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Deletions are shown with the following attributes and color:

~~Strikeout~~, **Blue** RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

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**AMENDED AND RESTATED <sup>=</sup>DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS OF**  
**GREENFIELD ~~LAND DEVELOPMENT, LLC~~**

~~THIS DECLARATION of Covenants, Conditions and Restrictions is made December 10th, 1997 by GREENFIELD LAND DEVELOPMENT, LLC.~~

**WITNESSETH**

~~WHEREAS Declarant is the Owner of both legal and equitable title of the following described real Property, situated within the County of Maricopa, State of Arizona, to wit:~~

~~Lots 1 through 32, inclusive, Greenfield Acres, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book \_\_\_\_\_ of Maps, Page \_\_\_\_\_ thereof.~~

**ARTICLE 1**  
**Definitions**

~~The following words, phrases or terms used in this Declaration shall have the following meanings:~~

~~1.1 "Declarant" shall mean GREENFIELD LAND DEVELOPMENT, LLC, its successors~~

~~and assigns if such successors or assigns should acquire more than one undeveloped Lot  
from the Declarant for the purpose of development.~~

~~1.2~~ACRES

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<u>1.5 "Declarant"</u> . . . . .	<u>2</u>
<u>1.6 "Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as it may from time to time be amended or supplemented:</u>	
<del>1.3 "Developer" shall mean and refer to the Declarant.</del>	
<del>1.4 "Homeowner's Association" shall be synonymous with "Association" and shall mean the Greenfield Acres, Homeowner's Association.</del>	
<del>1.5 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, except any such plats designated as a "Tract" or "Exception" thereon.</del>	
<del>1.6 "Owner(s)" shall mean and refer to the record Owner, whether one or more persons or entities, or equitable or beneficial title (or legal title if same has merged) of any Lot. Owner shall include the purchaser of a Lot under an executory contract for the sale of real Property. The foregoing does not include persons or entities who hold an interest in any Lot merely as a security for the performance of an obligation nor shall the term "Owner" include a Developer, or Contractor other than Declarant.</del>	
<del>1.7 "Property" shall mean and refer to that certain real Property hereinbefore described.</del>	

ARTICLE 11

<u>Permitted</u> . . . . .	<u>2</u>
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ARTICLE II

Permitted Uses and Restrictions

<u>2.1 Residential Use: Lots 1 through 32, inclusive, of Greenfield Acres, shall be single-family residential Lots, and there may be erected on any one Lot not more than one single-family residence plus such accessory and auxiliary garages, guest house and servants quarters as are incidental to single-family residential use.</u>	<u>2</u>
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No barns or shade structures or other buildings shall be erected on any of said Lots, prior to approval by the Homeowners Association.

~~2.2 Subdividing:~~ No Lot shall be re-subdivided into smaller Lots nor conveyed or encumbered in less than the full original dimensions of such Lot as shown by the recorded plat. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for public utilities purposes in which event the remaining portion of such Lots shall, for the purpose of this provision, be treated as a whole Lot.

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2.3 Abandonment of Lot Lines: Two or more adjoining Lots may be combined and their original lot lines abandoned so as to permit construction in the middle of such consolidated properties. Thereafter any such consolidated Lots shall be treated for all purposes as though their expanded dimensions had originally constituted only one Lot.

~~2.4 Parking:~~ Automobiles of the private passenger class and pickup trucks not exceeding three quarter ton may be parked on the side of any Lot; provided that any such parking area shall comply with the same set back requirements as the residential dwellings and be subject to required approval by the Homeowner's Association. Campers, horse trailers, and boats may be parked on the back of any Lot; provided that any such parking area shall be attractively screened or concealed from neighboring Lots, roads or streets, and then only with the prior approval of the Homeowner's Association. All other trucks, vehicles and equipment shall not be kept on any Lot or street except in a private garage. No motor vehicle which is under repair or not in operating condition shall be placed or permitted to remain on any street or streets, or any portion of any Lot, or Lots, in Greenfield Acres, unless it is within an enclosed garage or structure.

~~2.5 Driveways:~~ All driveways shall be constructed of concrete; no asphalt nor granite shall be permitted or accepted as suitable driveway material.

~~2.6~~ ..... 3  
2.4 Parking: ..... 3  
2.5 Driveways: ..... 3

2.6 General Upkeep: All clothes lines, yard equipment, garbage cans, and service yards shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring parcels and streets. All rubbish, trash or garbage shall be removed from the premises of all Lots and shall not be allowed to accumulate thereon.

~~2.7 Antennas:~~ No broadcasting towers shall be erected on any of the Lots in Greenfield Acres.

~~2.8~~ ..... 3  
2.7 Antennas: ..... 4

2.8 Horse Privileges: Subject to the laws, ordinances, health codes and rules and regulations of the State of Arizona, Maricopa County and municipalities thereof; GREENFIELD ACRES, is and shall remain intended for the use and enjoyment of horsemen including the non-commercial breeding and raising of horses.

~~The care of horses shall be performed by the Owner in a clean, neat, orderly fashion in~~

accordance with the prevailing customs and methods; the physical facilities for the same shall also be maintained by the Owner in a clean, neat orderly fashion in accordance with the prevailing custom and usage so that such facilities shall not become a nuisance to the remaining Owners and shall comply with all requirements of the Maricopa County Health Department and the Homeowner's Association.

