to Pinal County building, and safety rules and regulations. Garages shall be at least 20' x 20' in size.

Section 6.27 WALLS OR FENCES. Walls or fences may be constructed on dividing lines between Lots and the Common Area, trails or streets, provided that the construction and material of the fence or wall permits visibility to the Lots, complies with the Architectural Guidelines, and provided that such wall or fence is approved in advance by the Architectural Control Committee. The construction of said walls should not attach or connect in any fashion to the perimeter wall/fence of the Project. Walls and fences are prohibited in the front yard of a single-family dwelling unit. Any special requests for the construction of any type of wall or fence in the front yard, including minor entry walls, is subject to approval in writing by the Architectural Control Committee. The construction of side yard walls and fences is permitted within the building setback line.

Section 6.28 MODEL HOMES. The provisions of this Restated Declaration which prohibit non-residential use of Lots and regulate parking of vehicles shall not prohibit the

construction and maintenance of model homes by persons engaged in the construction of residential dwellings in Hieroglyphic Trails and parking incidental to the visiting of such model homes so long as the location and construction of such model homes are approved by the Architectural Control Committee prior to construction, the opening and closing hours are approved by the Board, and the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Restated Declaration. The Architectural Control Committee may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of Pinal County and any rules of the Architectural Control Committee. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or Builder thereof is not actively engaged in the construction and sale of single family residences of Hieroglyphic Trails and no home shall be used as a model home for the sale of homes not located at Hieroglyphic Trails.

Section 6.29 LIGHTING. Owners shall be permitted to install exterior lighting provided that the lighting is screened, non-mercury and approved in advance in writing by the Architectural Control Committee and complies with municipal, county and state rules and regulations with respect to the lighting designation for the Property. The Property is designated as a "Dark Sky" area by Pinal County.

Section 6.30 ARCHITECTURAL CONTROL. No improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Property within Hieroglyphic Trails, or the improvements located thereon, from its natural and unimproved state existing on the date this Restated Declaration is first recorded shall be made or done without prior written approval of the Architectural Control Committee, except as otherwise expressly provided in this Restated Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, or made without the prior written approval of the Architectural Control Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Lots, shall be subject to the prior written approval of the Architectural Control Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Control Committee shall be made without prior written approval of the Architectural Control Committee.

ARTICLE 7

EASEMENTS

Section 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, sewers, gas, telephones, 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 facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

Section 7.2 EASEMENT FOR UNINTENDED ENCROACHMENTS. In the event a wall, landscaping, or other approved Improvement on a Lot or the Common Area encroaches upon another Lot or the Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is hereby given and the right to determine whether such encroachment causes a significant adverse impact shall be determined by the Board upon request by either of the parties. When the Board makes such determination, that determination is binding on all parties.

Section 7.3 WALL OR FENCE EASEMENT. There is hereby created an affirmative easement upon, over and across each Lot affected for reasonable ingress, egress, installation, replacement maintenance and repair of a perimeter wall, fence or other boundary control for the Property.

Section 7.4 EASEMENTS FOR INGRESS AND EGRESS. Easements for ingress and egress are hereby reserved to the Declarant, 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.

Section 7.5 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 those portions of the Lots which the Association is obligated to maintain under Article 9 of this Restated Declaration.

Section 7.6 USE AND DRAINAGE EASEMENTS AMONG OWNERS. Wherever drainage, as estimated by the Declarant, flows from one (1) Lot under or through one (1) or more other Lots, said drainage flow shall not be impeded, diverted, or otherwise changed. These easements shall include, but are not limited to, receiving the runoff from roofs and drainage under and through garden walls.

Section 7.7 SIGHT VISIBILITY EASEMENT. Specific sight visibility easements are set forth on the Hieroglyphic Trails Final Plat which affect Lots 1-18. Prospective Purchasers are encouraged to consult the Final Plat, which reflects the site visibility easement.