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<del>2.10</del>	<del>9</del>	<del>Signs</del>	<del>Household Pets: No exterior signs or advertisements of any kind shall be placed, allowed or maintained on any Lot, except that mailboxes, residential nameplates and "For Sale" and "For Rent" signs of a size not in excess 480 square inches may be placed and maintained on a Lot in conformity with common specifications. Exceptions to this restriction will be the Developer's signs during construction and sale of Property.</del>	<u>4</u>
<del>2.11</del>		<del>Tanks:</del>	<del>No elevated tanks of any kind shall be erected, placed or permitted on any Lots. Any tanks, including tanks for the storage of fuel, must be buried or attractively screened to conceal it from neighboring Lots, roads or streets, and then only with the prior approval of the Homeowner's Association.</del>	
<del>2.12</del>		<del>Signs:</del>		<u>4</u>
<del>2.10</del>		<del>Signs:</del>		<u>4</u>
<del>2.11</del>		<del>Tanks:</del>		<u>4</u>
<del>2.12</del>		<del>Construction Permitted:</del>	<del>All structures erected in GREENFIELD ACRES must be of new construction, and no buildings or structures may be moved from any other location onto any said Lots or tracts. Wood siding shall not be permitted on any residence except as may be approved by the Homeowner's Association as design work or such ship-lap siding as may be approved by the Homeowner's Association to preserve the architectural integrity of the improvement. Otherwise the walls of all residences shall be of masonry block, brick or stucco construction.</del>	
<del>2.13</del>		<del>Roofs:</del>	<del>All roofs must be either tile or wood shake construction having a Dutch gable, gable or hip. No 3/12 pitched roof shall be permitted. Flat roofs shall be permitted with the approval of the Homeowner's Association and provided that they are designed with a parapet.</del>	
<del>2.14</del>		<del>Garages:</del>	<del>All single family residences constructed within GREENFIELD ACRES shall be constructed with a minimum of two car garages enclosed with garage doors. All garages shall be of a side entrance design unless the Homeowner's Association approves otherwise. No single or double carport shall be allowed.</del>	
<del>2.15</del>		<del>Roofs:</del>		<u>4</u>
<del>2.13</del>		<del>Roofs:</del>		<u>5</u>
<del>2.14</del>		<del>Garages:</del>		<u>5</u>
<del>2.15</del>		<del>Tennis Courts:</del>	<del>The location, set backs, design, fencing, lighting and type of materials for any tennis court, handball court or similar recreational improvement must be approved in advance of construction by the Homeowner's Association. The lighting for such facilities shall be turned off and utilization of such facilities terminated no later than 10:30 p.m., of each day.</del>	

~~2.16~~ Landscaping: Each owner shall submit to the Homeowner's Association a preliminary and a final landscaping plan for review and approval. Each such plan shall be required, as a minimum, to provide for five 24-inch box trees, two 36-inch box trees, twenty five-gallon shrubs and one 48-inch box tree of the *Ulmus Parvafiolia* or other approved equivalent species. The *Ulmus Parvafiolia* tree (or approved substitute) shall be planted within twelve feet of the front curb of each Lot and in a location specifically designated or approved by the Homeowner's Association. In addition, at least thirty-five percent (35%) of each front yard shall be leveled and seeded with grass. All required landscaping shall be completed within 60 days of occupancy of residence.

~~2.17~~ Light Post: Each and every Owner shall have at least two approved ornamental, antique-style light post located within the front yard of his Lot and shall obtain the approval of the Homeowner's Association of its location, design and construction. Each such light post shall be equipped and maintained with automatic electronic sensors or timers for turning on and off. Owners shall keep such light and equipment in good repair at all times.

~~2.18~~ = ..... 5  
2.16 Landscaping: ..... 5  
2.17 Light Post: ..... 5

2.18 Minimum Livable Area and Width: All single-family residences constructed within GREENFIELD ACRES, shall contain a minimum livable area of 2500 square feet on grade level if one story, with or without basement, and 1800 square feet on the grade level if two story and shall contain a minimum of 2500 square feet livable. A split level home containing a grade level, sub-grade level and above grade level shall contain a minimum livable area of 1800 square feet on the grade level and sub-grade level combined and a total of 2500 total square feet. All square footage requirements shall be exclusive of open porches, pergolas or attached garages. The minimum width of a single family residence shall be at least 75 feet.

~~2.19~~ = ..... 5  
2.19 Plan Approval: Except as provided herein, no single-family residence, garage, barn, stable, guest house, or shed, fence or other structure, nor any modification of or addition to any structure of any nature, shall be constructed within GREENFIELD ACRES, without having first obtained the prior approval of design herein. All such approvals shall be obtained pursuant to the provisions and requirements of Article IV herein.

~~2.20~~ = ..... 6  
2.20 Commencement of Construction: No garage, barn, stable, guest house, or similar structure shall be erected on any Lot until construction of the primary single-family residence (complying with these restrictions) shall have been commenced on said Lot, and no garage, barn or guest house shall be maintained or occupied until construction on said single-family residence is finished and ready of occupancy. Any garage, guest house, or similar structure erected on any Lot shall be of the same design and each entire wall and the roof of such garage, guest house or similar structure shall be constructed of the same materials as the

permanent residence on said Lot.

~~2.21~~ ~~Permanent Structure:~~ No garage, barn, stable, guest house, trailer, mobile home, motor home, motor vehicle, or any temporary structure of any nature may be used temporarily or permanently as a residence on any Lot or tract. All permanent structures on all Lots shall comply with all minimum yard set back requirements established by the zoning ordinance of the County of Maricopa, as it may be amended from time to time. ~~6~~

~~2.22~~ ~~Set Back Requirements:~~ All permanent structures on all Lots shall comply with all minimum yard set back requirements established by the applicable city zoning ordinance as it may be amended from time to time. However, notwithstanding a more lenient zoning ordinance, the minimum set back requirements shall be as follows:

<del>Front</del>	<del>40 feet</del>	<del>Side</del>	<del>30 feet</del>
<del>Rear</del>	<del>40 feet</del>	<del>Street Side</del>	<del>20 feet</del>

~~2.23~~ ~~Fenced Areas:~~ Each owner shall construct masonry fencing from residence to side property line. Each owner shall enclose his back and side yards with a six-foot masonry block wall or a five-foot fence of galvanized steel material with posts set in concrete; minimum size of posts and rails shall be 1-7/8" outside diameter with a minimum of three (3) rails or approved vinyl fencing. Notwithstanding the foregoing permitted use of galvanized steel materials or vinyl rail fencing, the sideyards of Lots 4, 5, 12, 13, 20, 21, 28 and 29 which border streets shall be enclosed by a six foot masonry block wall. The location, design, detail and type of materials for all fences must be approved in advance by the Homeowner's Association. ~~6~~

~~2.24~~ ~~Commercial Activities:~~ No hotel, store, multi-family dwelling, boarding house, guest ranch, and no hospital, sanitarium or other place for the care or treatment of the physically or mentally sick or for the treatment of disabled animals shall be erected or permitted upon the premises of any Lot, or any part thereof. ~~6~~