Section 7.8 REVEGETATION EASEMENT. There is hereby created an affirmative, nonexclusive easement in favor of Declarant, each Builder and the Association, and its contractors and employees, to go upon any Lot to plant or seed, and to provide temporary maintenance for, indigenous vegetation (which may include, but shall not be limited to, cacti, palo verde, mesquite, ironwood, sage and other bushes and shrubbery, and grasses) on any areas of the Lot in order to (a) replant areas that prior to the date hereof were parts of roadways that have been abandoned or are otherwise not in use, or that were cleared, or partially cleared, of vegetation in the past for some other reason, or (b) maintain the aesthetic integrity of the Property; and to provide temporary water to such vegetation at the expense of the party causing

the revegetation or restoration to be performed or at the expense of the Owner, as an individual charge, if the area was cleared by the Owner or Occupant of such Owner's Lot.

ARTICLE 8

PROPERTY RIGHTS

Section 8.1 OWNERS' EASEMENT OF ENJOYMENT. Every 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 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, except that the Board may make a dedication for transfer without consent of the Members, providing such transfer is of minimal value and causes no adverse impact to the Members;
- (c) the right of Declarant and its agents and representatives, in addition to the rights set forth elsewhere in this Restated Declaration, to the non-exclusive use, without charge, of the Common Area for maintenance of sales facilities, and display and exhibit purposes.

Section 8.2 DELEGATION OF USE. Any Owner may delegate, subject to this Restated Declaration and the Association Rules, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times, and in accordance with reasonable Association Rules.

Section 8.3 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 the Common Area.

ARTICLE 9

MAINTENANCE

Section 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) 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;
- (c) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (d) Do all such other and further acts that the Board deems necessary to preserve and protect the Common and the appearance thereof, in accordance with the general purposes specified in this Restated Declaration.

Section 9.2 [INTENTIONALLY OMITTED].

Section 9.3 MAINTENANCE BY OWNERS. Each Owner shall be solely responsible for that portion of the maintenance, repair and replacement of his Lot and Improvements that are not maintained by the Association as described in **Sections 10.1 and 10.2.**

Section 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. The Association shall have the right to require that an Owner remit a \$500.00 deposit to the Association to cover possible damage caused by the Owner's contractors during the construction of Improvements on such Owner's Lot prior to commencement of construction of such Improvements. No Owner shall in any way interfere with the maintenance responsibilities of the Association, including, but not limited to, landscaping, street maintenance, and wall maintenance. Any expenses incurred by the Association by reason of any such act of an Owner, his grantees or assignees, shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor 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 Restated Declaration for the collection and enforcement of assessments.

Section 9.5 NON-PERFORMANCE BY OWNERS. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of Hieroglyphic Trails which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used

in a manner which violates the Project Documents, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents with respect to the maintenance repair or replacement of the Improvements located on such Lot, the Board may, by resolution make a finding to such effect specifying the particular condition or conditions which exist, and pursuant thereto give written notice thereof to the Owner by mail to the mailing address of the Lot and make demand that corrective action be taken within fourteen (14) calendar days of the day of the notice. If at the expiration of the said fourteen (14) day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken, including but not limited to the hiring of an attorney to take action on behalf of the Board, whether by informal pre-suit action or by formal legal proceedings. The costs of any action taken by the Board as set forth herein, including but not limited to incidental and taxable costs, attorneys fees, and any fines assessed against any Owner shall be added to and become a part of the assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the assessment lien.

ARTICLE 10

ARCHITECTURAL AND LANDSCAPE CONTROL

Section 10.1 ESTABLISHMENT OF ARCHITECTURAL CONTROL COMMITTEE. The Declarant shall establish an Architectural Control Committee to perform the functions of the Architectural Control Committee set forth in this Restated Declaration and shall adopt the procedural rules and regulations for the performance of such duties by the Architectural Control Committee, including procedures for the preparation, submission and determination of the application for any approvals required by this Restated Declaration or any amendment thereto. The Architectural Control Committee shall consist of such number of regular members and alternate members as the Declarant may designate and such members shall be appointed by the Declarant. The appointees need not be architects, Owners, or Residents and do not need to possess any special qualifications of any type except such as the Declarant may, in its discretion, require. The Architectural Control Committee shall hold regular meetings, a quorum for such meeting shall consist of fifty percent (50%) of the regular members, and the concurrence of a majority of the quorum present, shall be necessary for any decision of the Architectural Control Committee. An alternate member, approved by the Declarant, may participate at any meeting at which there is not a quorum of regular members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. The Architectural Control Committee shall promulgate architectural guidelines and standards to be used in rendering its decisions ("Architectural Guidelines"). Subject to the provisions of ***Section 10.2***, the decision of the Architectural Control Committee shall be final on all matters submitted to it pursuant to this Restated Declaration.

Section 10.2 GENERAL PROVISIONS.

- (a) The Architectural Control Committee may delegate its review responsibilities for drawings and specifications, except final review and approval as may be required by the Architectural Guidelines, to one or more of its members or to the architectural consultants retained by the

Architectural Control Committee. Upon such delegation, the interim approval or disapproval of drawings and specifications shall be equivalent to interim approval or disapproval by the entire Architectural Control Committee.

- (b) Any consent or approval of the Architectural Control Committee which is required under this Restated Declaration shall not be effective unless it is in writing and signed by the Architectural Control Committee or the person to whom responsibility for the particular consent or approval has been delegated under this *Section 10.2*.

Section 10.3 APPROVAL AND CONFORMITY OF DRAWINGS AND SPECIFICATIONS. No building, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained upon the Property, nor shall there be any addition to or change to the exterior of any residence or other structure or improvement upon a Lot, or to the landscaping, grading or drainage ways thereof, including, but not limited to, the painting (other than painting with the same color and type of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with drawings and specifications therefore which have been submitted to and approved by the Architectural Control Committee in accordance with the Architectural Guidelines as to harmony of external design and location in relation to surrounding structures and topography.

Section 10.4 NON-LIABILITY FOR APPROVAL OF DRAWINGS AND SPECIFICATIONS. DRAWINGS AND SPECIFICATIONS SHALL BE APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE AS TO STYLE, EXTERIOR DESIGN, APPEARANCE AND LOCATION, AND ARE NOT APPROVED FOR ENGINEERING DESIGN OR FOR COMPLIANCE WITH ZONING AND BUILDING ORDINANCES. BY APPROVING SUCH DRAWINGS AND SPECIFICATIONS NEITHER THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER THEREOF, NOR ANY MEMBER, NOR THE BOARD, NOR ANY OFFICER OR DIRECTOR OF THE ASSOCIATION, NOR DECLARANT ASSUMES ANY LIABILITY OR RESPONSIBILITY THEREFOR, OR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH DRAWINGS AND SPECIFICATIONS. NEITHER THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER THEREOF, NOR THE ASSOCIATION, NOR ANY MEMBER, NOR THE BOARD, NOR ANY OFFICER OF THE ASSOCIATION, NOR DECLARANT SHALL BE LIABLE TO ANY OWNER OR OTHER PERSON FOR ANY DAMAGE, LOSS OR PREJUDICE SUFFERED OR CLAIMED ON ACCOUNTS OF (A) THE APPROVAL OR DISAPPROVAL OF ANY DRAWINGS AND SPECIFICATIONS, WHETHER OR NOT DEFECTIVE, (B) THE CONSTRUCTION OR PERFORMANCE OF ANY WORK, WHETHER OR NOT PURSUANT TO APPROVED DRAWINGS AND SPECIFICATIONS, (C) THE CHANGE IN THE SIZE, CONFIGURATION OR LOCATION OF ANY BUILDING OR THE CHANGING OF THE NATURAL GRADE OF ANY LOT, OR (D) THE EXECUTION AND FILING OF AN ESTOPPEL CERTIFICATE PURSUANT TO THE ARCHITECTURAL GUIDELINES, WHETHER OR NOT THE FACTS THEREIN ARE CORRECT; PROVIDED, HOWEVER, THAT SUCH ACTION, WITH THE ACTUAL KNOWLEDGE POSSESSED BY THE INDIVIDUAL ACTING, WAS TAKEN IN GOOD

FAITH. APPROVAL OF DRAWINGS AND SPECIFICATIONS BY THE ARCHITECTURAL CONTROL COMMITTEE, OR THE APPROVAL OF ANY CHANGE IN THE SIZE, CONFIGURATION OR LOCATION OF ANY BUILDING, OR A CHANGE IN THE NATURAL GRADE OF ANY LOT IS NOT, AND SHALL NOT BE DEEMED TO BE, A REPRESENTATION OR WARRANTY THAT SAID DRAWINGS, SPECIFICATIONS OR CHANGES COMPLY WITH APPLICABLE GOVERNMENTAL ORDINANCES OR REGULATIONS INCLUDING, BUT NOT LIMITED TO, ZONING ORDINANCES AND BUILDING CODES.