~~2.25~~ ~~Upkeep Assessment:~~ The Owners of all Lots shall keep the same reasonably clean and clear of weeds and trash, so as not to cause an unsightly or dangerous condition, and if such Owner should fail after ten (10) days written notice from the Homeowner's Association to do so, the Declarant and/or Homeowner's Association shall have the right to enter upon such Lot and may cause the same to be cleaned four times yearly, if necessary, and assess the actual cost thereof to the Owner of such Lot. Any such assessment shall be a lien against the Property and may be enforced as set out in Article IV. ~~7~~

~~2.26~~ ~~Drainage:~~ The Developer has established appropriate grades as required by the proper governmental authorities within GREENFIELD ACRES, and said final grades shall not

be disturbed in any manner which may adversely affect any other residential Lot or Property whether within the subdivision or elsewhere; nor shall any Owner divert or cause diversion of the surface water from the street adjacent to his Property onto any other Property. All surface water shall be left free to their natural flow unless lawfully diverted to a drainage ditch. The provisions of this paragraph shall be subordinate to the Maricopa County subdivision regulations governing such drainage:

<del>2.27</del>	.....	<u>7</u>
<u>2.26</u>	<u>Drainage:</u> .....	<u>7</u>
<u>2.27</u>	<u>Diseases and Insects:</u> No Owner shall permit any thing or condition to exist upon any Property within GREENFIELD ACRES, which shall induce, breed or harbor infectious plant diseases or noxious insects; provided, however, this provision shall not restrict the horse and animal provisions contained herein.	
<del>2.28</del>	<del>Gates:</del> Any and all gates shall be constructed in a manner that would properly screen rear yard from street view.	
<del>2.29</del>	<del>Air-Conditioning</del> .....	<u>7</u>
<u>2.28</u>	<u>Gates:</u> .....	<u>7</u>
<u>2.29</u>	<u>Air-Conditioning and Heating Equipment:</u> No heating, air conditioning or refrigeration equipment shall be placed, allowed or maintained anywhere other than on the ground; provided, however, that solar units meeting all governmental guidelines for residential use may be located on the roof if such unit is not viewable from the public street on which the residence fronts or faces and if specifically approved by the Homeowner's Association.	

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<del>2.31</del>	<del>30</del> <u>Utility and Service Lines:</u> .....	<u>7</u>
<u>2.31</u>	<u>Trash Containers and Collection:</u> No garbage or trash shall be placed or kept on any Property within GREENFIELD ACRES, except in covered container. 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.	

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ARTICLE III  
Homeowner's Association

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~~3.1 Organization: There shall be GREENFIELD ACRES, Homeowner's Association organized, which shall consist of not less than three nor more than five members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership.~~

~~3.2 Initial Members: The following persons are hereby designated as the initial members of the Homeowner's Association:~~

~~Gary Bulechek  
Harold R. Porter  
Lonnie C. McCleve~~

~~3.3 Terms of Office: Unless the initial members of the Homeowner's Association have resigned or been removed, their terms of office shall expire at the time all Lots are developed, sold and the conveyance recorded, but shall continue thereafter until the appointment of their respective successors. Thereafter the term of each member of the Association shall be for the period of three years and until the appointment of his successor.~~

~~3.4 Appointment and Removal: The right to appoint and remove the members of the Homeowner's Association at any time, shall be and is hereby vested fully in the Owners, provided, however, that no member may be removed from the Homeowner's Association by the Owners except by the vote or written consent of two-thirds (2/3) of all the Owners. Any member of the Homeowner's Association may resign at any time by giving written notice thereof to the remaining members of the Association, or if there are no remaining members of the Association, then to a majority of the Owners.~~

~~3.5 Duties: The Homeowner's Association shall have the authority and responsibility to review the plans and specifications of all single-family residences, garages, guest houses, sheds, fences and other structures to be constructed in the subdivision pursuant to the terms hereof and to review the plans and specifications for the landscaping within the subdivision. The Homeowner's Association shall also have the authority to enforce the provisions of this Declaration and to perform such other duties as may be assigned to it by the Owners.~~

~~The Homeowner's Association shall have the right to refuse to approve any plans or specifications or grading plans, which are not suitable or desirable, in its opinion, for aesthetic or other reasons, or in so passing upon such plans, specifications and grading plans, and without any limitations of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from the adjacent or neighboring Property. All subsequent additions to or changes or alterations in any building, fence, wall or other structure including exterior color scheme, shall be subject to the prior approval of the Homeowner's Association. No deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Homeowner's Association. All decisions of the Association shall be final and no Lot Owner or other party shall have recourse against the Association for its refusal to approve any such plans and specifications or plot plans, including lawn area and landscaping.~~

~~The Homeowners Association shall have the right to fix an annual assessment not in~~

excess of \$300.00 to be used exclusively for the upkeep, maintenance and improvement of the common areas defined as the drainage channel at the north entrance off Chandler Heights, the entry monuments and landscaping along 162nd Street, and the maintenance of the underground irrigation system which the declarant is obligated to maintain. The assessment may be amended, modified and/or altered by the affirmative vote of 75% of all owners.

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<del>3.8</del>	.....	<del>9</del>
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<u>3.6</u>	<u>Meetings and Compensations:</u> <del>The Homeowner's Association shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of any two regular members at a meeting, or otherwise, shall constitute the act of the Association. Members of the Homeowner's Association shall not be entitled to compensation for their services.</del>	
<u>3.9</u>	<u>7 Association Rules:</u> <del>The Homeowner's Association may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as the Homeowner's Association Rules. The Rules may set forth the standards and procedures for Association review and guidelines for architectural design, placement of buildings, landscaping, color scheme, exterior finishes and materials and similar features which are recommended for use within GREENFIELD</del>	<u>10</u>

ACRES.

3.10 Liability: Neither the Homeowner's Association nor any member thereof, shall be liable to any Owner, or to any other party for any damage, loss or prejudice suffered or claimed on account of:

- (a) Approval or disapproval of any plans, drawings, or specifications, whether or not defective;
- (b) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- (c) The development of any Property within GREENFIELD ACRES, or
- (d) The execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him;

Without any way limiting the generality of any of the foregoing provisions of this section, the Homeowner's Association, or any member thereof, may, but is not required to, consult with, or hear the views of any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Association for review.

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<u>4.2</u> <u>Maintenance</u> of his Lot as provided in Section 2.25 hereof:	

Any assessments, made in respect of such costs, together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successor in title unless expressly assumed by said successor in title:

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**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
GREENFIELD ACRES**

THIS AMENDED AND RESTATED DECLARATION is made and entered into on the date hereinafter set forth by GREENFIELD HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation, hereinafter referred to as the “Association.”

WHEREAS, Declarant, GREENFIELD LAND DEVELOPMENT, LLC., recorded a Declaration of Covenants, Conditions and Restrictions of Greenfield Acres, recorded as Recording Number 98-0223859 with the Office of the Recorder of Maricopa County, which governs the real property included in Greenfield Acres, Greenfield Glen, and Greenfield Acres III, according to the plats of record in the Office of the Recorder of Maricopa County in Book 463 of Maps, Page 15, Book 495 of Maps, Page 43, and Book 536 of Maps, Page 29 thereof, which by reference are made a part hereof, together with all buildings, improvements and other permanent fixtures of whatsoever kind now or hereafter located thereon, hereinafter sometimes called the “Property”; and

~~WHEREAS, the Association: Each owner of any Lot shall be deemed to covenant and agree to pay to the Association the assessment provided for herein, and agree to the enforcement of the assessments in the manner herein specified. In the event the Association employs an attorney or attorneys for the collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Owner agrees to pay reasonable attorneys fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. Any assessment made hereunder shall be due and payable within ten days after date notice of the amount and nature of costs incurred by the Association is delivered to the offending Owner. In the event of a default in payment of any such assessment when due, in which case the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided,~~ by and through its Members, wishes to amend and restate the Declaration in its entirety as set forth herein;

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

**ARTICLE I**  
**Definitions**

The following words, phrases or terms used in this Declaration shall have the following meanings:

1.1 "Articles" shall mean the Articles of Incorporation of the Association which are, or shall be, filed in the office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

1.2 "Association" shall mean the Greenfield Homeowners Association.

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

1.4 "By-Laws" shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.

1.5 "Declarant" shall mean Greenfield Land Development, LLC..

1.6 "Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as it may from time to time be amended or supplemented.

1.7 "Developer" shall mean and refer to the Declarant.

1.8 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, except any such plats designated as a "Tract" or "Exception" thereon.

1.9 "Owner(s)" shall mean and refer to the record Owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot. Owner shall include the purchaser of a Lot under an executory contract for the sale of real property. The foregoing does not include persons or entities who hold an interest in any Lot merely as a security for the performance of an obligation.

1.10 "Property" shall mean and refer to that certain real Property hereinbefore described.

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## **ARTICLE II** **Permitted Uses and Restrictions**

2.1 Residential Use: All Lots shall be single-family residential Lots, and there may be erected on any one Lot not more than one single-family residence plus such accessory and auxiliary garages, guest house and servant quarters as are incidental to single-family residential use. No barns, shade structures or other buildings shall be erected on any said Lots, prior to approval by the Association. No occupation, profession, trade or other nonresidential use shall be conducted on any such property, except that an Owner or other resident of a Lot may conduct a

business activity upon the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Lot; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Lot; (iii) the business activity does not involve an unreasonable number of persons or traffic coming onto the Lot or the door-to-door solicitation of Owners or other residents in the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in the Property, as may be determined from time to time in the sole discretion of the Board of Directors. Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Property regarding the business activity. The terms "business" and "trade" as used in this section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. The foregoing restrictions shall not, however, be construed in any manner as to prohibit an Owner from maintaining his personal and/or a reasonable professional library therein and keeping his personal business records therein. Nothing herein shall be deemed to prevent the lease of a Lot to a single family from time to time by the Owner thereof, subject to all of the provisions of this Declaration.

2.2 Subdividing: No Lot shall be re-subdivided into smaller Lots nor conveyed or encumbered in less than the full original dimensions of such Lot as shown by the recorded plat. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for public utilities purposes in which event the remaining portion of such Lots shall, for the purpose of this provision, be treated as a whole Lot.

2.3 Abandonment of Lot Lines: Two or more adjoining Lots may be combined and their original lot lines abandoned so as to permit construction in the middle of such consolidated properties. Thereafter, any such consolidated Lots shall be treated for all purposes as though their expanded dimensions had originally constituted only one Lot.

2.4 Parking: Automobiles of the private passenger class and privately owned pickup trucks not exceeding (1) ton may be parked on the driveway, or such vehicles may be parked upon the side of any Lot, provided that any such parking area shall comply with the same set back requirements as the residential dwelling. Campers, horse trailers and boats may be parked on the back of any lot provided that any such parking area shall be attractively screened or concealed from neighboring lots, roads or streets, as determined in the sole discretion of the Board and with the prior approval of the Association. All other trucks, vehicles and equipment shall be stored in an enclosed garage or may be attractively screened in the backyard, as determined in the sole discretion the Board and with the prior approval of the Association, unless otherwise required to be permitted by law. No motor vehicle which is under repair or not in operating condition shall be placed or permitted to remain on any street, or any portion of any Lot

in the Property, unless it is within an enclosed garage or structure that has received prior approval of the Association.

2.5 Driveways: All driveways visible from the street shall be constructed of concrete or pavers; neither asphalt nor granite shall be permitted or accepted as suitable driveway material for those driveways visible from the street.

2.6 General Upkeep: All clothes lines, yard equipment, garbage containers and service yards shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Lots and streets. All rubbish, trash or garbage shall be removed from the premises of all Lots and shall not be allowed to accumulate thereon with the exception of Town of Gilbert bulk trash, which may be placed out for pick up no earlier than the weekend immediately preceding the scheduled collection week.

2.7 Antennas: No broadcasting towers shall be erected on any of the Lots in the Property, except that any device governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, will be permitted so long as it shall comply with any applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be visible from the street.

2.8 Horse Privileges: Subject to the laws, ordinances, health codes and rules and regulations of the State of Arizona, Maricopa County and municipalities thereof, the Property, is and shall remain intended for the use and enjoyment of horsemen including the non-commercial breeding and raising of horses.

The care of horses shall be performed by the Owner in a clean, neat, orderly fashion in accordance with the prevailing customs and methods; the physical facilities for the same shall also be maintained by the Owner in a clean, neat orderly fashion in accordance with the prevailing custom and usage so that such facilities shall not become a nuisance to the remaining Owners and shall comply with all requirements of the Maricopa County Health Department and the Association.