Section 10.5 ADDITIONAL POWERS OF THE ARCHITECTURAL COMMITTEE. The Architectural Control Committee may promulgate as a part of the Architectural Guidelines such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with this Restated Declaration or the Bylaws.

WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE ARCHITECTURAL CONTROL COMMITTEE MAY FIX A FINE OF UP TO \$10,000.00 FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE ARCHITECTURAL CONTROL COMMITTEE OR FAILURE TO COMPLY WITH THE REQUIREMENTS OF SUCH APPROVALS OR ***SECTION 6.30*** OF THIS RESTATED DECLARATION AND MAY REQUIRE SECURITY DEPOSITS TO ASSURE COMPLIANCE WITH DESERT RESTORATION AND OTHER REQUIREMENTS.

Prior to fixing such fine, the Architectural Control Committee shall notify the Owner by registered mail of its intent to fix the fine and provide Owner with twenty (20) days to request an opportunity to be heard before the Architectural Control Committee.

Section 10.6 APPEAL. Any Owner or other Resident aggrieved by a decision of the Architectural Control Committee may appeal the decision to the Board in accordance with procedures to be established by the Board. Such procedures would include the requirement that the Applicant has modified the requested action or has new information, which would, in the opinion of a majority of the Board warrant reconsideration. If the Board fails to allow an appeal or if the Board, after appeal, rules in a manner aggrieving the Applicant, the decision of the Board is final.

Section 10.7 APPOINTMENT OF ARCHITECTURAL CONTROL COMMITTEE MEMBERS. Architectural Control Committee members are appointed by the Declarant and may be replaced at the discretion of the Declarant. Declarant's right to appoint Architectural Control Committee members shall cease and the Board shall be vested with that right and all other rights of the Declarant pertaining to the Architectural Control Committee as stated herein, on the date on which the Class B vote expires, at such time Declarant no longer owns any property at Hieroglyphic Trails, or when such right is expressly relinquished by Declarant to the Board in writing, whichever condition occurs first.

ARTICLE 11

INSURANCE

Section 11.11 SCOPE OF COVERAGE. Commencing not later than the time of the first conveyance of a Lot to an individual Owner other than the Declarant, the Association shall maintain adequate insurance for Common Area liability to extend to those areas the Association may agree to maintain pursuant to Article 9 herein, officers and directors liability, committees appointed by the Board, property, fidelity and any other coverage deemed necessary by the Board.

Section 11.2 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 canceled 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.

Section 11.3 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.

Section 11.4 OWNER'S RESPONSIBILITY. It is the responsibility of each Owner of a Lot to maintain insurance on his Lot and Improvements thereon.

ARTICLE 12

GENERAL PROVISIONS

Section 12.1 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 Restated 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.

Section 12.2 SEVERABILITY. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions that shall remain in full force and effect.

Section 12.3 DURATION. The covenants and restrictions of this Restated Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 12.4 AMENDMENT BY OWNERS. This Restated Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners representing not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners representing not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded.

Section 12.5 AMENDMENT BY BOARD. Notwithstanding anything to the contrary in this Restated Declaration, the Board shall have the right, but not the obligation, to amend this Restated Declaration, without obtaining the approval or consent of any other Owner or mortgagee, in order to conform this Restated Declaration 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 other government or government approved agencies when such modification is required to qualify for the use of the services, insurance, or other guarantees provided by such agencies.

Section 12.6 VIOLATIONS AND NUISANCE. Every act or omission whereby any provision of this Restated 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 Declarant, the Association or any Owner.

Section 12.7 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 Restated Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 12.8 REMEDIES CUMULATIVE. Each remedy provided herein is cumulative and not exclusive.

Section 12.9 DELIVERY OF NOTICES AND DOCUMENTS. Any written notice or other documents relating to, or required by, this Restated Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of it has been deposited in the United States mail, postage prepaid. 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.