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2.9 Household Pets: Other than as provided in Section 2.8, no animals, reptiles, fish or birds of any kind shall be kept on any Lot; provided, however, that a reasonable number of dogs, cats, birds (including pet pigeons) or fish may be kept on a Lot as household pets if such pets are not a nuisance or threat to other Lot Owners and In addition, the above mentioned household pets are not to be kept, bred or maintained for commercial purposes. All such household pets must be kept within a fenced area, encaged or otherwise controlled and not allowed to wander off. At no time will swine, peacocks, chickens, or geese be allowed.

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2.10 Signs: No exterior signs or advertisements of any kind shall be placed, allowed or maintained on any Lot, except that mailboxes, residential nameplates, "For Rent" signs of a size not in excess of 480 square inches, "For Sale" signs as may not be prohibited by law, and signs required as part of legal proceedings may be placed and maintained on a Lot.

2.11 Tanks: No elevated tanks of any kind shall be erected, placed or permitted on any Lots. Any tanks, including tanks for the storage of fuel, must be buried or attractively screened to conceal it from neighboring Lots, roads or streets, as determined in the sole discretion the Board, and then only with the prior approval of the Association.

2.12 Construction Permitted: All structures erected within the Property must be of new construction. No buildings or structures may be moved from any other location onto any said Lots or tracts. The siding of all residences shall be of brick or stucco construction, except wood siding may be approved by the Association as design work or ship-lap siding to preserve the architectural integrity of the improvement.

2.13 Roofs: All roofs must be either tile or wood shake construction having a gable, Dutch gable, or hip. Minimum acceptable roof pitch is 4/12. Flat roofs shall be permitted with the approval of the Association and provided that they are designed with a parapet.

2.14 Garages: All single family residences constructed within the Property shall be constructed with a minimum of two car garages enclosed with garage doors. All garages shall be of a side entrance design unless the Association approves otherwise. No single or double carports shall be allowed.

2.15 Tennis Courts: The location, set backs, design, fencing, lighting and type of materials for any tennis court, handball court or similar recreational improvement must be approved in advance of construction by the Association. The lighting for such facilities shall be turned off and utilization of such facilities terminated no later than 10:00 p.m. of each day.

2.16 Landscaping: Each owner shall submit to the Association a preliminary and final landscaping plan for review and approval. Each such plan shall contain at a minimum: five 24-inch box trees, two 36-inch box trees, twenty 5-gallon shrubs and one 48-inch box tree of the Ulmus Parvafiolia or other approved equivalent species. The Ulmus Parvafiolia tree (or approved substitute) shall be planted within twelve feet of the front curb of each Lot and in a location specifically designated or approved by the Association. In addition, each front yard shall be graded and at least 35 percent of each front yard must be covered with grass, with the remainder, if any, covered with granite ground cover. All required landscaping shall be completed within 60 days of occupancy of residence.

2.17 Light Post: Each Owner shall have at least two (2) approved ornamental, antique-style light posts located within the front yard of his Lot and shall obtain the prior approval of the Association of their location, design and construction. Each such light post shall

be equipped and maintained with automatic electronic sensors or timers for turning on and off. Owners shall keep such lights and equipment in good working condition at all times. Such lights shall always be on from dusk until dawn.

2.18 Minimum Livable Area and Width: All single-family residences constructed within the Property shall contain a minimum livable area of 2500 square feet on grade level if one story, with or without basement. A two-story home shall contain a minimum livable area of 1800 square feet on the grade level and shall contain a minimum total livable area of 2500 square feet. A split level home shall contain a minimum livable area of 1800 square feet on the grade level and a minimum 2500 square feet total livable area on the grade level, the sub-grade level and the above grade level. All square footage requirements shall be exclusive of open porches, pergolas or attached garages. The minimum width of a single-family residence shall be at least 75 feet.

2.19 Plan Approval: Except as provided herein, no single-family residence, garage, barn, stable, guest house, shed, fence or other structure, nor any modification of or addition to any structure of any nature, shall be constructed within the Property without having first obtained the prior approval of submitted design herein. Failure to obtain prior approval before commencing construction will be punishable by a fine between \$250.00 and \$2,500.00, as determined in the sole discretion of the Board. All such approvals shall be obtained pursuant to the provisions and requirements of Article III herein. Construction of any single-family residence, garage, barn, stable, guest house, shed, fence or other similar structure shall be completed within 8 months of obtaining approval of such construction from the Board. An extension of the permissible construction time beyond this 8-month period may be granted by the Board in its discretion upon a written request by an Owner explaining the need for such extension.

2.20 Commencement of Construction: No garage, barn, stable, guest house, shed, fence or other similar structure shall be erected on any Lot until construction of the primary single-family residence (complying with these restrictions) shall have been commenced on said Lot. No garage, barn or guest house shall be maintained or occupied until construction on said single-family residence is completed and ready for occupancy. Any garage, guest house or similar structure erected on any Lot shall be of the same design, and each entire wall and the roof of such structure shall be constructed of the same materials, as the permanent single-family residence on said Lot if such structure has a square footage of 150 feet or more..

2.21 Permanent Structure: No garage, barn, stable, guest house, trailer, mobile home, motor vehicle or any temporary structure of any nature may be used temporarily or permanently as a residence on any Lot or tract. All permanent structures on all Lots shall comply with all minimum yard set back requirements established by the zoning ordinances of the County of Maricopa and the Town of Gilbert, as they may be amended from time to time.

2.22 Set Back Requirements: Notwithstanding any more lenient zoning ordinances, the minimum set back requirements shall be at least:

<u>Phase I &amp; II</u>	<u>Front</u>	<u>40 feet</u>
	<u>Rear</u>	<u>40 feet</u>
	<u>Street Side</u>	<u>20 feet</u>
	<u>Non-Street Side</u>	<u>30 feet</u>
<u>Phase III</u>	<u>Front</u>	<u>40 feet</u>
	<u>Rear</u>	<u>40 feet</u>
	<u>Sides</u>	<u>20 feet</u>

2.23 Fenced Areas: Each Owner shall construct masonry fencing from the side walls of their single-family residence to the side property lines. Each owner shall enclose his back and side yards with a six (6) foot high masonry block wall. Prior to construction of any wall, the location, design and type of materials must be submitted to, and approved by, the Association.