Section 12.10 BINDING EFFECT. By acceptance of a deed or by acquiring any interest in any of the property subject to this Restated 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 Restated Declaration and any amendments thereof. In addition, each such person by so doing

thereby acknowledges that this Restated 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 Restated 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 Restated Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Restated 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.

Section 12.11 MANAGEMENT AGREEMENTS. Any agreement for professional management of the Association, the Project, or any other contract providing for services of the Declarant, or other developer, sponsor or builder of the Project shall not exceed one (1) year.

Section 12.12 GENDER. The singular, wherever used in this Restated Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Restated Declaration apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 12.13 TOPIC HEADINGS. The marginal or topical headings of the Sections contained in this Restated Declaration are for convenience only and do not define, limit or construe the contents of the Sections or this Restated Declaration.

Section 12.14 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 incidental thereto.

Section 12.15 CONSTRUCTION. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Restated Declaration and the Articles, Bylaws, or Association Rules, the provisions of this Restated Declaration shall prevail.

Section 12.16 JOINT AND SEVERAL LIABILITY. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Restated Declaration, shall be joint and several.

Section 12.17 ATTORNEYS' FEES. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Restated 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 offending Owner or other person or entity shall pay to the Association, upon demand, all attorney fees and court

costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the assessment lien.

Section 12.18 DECLARANT'S RIGHT TO USE SIMILAR NAME. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one (1) or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

Section 12.19 FHA/VA APPROVAL. If this Restated Declaration has been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made on property in Hieroglyphic Trails which are insured or guaranteed by FHA or VA, then as long as there is a Class B membership, the following actions may require the prior approval of the FHA or VA, based on the then existing guidelines and procedures of FHA or VA or, unless the need for such approval has been waived by FHA or VA: (i) annexation of additional properties, (ii) mortgaging of the Common Area, and (iii) dedication of the Common Area except as required by zoning stipulations effective prior to the date hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Hieroglyphic Trails, L.L.C., an Arizona limited liability company, has hereunto signed this instrument the date first written above.

HIEROGLYPHIC TRAILS, L.L.C., an Arizona
limited liability company

By: Mike Berquin

Name: Mike Berquin

Its: Manager / member

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 23rd day of August, 2004, by Mike Berquin, the manager of Hieroglyphic Trails, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

OFFICIAL SEAL
CHRISTY L. PROCTOR
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Commission Expires Jan. 15, 2007

Christy L. Proctor
Notary Signature

CONSENT OF THE OWNER OF LOT 8

The undersigned, as the Owner of Lot 8 of Hieroglyphic Trails, hereby approves of and consents to the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hieroglyphic Trails and acknowledges and agrees that Lot 8 shall be subject to all of the terms and conditions contained in the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hieroglyphic Trails.

OWNER OF LOT 8:

Address:

12003 W. Capri Ave
Littletown CO 80127

By:

Name: Bruce E. Bell

Date: 9/2/04

Address:

Same

By:

Name: Pamela K Bell

Date: 9/2/04

STATE OF COLORADO)
~~ARIZONA~~)
County of DENVER) ss.
~~Maricopa~~)

The foregoing instrument was acknowledged before me this 2 day of Sept, 2004, by Bruce E. Bell.

Janelle L Hood
Notary Signature

Janelle L. Hood
My Commission Expires
January, 22, 2006

STATE OF Colorado)
~~ARIZONA~~)
County of Denver) ss.
~~Maricopa~~)

The foregoing instrument was acknowledged before me this 2 day of Sept, 2004, by Pamela K Bell.

Janelle L Hood
Notary Signature

Janelle L. Hood
My Commission Expires
January, 22, 2006

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 1 through 24, inclusive, Tracts A through G, inclusive, HIEROGLYPHIC TRAILS, according to Cabinet C, Slide 134, records of Pinal County, Arizona.

Lots owned by Hieroglyphic Trails, L.L.C. as of the date hereof:

Lots 1 through 7, inclusive, and Lots 9 through 24, inclusive, and Tracts A through G, inclusive, of HIEROGLYPHIC TRAILS, according to Cabinet C, Slide 134, records of Pinal County, Arizona