2.24 Commercial Activities: No hotel, store, multi-family dwelling, boarding house, guest ranch, hospital, sanitarium or other place for the care or treatment of the physically or mentally sick or the treatment of disabled animals shall be erected or permitted upon the premises of any Lot, or any part thereof.

2.25 Upkeep Assessment: The Owners of all Lots shall keep the same reasonably clean and clear of weeds and trash so as not to cause an unsightly or dangerous condition, and if such Owner should fail after ten (10) days written notice from the Association to do so, the Association shall have the right to enter upon such Lot and may cause the same to be cleaned four times yearly. Any expense the Association incurs in connection with such clean up may be assessed to the Owner of such Lot, and the collection and enforcement of same can be conducted in the same manner as any other assessment pursuant to Article IV.

2.26 Drainage: The Developer has established appropriate grades within the Property as required by the proper governmental authorities, and said final grades shall not be disturbed in any manner which may adversely affect any other residential Lot or property, whether within the subdivision or elsewhere, nor shall any Owner divert or cause the diversion of surface water from the street adjacent to his Lot onto any other Lot or other property. All surface water shall be left free to its natural flow unless lawfully diverted to a drainage ditch. All weep holes constructed within side and back block walls shall be maintained so as to be free and clear of any debris to allow the natural flow of any excess water. The provisions of this paragraph shall be subordinate to the Maricopa County and Town of Gilbert subdivision regulations governing such drainage.

2.27 Diseases and Insects: No Owner shall permit any thing or condition to exist upon any Lot within the Property which shall induce, breed or harbor infectious plant diseases or

noxious insects; provided, however, this provision shall not restrict the reasonable exercise of activities permitted by the horse and animal provisions contained herein.

2.28 Gates: Any and all gates shall be constructed in a manner that would properly screen rear yard from street view.

2.29 Air-Conditioning and Heating Equipment: No heating, air conditioning or refrigeration equipment shall be placed, allowed or maintained anywhere other than on the ground level; provided, however, that solar energy devices meeting all governmental guidelines for residential use may be located on the roof if approved by the Association.

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2.30 Utility and Service Lines: No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, that underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where required.

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2.31 Trash Containers and Collection: No garbage or trash shall be placed or kept on any Lot within the Property except in a provided covered container. 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. Bulk trash may be placed on a Lot (not on any street) the Sunday before scheduled pickup.

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

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2.33 Displaying Flags: Flag poles are permitted with the prior approval of the Association. The height of a flag pole can be no greater than the distance between the point of placement of the pole in the yard and the closest point of either of the following: (1) any sidewalk or driveway; (2) any common area; or (3) any neighbor's property line. Flying the United States of America flag shall be done in accordance with the Federal Flag Code. The display of the following flags are permissible under the same guidelines: the Arizona state flag, the flag of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, the POW/MIA flag, an Arizona

Indian Nations flag, or any other flag required to be allowed by law. The Association must approve any lighting prior to installation.

2.34 Holiday Lights: Lights and other holiday decorations may be erected and displayed on any Lot from November 15<sup>th</sup> of a year until January 15<sup>th</sup> of the following calendar year, at which time they must be removed.

### **ARTICLE III** **The Association**

3.1 Organization: The Association is a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, By-Laws, and this Declaration. 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 By-Laws, as same may be amended from time to time. Each Board member shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership or trust, a Director may be an officer, partner or beneficiary of such Owner). If a Board member shall cease to meet such qualifications during his term, he will thereupon cease to be a member of the Board and his place on the Board shall be deemed vacant. The Board shall consist of not less than three nor more than five members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. In the event of any dispute or disagreement between any Owners relating to the Property, or any question of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each and all of such Owners.

3.2 Election and Removal: The right to elect and remove the members of the Board shall be and is hereby vested fully in the Owners pursuant to the By-Laws and applicable Arizona law. Any member of the Board may resign at any time by giving written notice thereof to the remaining members of the Board, or, if there are no remaining members of the Board, then to a majority of the Owners.

3.3 Duties: The Board shall have the authority and responsibility to review the plans and specifications of all single-family residences, garages, guest houses, sheds, fences and other structures to be constructed in the subdivision pursuant to the terms hereof and to review the plans and specifications for the landscaping within the subdivision. The Board shall also have the authority, but not the duty, to enforce the provisions of this Declaration and to perform such duties as may be assigned to it by the Owners.

The Board shall have the right to refuse to approve any plans or specifications or grading plans which are not suitable or desirable, in its sole discretion, for aesthetic or other reasons. In reviewing such plans, specifications and grading plans, and without any limitations of the foregoing, the Board shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is

proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from the adjacent or neighboring property. All subsequent additions to or changes or alterations in any building, fence, wall or other structure including exterior color scheme, shall be subject to the prior approval of the Board. No deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Board. All decisions of the Board shall be final and no Owner or other party shall have recourse against the Board for its refusal to approve any such plans and specifications, including lawn area and landscaping plans.

3.4 Time for Approval: A preliminary plan, showing set backs and architectural design of any proposed structure, must be submitted to the Board for approval prior to commencement of the preparation of final plans. Upon completion of the final plans, two copies of the complete plans and specifications of any proposed structure must be submitted to the Board for approval prior to commencement of construction. At least one copy of said plans and specifications shall be retained by the Board.

The Board shall have the authority to use the services of an architect as a consultant, and to charge a sum not exceeding Two Hundred Fifty Dollars (\$250.00), or such other amount as is charged by the consultant, for each set of plans and specifications submitted to it for approval to defray the fees of the consultant. The consultant shall not have the right to vote in passing upon the plans and specifications.

In the event that a written request for such approval is not acted upon within thirty (30) days of the receipt by the Board of said request, then such request shall be deemed approved; provided, however, that no structure may be constructed pursuant to this paragraph which conflicts with any specifically delineated restriction contained herein.

3.5 Waiver: The approval by the Association of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Association, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

3.6 Meetings and Compensations: The Board shall meet from time to time as necessary to perform its duties hereunder. Members of the Board shall not be entitled to compensation for their services.

3.7 Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provision of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Association Rules." The Association Rules may restrict and govern the use of any Lot and the common areas by an Owner, by the family of such Owner, or by an invitee, licensee or lessee of such Owner; provided, however, that the Association Rules shall not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may from time to time be

adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded. Upon such adoption, said Rules shall have the same force and effect as if they were set forth in and were a part of the Declaration.

3.8 Architectural Guidelines: The Board may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal, by majority vote of the Board members, rules and regulations to be known as the "Architectural Guidelines." The guidelines may set forth the standards and procedures for Association review and guidelines for architectural design, placement of buildings, landscaping, color scheme, exterior finishes and materials and similar features which are recommended for use within the Property.

3.9 Personal Liability: No member of the Board or any committee of the Association, or any officer or employee of the Association, or any management company retained by the Association, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the management company, or any other representative or employees of the Association, or any other committee, or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without wilful or intentional misconduct. Furthermore, the Association shall indemnify, protect and hold harmless all members of the Board and all officers, employees and agents of the Association from and against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any and all claims, demands, suits or actions, or any settlement thereof, for damage, injury, loss or prejudice suffered or alleged from any act, omission, error or negligence of any person provided said members of the Board, and said officers, employees and agents have acted in good faith, without wilful or intentional misconduct. Such indemnification will take place whether or not he is a Board member, officer, employee or agent at the time such expenses are incurred. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by law; provided, however, that the Association shall have the right to refuse indemnification if the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense and through counsel of its own choosing, to defend him or her in the action. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Board members or officers may be entitled.

3.10 Architectural Control Liability: Neither the Board nor any member thereof, shall be liable to any Owner, or to any other party for any damage, loss or prejudice suffered or claimed on account of:

(a) Approval or disapproval of any plans, drawings, or specifications, whether or not defective,

(b) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications,

(c) The development of any property within the Property, or

(d) The execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him.

Without any way limiting the generality of any of the foregoing provisions of this section, the Board, or any member thereof, may, but is not required to, consult with, or hear the views of any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Association for review.

#### **ARTICLE IV** **Covenant for Maintenance Assessments**

4.1 Creation of Lien and Personal Obligation of Assessments: The Declarant for each Lot owned within the Property hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association annual assessments and the actual cost to the Association, relating to or incurred as a result of the upkeep and maintenance of his Lot as provided in Section 2.25 hereof.

Any assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by said successor in title.

4.2 Maintenance of the Common Areas: The Association shall maintain the common areas, which are defined as the entry monuments and landscaping along 161<sup>st</sup> Place, 162<sup>nd</sup> Street, and 163<sup>rd</sup> Place, and the maintenance of the underground irrigation system. The Board shall be the sole judge as to the appropriate maintenance of the common areas. No Owner shall in any way damage or destroy any common areas, or interfere with the activities of the Association in connection therewith. Any amount incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

4.3 Annual Assessments: The Board shall have the right to fix an annual assessment to be used for the upkeep, maintenance and improvement of the common areas by the Association and all costs relating to operation of the Association. The annual assessment must be fixed at a uniform rate for all Lots, and may be collected on a monthly, quarterly, or annual basis.

(a) The initial annual assessment amount shall be \$300.00. At least thirty (30) days before the end of each fiscal year, the Board shall fix the annual assessment amount for the next fiscal year. The annual assessment amount may be increased by the Board each year by not more than ten percent (10%) above the annual assessment amount for the previous year without the approval of the Owners.

(b) The annual assessment amount may be increased by an amount in excess of ten percent (10%) upon a two-thirds (2/3) affirmative vote of the Owners who are voting in person or by absentee ballot, at a meeting duly called for this purpose.

4.4 Special Assessments: In addition to the annual assessments pursuant to Section 4.3 above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the common areas, to provide additional reserve funds, or for any other proper Association purpose, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by absentee ballot at a meeting duly called for this purpose.

4.5 Effect of Non-Payment of Assessment: Each Owner of any Lot shall be deemed to covenant and agree to pay to the Association the assessments provided for herein, and agree to the enforcement of the assessments in the manner herein specified. In the event the Association employs an attorney or attorneys for the collection of any assessment or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, whether or not a lawsuit is filed, each Owner agrees to pay reasonable attorneys fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. Any assessment made hereunder shall be paid within fifteen (15) days of its due date, which shall be the time established by the Board for paying the annual assessment or the date that notice of the amount and nature of costs incurred by the Association is delivered to the offending Owner. In the event of a default in payment, in which case the assessment shall be deemed delinquent, in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity or without any limitation of the foregoing, by either or both of the following procedures:

(a) Enforcement by Suit: The Association may cause a suit at law to be commenced and maintained in the name of the Association against an Owner to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of twelve percent (12%) per annum from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner.

(b) Enforcement by Lien: ~~There is hereby created a claim of lien, with power of sale, on each and every Lot within GREENFIELD ACRES, to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots under these restrictions~~ The annual and special assessments, together with interest thereon at the rate of twelve percent (12%) per annum from the date of delinquency, reasonable attorneys' fees and all costs ~~of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees.~~ Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. Such a claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- ~~\_\_\_\_\_~~ 1. The name of the delinquent Owner;
- ~~\_\_\_\_\_~~ 2. The legal description and street address of the Lot against which claim of lien is made;
- ~~\_\_\_\_\_~~ 3. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and reasonable attorneys' fees (with any proper offset allowed);
- ~~\_\_\_\_\_~~ 4. That the claim of lien is made by the Association pursuant to these restrictions; and
- ~~\_\_\_\_\_~~ 5. That a lien is claimed against said Lot in an amount equal to the amount stated.

~~\_\_\_\_\_~~ Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said Owner, the lien claimed therein shall immediately attach and become effective in favor of the Association as a collecting, or attempting to collect, such assessments, whether or not a lawsuit is filed, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real Property taxes on any Lot, assessments on any Lot in favor of any municipal or other governmental assessing unit, and the liens which are specifically described in Paragraph 4.3 hereinafter. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of advancing such costs. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Lot. In the event such foreclosure is by action in court is made. Each such assessment, together with such interest, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot in GREENFIELD ACRES, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner:

~~\_\_\_\_\_~~ 4.3 attorneys' fees and all costs incurred by the Association in collecting, or attempting to collect, such assessments, whether or not a lawsuit is filed, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The

personal obligation shall not pass to his successor in title unless it is expressly assumed by them or unless prior to such transfer of title as evidenced by the records of the County Recorder or other appropriate governmental agency, a lien for such assessments shall have been filed in writing, with the County Recorder or other appropriate governmental agency.

4.6 Subordination of the Lien to Mortgages: The lien of the assessments provided for herein 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 mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became 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.

## **ARTICLE V** **General Provisions**

———5.1 Enforcement: ~~The Homeowner's Association, Declarant~~ or any Owner, shall have the right, but not the duty, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. The violator of any provision of this Declaration will pay all costs incurred in connection with any the Association's efforts necessary to correct or prevent such violation, including, but not limited to, attorney's fees, regardless of whether suit is filed. Said amounts, if unpaid, shall be treated as an assessment and collected in accordance with the procedures provided in Article IV. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

———5.2 Interpretation of the Covenants: Except for judicial construction, the Association, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's ~~(or Declarant's)~~ construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and ~~P~~property benefited or bound by the ~~C~~covenants and provisions hereof.

5.3 ———Severability: Invalidation of any of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall be in full force and effect.

5.4 ———Rule Against Perpetuities: ~~If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) those of the~~

issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest:

Termination: The Association shall continue to exist until such time as a majority of the Board approves a resolution to terminate the Association and such resolution is approved by the affirmative vote of not less than ninety percent (90%) of the Lot Owners.

5.5 Amendment: The covenants and restrictions of this Declaration shall run with and bind the land until December 31, 2015, after which they shall be automatically extended for successive periods of ten years. This Declaration may be amended at any time ~~prior to December 31, 2015,~~ by an instrument signed by not less than ~~eighty percent (80%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy percent (70%)~~ two-thirds (2/3) of the Lot Owners. Any amendment must be recorded.

5.6 Violations and Nuisances: Every act or omission whereby any provision ~~in~~ 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 release sought is for negative or affirmative action by ~~Declarant, the Homeowner's Association, or any Owner or Owners of a Lot within GREENFIELD ACRES,~~ the Property. However, any other provision to the contrary notwithstanding, only Declarant, the ~~Homeowner's~~ Association, or the duly authorized agent of any of them, may enforce by self help any of the provisions of this Declaration.

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

5.8 Remedies Cumulative: Each remedy provided by this Declaration is cumulative and not exclusive.

5.9 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~~ three (24 hours) business days after copy of same has been deposited in the United States mail, postage pre-paid, addressed to the last known address of addressee.

5.10 References to the Covenants in Deeds: Deeds to and instruments affecting any Lot or any part of the Property may contain the ~~C~~ covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any ~~D~~ deed or instrument, each and all of the ~~C~~ covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

5.11 Declaration Binding Effect: By acceptance of a ~~D~~ deed or by acquiring any ~~O~~ ownership interest in any of the ~~real~~ real Property within covered by this Declaration, each person or

entity, for himself or itself, his heirs, personal representative, 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 hereinafter imposed by this Declaration and any amendments thereof. In addition, each person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and care of the ~~real~~ Property covered thereby and hereby evidences his interest in all of the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, 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.

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

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

~~5.14 Annexation of Additional Property. Notwithstanding any other provision of this Declaration, Developer reserves the right, in its sole discretion and without the approval, assent or vote of~~ Attorney's Fees: In the event the Association ~~or the Owners, at any time within ten years from the date of recording of this Declaration, to annex to the Project all or any portion of real property, in increments of any size whatsoever, or to annex or develop more than one such increment at any given time and in any given order; provided however, that nothing contained in this Declaration shall obligate Developer to annex all or any portion of the Annexation Property at any time, and no portion of the Annexation Property shall become subject to this Declaration unless and until a Declaration of annexation shall have been recorded as herein provided.~~

~~5.15 General Plan of Development. Developer intends to sequentially develop the Project (including any portion of the Annexation Property which is ultimately annexed to the Project) on a phased basis. The first phase shall consist of thirty-two Lots. Succeeding phases will consist of one or more Lots.~~

~~5.16 Declarations of Annexation. A Declaration of Annexation shall be a writing in recordable form which annexes all or part of the Annexation Property to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements, definitions and other~~ incurs legal expenses and costs, including but not limited to attorney's fees, in bringing claims against Owners or defending claims brought by Owners in an administrative action or proceeding, including but not limited to, proceedings before an Administrative Law Judge, the Association shall be entitled to recover its attorney fees and costs from the Owner involved in the administrative proceeding.

5.15 Responsibility for Compliance: Each Owner shall be responsible for compliance by said Owner's agent, tenant, guest, invitee, lessee, licensee, their respective servants and employees to the provisions of this Declaration and shall state, with respect to the phase intended to be developed on the Annexation Property so annexed, the number and description of the Lots. The annexation shall become effective only upon recordation of the Declaration of Annexation, together with a plat (the "Annexation Plat") describing such portion of the Annexation Property and Buildings and Lots included in such phase. The effective date of the Annexation shall be the date of recordation of the Declaration of Annexation and Annexation Plat, or such later date as may be specified in the Declaration of Annexation. A Declaration of Annexation may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexation Property and as are not inconsistent with the plat of this Declaration. In no event, however, shall any such Declaration of Annexation revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

5.17 Completion of Annexation. The recordation of a Declaration of Annexation shall, as of the effective date of the annexation, constitute and complete the annexation of the Annexation Property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said Annexation Property shall be part of the Property for all intents and purposes of this Declaration, all of the Owners of Units in said Annexation Property shall automatically be Owners in accordance with this Declaration:

, Articles, By-Laws, and Association Rules as they may be amended from time to time. The Owner's failure to so insure compliance by such persons shall be grounds for the same action available to the Board by reason of said Owner's non-compliance.

IN WITNESS WHEREOF the undersigned GREENFIELD ~~LAND DEVELOPMENT, LLC~~HOMEOWNERS ASSOCIATION, has caused its name to be signed by the signature of a duly authorized agent this \_\_\_\_\_ day of \_\_\_\_\_, on 2008.

GREENFIELD ~~LAND DEVELOPMENT, LLC~~  
HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation

=  
\_\_\_\_\_  
By \_\_\_\_\_  
\_\_\_\_\_  
President

=  
STATE OF ARIZONA \_\_\_\_\_ )  
\_\_\_\_\_) ss.  
County of Maricopa \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me personally appeared \_\_\_\_\_, whose identify was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledged that he/she signed this document.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

Notary Seal: