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DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
RANCHOS SAN PEDRO SUBDIVISION NO. 1  
COCHISE COUNTY, ARIZONA

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DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
RANCHOS SAN PEDRO SUBDIVISION NO. 1  
COCHISE COUNTY, ARIZONA

This Declaration of Covenants, Conditions, Restrictions and Easement (hereinafter the "Declaration") is made this 26<sup>th</sup> day of August, 2013 by Rancho San Pedro, LLC (hereinafter referred to as the "Declarant").

RECITALS

A. Declarant is the Owner of that certain real property described herein as follows:

All that portion of Section 6, Township 23 South, Range 21 East, Gila and Salt River Meridian, being more particularly described as follows:

Lots 1-9 inclusive, Lots 16-26 inclusive, and Lots 29-205 inclusive as shown on that certain Subdivision Plat entitled RANCHOS SAN PEDRO, NO. 1 as recorded on the 19<sup>th</sup> day of December, 2000 in Book of Maps and Plats in Volume 14, at Pages 51A -51F inclusive, in the Office of the County Recorder of the County of Cochise, State of Arizona;

hereinafter referred to as the "Real Property". The Real Property is also sometimes hereinafter referred to as "The Property" or "The Project" or "The Development".

B. Declarant desires to establish a general plan, which is set forth in this Declaration, for the subdivision, improvement, and development of the Real Property, and each and every Lot and parcel on the Real Property as a standard Single Family Residential Subdivision and desires to secure the harmonious and uniform development of the Real Property in accordance with said plan.

C. Declarant has invested in and acquired the approved subdivision and fully developed Real Property (the "Project") as a Single Family Residential Subdivision under the laws of the State of Arizona containing one hundred ninety-seven (197) remaining residential lots with all of its Open Areas and Outlots, if any, as referenced hereinabove in accordance with the above-referenced Cochise County Plat Map. Declarant desires to impose upon said Real Property the covenants, conditions, restrictions and easements set out hereinbelow for the benefit of said Real Property and all Residences to be constructed thereon as well as the future owners thereof.

D. Accordingly, the covenants, conditions, restrictions, reservations, easements, and equitable servitudes set forth herein are covenants running with the land pursuant to the Arizona Revised Statutes and shall be binding upon all persons having any right, title, or interest in any portion of the Development, and may be enforced by Declarant, the Association, or by any Owner.

E. The Recitals herein contained shall be a part of this Declaration by this reference thereof.

ARTICLE I  
DECLARATION

Declarant declares that the Real Property is, and shall be, held, conveyed, hypothecated, used, encumbered, leased, rented, and occupied subject to the following limitations, restrictions, easements, covenants, conditions and servitudes hereinafter set forth, all of which are declared and agreed to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the Real Property. All of the limitations, restrictions, easements, reservations, covenants, conditions and servitudes shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title, or interest in the Real Property or any part thereof and shall be binding on and inure to the benefit of the successors in interest of such parties.

ARTICLE II  
DEFINITIONS

Unless the context otherwise specifies, the terms defined in this Declaration for all purposes shall have the following meanings:

2.1 BOARD OF DIRECTORS - “Board of Directors” or “Board” shall mean the governing body of the Association.

2.2 BYLAWS - “Bylaws” shall mean the Bylaws of the Association as they may be adopted by the Members and any duly-adopted amendments thereof. Unless the Members adopt a separate set of Bylaws, the provisions of Article V, below, shall constitute the Association’s Bylaws.

2.3 COUNTY - “County” means the County of Cochise, Arizona, the County in which the Project is located.

2.4 DECLARANT - “Declarant” means Rancho San Pedro, LLC and its successor and assigns, if such successors and assigns are assigned the rights of the Declarant, or if such successor or assign is a mortgagee acquiring Declarant’s interest in the Development by foreclosure or deed in lieu of foreclosure.



2.5 DECLARATION - “Declaration” means the Declaration of Covenants, Conditions, and Restrictions and Easements and its amendments, revisions, restatements, addenda, modifications, or supplements, if any.

2.6 DIRECTOR - “Director” shall mean a member of the Board of Directors of the Association.

2.7 EASEMENT or EASEMENTS - “Easement or Easements” refers to the nonexclusive blanket easements described over and across the Project or as otherwise described and established in this DECLARATION, or other document, for public, private, and quasi-public utilities, streets, roadway ingress and egress, drainage and other necessary rights and purposes over the Project and its respective Outlots.

2.8 GOVERNING DOCUMENTS - “Governing Documents” shall mean the Articles, Bylaws, Declaration, Rules (including the Architectural Rules and Guidelines), and the policies and resolutions duly adopted by the Board.

2.9 INVITEES - “Invitees” means any persons within the Project at the express or implied invitation of an Owner for business purposes, for mutual advantage, or for purely social purposes.

2.10 LOT - “Lot” means any plot of land numbered one (1) through two hundred five (205), shown on the herein referenced Cochise County Plat Map.

2.11 MEMBER - “Member” shall mean an Owner, and refers to membership in the Association.

2.12 MEMBER IN GOOD STANDING - “Member in Good Standing” shall mean a Member of the Association who is current in the payment of all dues, Assessments, fines, penalties, and other charges imposed in accordance with the Governing Documents, and who is in compliance with all of the provisions of the Governing Documents, as may be more particularly set forth in any Bylaws adopted by the Members.

2.13 OWNER - “Owner” means each person or entity holding any record ownership interest in a Lot, including Declarant, and any contract seller under recorded contracts of sale. “Owner” shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

2.14 PRIVATE - “Private” is used to describe certain non-exclusive Easements, such as, but not limited to, private utilities, streets, roadways, open space/recreational, if any, drainage and parking areas, if any, traditionally thought as being governmental in nature, however, being non-governmental in nature for purposes of this project.

2.15 PROJECT PRIVATELY MAINTAINED AREAS - “Project Privately Maintained Areas” shall mean those improvements and/or areas of the Project that shall be privately

repaired and maintained by the Project Management, which shall include all those areas and improvements specified in Article V herein.

2.16 PUBLIC – “Public” is used to describe certain non-exclusive Easements and Outlot Areas, such as, but not limited to public road rights of way, public utilities for electricity, natural gas, cable television and telephone, public utilities relative to the provision of domestic water, supply and the distribution of same, which, for this Project located in the boundaries of the unincorporated area of Cochise County, are governmental in nature.

2.17 PROJECT PUBLICLY MAINTAINED AREAS – “Project Publicly Maintained Areas” shall mean those improvements and/or areas of the Project that were previously Offered for Dedication to the County by the referenced Final Plat in the Records of Cochise County and that shall be publicly repaired and maintained by the County of Cochise for the benefit of the Ranchos San Pedro Subdivision No. 1.

2.18 PROJECT: DEVELOPMENT - “Project” or “Development” means the property that is to be developed including any improvements constructed on the property.

2.19 PROPERTY - “Property” means the Real Property described in the Recitals subject to the provisions of this Declaration and any Supplement to this Declaration recorded in accordance with this Declaration.

2.20 PROJECT MANAGEMENT – “Project Management” means any body, entity, or organization or group such as an Architectural Review and Maintenance Committee or Homeowner’s Association which shall be created to operate, maintain, and repair all those Project Open Areas and Outlots (the “Project Privately Maintained Areas”) not otherwise operated or maintained by the County of Cochise.

2.21 RESIDENCE - “Residence” means a private, single family dwelling constructed or to be constructed on a Lot.

2.22 RESIDENCE LOT/LOT - “RESIDENCE LOT” or “LOT” shall mean and refer to each of the numbered Lots as shown, pursuant to the heretofore referenced Cochise County Final Plat recorded as hereinabove described, excepting therefrom Lots 10-15 (inclusive), and Lots 27 & 28.

2.23 RULES - “Rules” shall mean the rules and regulations governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time, and the Architectural Rules as adopted and published by the Architectural Review Committee from time to time.



2.24 SUBDIVISION MAP - "Subdivision Map" means the recorded Ranchos San Pedro Subdivision No. 1 Plat as described in the Recitals.

ARTICLE III  
PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENT

3.1 PERSONS SUBJECT TO THE DECLARATION

A. All present and future Owners, tenants and occupants of Lots within the Development shall be subject to, and shall comply with, each and every provision of the Declaration, as the same or any of them shall be supplemented or amended from time to time, unless a particular provision is specifically restricted in its application to one (1) or more of such classes of persons (i.e., Owners, tenants, invitees, etc.).

The acceptance of a deed to any lot, the entering into a lease, sublease or contract of sale with respect to any lot, or the occupancy of any residence constructed on a lot shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Declaration and all provisions contained therein.

3.2 OTHER EASEMENTS

A. Each Lot and its Owner, as the case may be, is declared to be subject to all Easements, and rights-of-way granted in, on, over, and under any of the Project Open Areas or Outlots and each Lot as may be shown on the Final Plat, or as may be referenced herein, or as may be established by this Declaration.

3.3 DELEGATION OF USE

A. Any Owner may delegate his rights of use and enjoyment of the development to the members of his family, his guests, tenants, and employees, and invitees and to such other persons as may be permitted by and subject to this Declaration. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegations shall relieve an Owner from liability to the Project Management or to other Owners for payment of any assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Lot shall require the incorporation of the covenants, conditions, and restrictions and easements contained in this Declaration, which provisions shall be for the expressed benefit of the Project Management, the Homeowner's Association and each Owner as may be applicable. The Project Management and each Owner shall have a right of action directly against the Owner, for non-performance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.



ARTICLE IV  
OCCUPANCY AND USE

4.1 USE OF PROPERTY

A. Lots shall be used for no more than one (1) site built, single-story, single-family residential home and one (1) site built “in-laws” quarters upon approval by the Architectural Review Committee as provided for herein, which unit(s) shall be constructed pursuant to the Ranchos San Pedro Project Architectural and Design Review Guidelines and Standards which may change from time to time, and no Lot shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes other than as shall be permitted pursuant to the Cochise County Zoning Ordinance and subject to review and approval by both the Project Management and the County of Cochise. No relocated structures will be permitted to be placed upon any lot within the project.

4.2 USE OF VEHICLES

A. No boat, truck, trailer, van, camper, recreational vehicle, or tent shall be used by an Owner as a permanent or temporary living quarters while located within the Development. However, trailers or temporary structures may be used by the Declarant as incidental to the construction of the Development or the initial sales of Lots may be maintained within the Development, provided that such use does not unreasonably interfere with any Owners’ use of the Development. Such trailers or structures will be promptly removed upon completion of all construction and all Lot sales or sooner at the sole discretion of the Declarant.

4.3 OFFENSIVE CONDUCT; NUISANCE

A. No noxious or offensive activities shall be conducted upon the Property. Nothing shall be done on or with the Development that may be or may become an annoyance or nuisance to the residents of the development, or that in any way interferes with the quiet enjoyment of Owners or occupants of Lots. No Owner shall serve food or beverages, cook, barbecue or engage in similar activities except within such Owner’s Lot, or as approved in writing by the Project Management prior to the occurrence of the activity.

4.4 STORAGE

A. Storage of personal property on any Lot shall be entirely within enclosed storage areas unless otherwise approved by the Project Management. In the Project Management’s sole discretion, residents shall be entitled to stack firewood on and beneath the porches and patio areas of the Owner’s residence provided that the quantities so stacked are reasonable and proportional to the Owner’s “seasonal” use of the firewood, allowing only for fire storage for each seasonal usage on an annual basis.

4.5 PARKING RESTRICTIONS; USE OF GARAGES

A. Except to the extent desired by Declarant to be used during the development and sale of Lots or residences within the project, no motorhome, tent, travel trailer, truck camper, house trailer, boat, boat trailer or similar item of equipment, shall be kept, parked, stored or maintained within the project, except within the confines of a garage, an approved outbuilding (structure) or approved carport upon a lot, or as otherwise provided and in accordance with the



Project Management Rules, which may change from time to time. No such vehicle so placed shall be used for living purposes. No stripped down, wrecked or junked motor vehicle shall be kept, parked, stored or maintained with the project, except within the confines of a garage or an approved enclosed structure upon a lot.

B. Excepting for the Declarant that may use any garage for a sales or design and construction office, garages shall be used and maintained only for the purpose of storing motor vehicles, boats and trailers; the interior perimeter of each garage may be used for the storage of other items and for uses normally associates with a garage. No required garage shall be converted for living or recreational activities or to other uses unless otherwise approved by the Project Management and the Owner provides a substituted garage structure to house the Owner's vehicles. Garage doors shall remained closed except as is necessary to permit ingress and egress for vehicles or for the purpose of cleaning and working in the garage or the surrounding area.

C. Under the rules, policies, and to promulgate the goals of the project, each Lot Owner, without any exception, will provide for no less than two (2) off-street, temporary, guest parking spaces (**defined as being on the Owner's lot**) in the design and placement of the Owners' home and driveway on the Lot in accordance with the Ranchos San Pedro Architectural and Design Review Guidelines and Standards, which may be modified from time to time by the Declarant in the Declarant's sole discretion.

#### 4.6 SIGNS

A. No sign of any kind shall be displayed to the public view on or from any Lot without the prior written approval of the Project Management, except such signs as may be used by the Declarant or its designees for the purpose of constructing, maintaining and marketing Lots within the Development and then only for a period of time not to exceed the date on which the last Lot is sold by Declarant or fifteen (15) years from the date of recordation of the Declaration, whichever is sooner. In exercising its rights under this provision, Declarant shall not unreasonably interfere with the use of the Development by any Owner. However, one sign of customary and reasonable dimensions advertising a Lot for sale or for rent may be placed within any Lot.

#### 4.7 ON-STREET PARKING

A. With the exception of emergency vehicles in conjunction with emergency necessities, no "on-street" parking shall be allowed within the Project. Violations of this no on-street parking provision and rules shall be subject to the assessment of fines deemed reasonable by the Project Management and/or by the ticketing of the violation by the Arizona Department of Public Safety pursuant to public codes regarding fire access ways and other public necessities.

#### 4.8 PLANT MATERIALS

A. No plants or seeds infected with noxious insects or plant diseases shall be brought, grown, or maintained within the Development.

B. To the extent possible, indigenous plant material shall be used for landscaping purposes, and shall be installed in such a manner to promulgate and promote the water conservation policies set forth by the County of Cochise.



#### 4.9 ANIMALS

A. Domestic dogs, cats, fish and birds, inside bird cages, may be kept, bred, or raised for personal, residential purposes in reasonable quantities. Each person bringing or keeping a pet upon the Development shall be liable to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees for any damage to person or property proximately caused by any pet brought upon or kept upon the Development by the person or by members of his family, his guests, or invitees. Any Owner or occupant of any Lot may be required by the Project Management to remove or pen any household pet that is not disciplined or that constitutes an undue annoyance to Owners or occupants of other Lots within the project.

#### 4.10 TRASH DISPOSAL

A. No rubbish, trash, garbage or other waste material shall be allowed to accumulate on any Lot unless stored in appropriate sanitary, covered disposal receptacles located within an enclosed area adjacent to the Owner's residence and screened from view from any street or neighboring Lot. Except, on the scheduled day for trash pickup, these receptacles may be temporarily located in those places specifically designated by the Project Management and the Solid Waste Disposal provider for such purposes. Any extraordinary accumulation of rubbish, trash, garbage, or waste material on a Lot such as, but not limited to, debris generated during the construction, maintenance, repair, alteration, replacement, or vacation of the Residence thereon, shall be promptly removed from the Lot and the Development to a public refuse collection area by the Owner or tenant at his or her expense. Each Owner shall arrange for the proper and frequent disposal of garbage and trash from his Lot.

#### 4.11 VECTOR & NUISANCE CONTROL

A. Keeping pets within the Lots shall require that the Owner control pests and flies, dispose of animal waste prior to odor occurrence or unsightly accumulation impact to adjacent Lots.

#### 4.12 MAINTENANCE OF LOTS/RESIDENCES

##### 4.12.1 Owner's Responsibilities.

A. Until such time as the Residence and Landscaping have been completed, the Owner shall maintain his or her Lot in a neat, clean and weed-free, fire-safe condition.

B. Thereafter, each Owner shall be responsible for maintaining the structures located upon his or her Lot, including the equipment and fixtures in the Residence and its exterior walls, the painting and/or staining of exterior walls, the roof, ceilings, windows and doors in a clean, sanitary, workable and attractive condition and the lot shall be continuously maintained in a fire-safe condition. Exterior windows shall not be painted or covered by foil, cardboard, or other similar materials. The garage door for the garage of the Residence shall be maintained in good condition, appearance and repair.

C. Each Owner shall water, plant, trim, remove, and otherwise care for the landscaping located on his or her Lot in a safe, neat, weed-free and healthy manner.



D. Fences. Each Owner shall maintain, repair and replace the fences and walls located on his or her Lot, keeping the same in good and attractive condition and repair.

E. Utility Connections. Utility lines and connections, including without limitation, water, electrical, cable television, telephone and gas lines, which are located on, under, or over any Lot and which provide service to the Residence or other Improvements located upon such Lot, shall be maintained, repaired and replaced by the Owner of such Lot or by the utility company providing such service.

4.12.2 Compliance With Architectural Provisions. An Owner's right and responsibility for maintaining, repairing, or replacing any portions of his or her Lot, including landscaping, shall be subject to any applicable provisions of the Governing Document or Project Supplements relating to landscaping and architectural control.

4.12.3 Owner Failure to Maintain. The Board shall have the absolute discretion to determine whether any maintenance, repair, or replacement which is the responsibility of an Owner is necessary to preserve the appearance and value of the property comprising the Development, or any portion thereof, and may notify an Owner of the work the Board deems necessary. Subject to the authority of the Board to authorize immediate emergency repairs as specified in Section 4.12.5, in the event an Owner fails to perform such work within thirty days after notification by the Board to the Owner, the Board may, after written notice to the Owner and the right of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.

4.12.4 Owner Liability. In the event the need for any maintenance, repair, or replacement by the Association is caused by the willful or negligent act or omission of an Owner, members of any Owner's household, or an Owner's tenants, Contract Purchaser, guests, invitees, or household pets, the cost of such maintenance, repair or replacement, including the cost of materials, labor supplies, and services shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment.

4.12.5 Authority for Entry of Lot. The Association or its agents may enter any Lot, whenever such entry is necessary, in the Board's sole discretion, in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible or which it is authorized to perform. Although under no obligation to do so, the Board, in its complete and sole discretion, may enter or may authorize the Association's agents to enter any Lot to effect emergency repairs where such repairs are necessary for safety reasons or to prevent or discontinue damage to the entered Lot, any other Lot or the Association Maintenance Area. The cost of performing any such emergency repairs shall be charged to the Owner as a Reimbursement Assessment. Such entry shall be made with as little inconvenience to the Residents as practicable and only upon reasonable advance written notice of not less than twenty-four (24) hours, except in emergency situations.

4.12.6 Cooperative Maintenance Obligations. To the extent necessary or desirable to accomplish the Association's maintenance and repair obligations hereunder, individual Owners



shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work.

4.12.7 Association Liability. The Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any Improvement thereon, except to the extent that the need for such maintenance, repair, or replacement results from the negligence or fault of the Association, its employees, contractors, or agents.

4.12.8 Board Discretion. The Board shall have the discretion to determine the manner, method, extent and timing of the performance of any and all maintenance, repair and replacement obligations imposed upon the Association by this article.

#### 4.13 OFF-STREET VEHICLES

A. Excepting for duly authorized maintenance personnel in conjunction with their maintenance duties, no person may ride, drive or operate any off-road vehicle such as a trail bike, or other motor vehicle designed, built, or modified for off road use, over or upon any Lot within the Development or upon the Project Open Areas or Outlots, if any.

#### 4.14 MACHINERY AND EQUIPMENT

A. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the construction, use, maintenance or repair of a private residence, appurtenant structures or the Lot within the Development.

#### 4.15 EXCAVATION

A. No improvement, excavation, fill or other work that would in any way alter the natural or improved state of any Lot shall be made or done except upon prior written consent of the Project Management and the issuance of such permits as may be necessary or required by the County or other governmental agency having jurisdiction in the matter. For the purpose hereof, established drainage patterns are defined as the drainage patterns existing at the time the grading of the roadway was completed in conformity with the plan heretofore approved by the County. This provision shall not be applicable to work performed by Declarant until such time as Declarant has completed all work required by the County upon the Project.

#### 4.16 CONSTRUCTION STRUCTURES

A. Except for the Declarant and the Declarant's authorized agents, contractors, and employees, no work shack, work facility, construction trailer or other similar facility shall be constructed, placed or maintained upon any Lot or the project Outlot except with the prior written approval or permission of the Project Management; no such construction shelter or facility shall be used for temporary or permanent living purposes.

#### 4.17 HUNTING

A. There shall be no hunting nor the discharge of fire arms or other weapons upon the project.



#### 4.18 SETBACKS

A. All improvements in the project shall be constructed only in accordance with the setback provisions as established by the Project Management from time-to-time.

#### 4.19 DESTRUCTION

A. In the event a residence or other improvement upon a lot is destroyed or substantially damaged, the Owner of said improvement shall, within two (2) months following the destruction thereof, either submit plans for the reconstruction thereof to the Project Management, or remove such damaged or destroyed structure from the Lot and restore the Lot to its natural state to the extent reasonably possible. Should the Owner elect to rebuild such damaged or destroyed structure or improvement, such rebuilding must commence within four (4) months following the approval of the plans therefor by the Project Management, and must be completed within one (1) year following such approval unless delay is excused by Project Management.

#### 4.20 TREES

A. Cutting of trees for other than dead wood removal or for driveway, building site and grading purposes shall not be permitted without approval of the Project Management. The cutting or altering of trees that have a twelve inch (12") diameter at a point two feet (2') above the natural grade of the Lot shall not be permitted at any time, except for cutting or clearing as may be necessary for home construction as may be approved by the Project Management pursuant to the Architectural Review Guidelines to be established for the Project.

#### 4.21 EXTERIOR LIGHTING

A. Exterior lighting shall be permitted within the project only in accordance with Light Pollution Standards established by the County and the rules and regulations of the Project Management and approved plans therefor. Security, pathway and general area exterior lighting shall be discrete, directional and hooded to minimize the effect on wildlife and adjacent properties.

A requirement of the initial approval to construct the residential improvements on each lot shall be the inclusion of a five (5) foot high, project standardized, Cochise County compliant post light at the right-of-way line for each lot where the driveway improvements to the home intersect said right-of-way line. This requirement, and specifications therefor, shall be more particularly described in the Ranchos San Pedro Project Architectural and Design Guidelines and Standards.

#### 4.22 LEASING

A. An Owner is permitted to lease or rent his or her Residence, however, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all terms and provisions of this Declaration. Any lease or rental agreement shall comply with subsection 3.3 of this Declaration, entitled "DELEGATION OF USE", and shall specify that failure to abide by such provisions shall be a default under the lease or rental agreement.



## B. LEASING OF LOTS – SPECIFIC REQUIREMENTS

(1) Notification of the Board. The Owner shall notify the Association of the duration of the lease and shall provide the Association with (i) the names of the tenants, (ii) the names of the members of the tenants' household, (iii) the tenants' telephone numbers, and (iv) such other information as the Board deems appropriate. The Association may, in its discretion, adopt a form for the provision of the information required by this subsection, together with an acknowledgment by the tenants that they have read, understand and agree to abide by the Governing Documents, which form shall be submitted to the Association for each rental of a Lot.

(2) Owner Responsibility. Each Owner renting a Lot shall be strictly responsible and liable to the Association for the actions of such Owner's tenant in or about all Lots and Common Area and for each tenant's compliance with the provisions of all Governing Documents. An Owner renting a Lot shall provide the tenant with copies of the Governing Documents and all subsequent amendments.

(3) Indemnification of Association. Every Owner of a Lot that is occupied by persons other than the Owner pursuant to a rental agreement or otherwise, agrees to and shall indemnify and defend the Association, its officers, directors, managers, and agents and shall hold them harmless from any cost, loss, claim, or damages of any kind, including but not limited to attorneys' fees arising out of the conduct or presence of the occupants of the Lot upon the Development, including any such cost, loss, claim, or damages arising or alleged to have arisen out of the enforcement or nonenforcement by the Association of the Governing Documents against such occupants. Without limiting the generality of the foregoing, all costs, including attorneys' fees incurred by the Association to enforce the Governing Documents against such occupants, shall be reimbursed to the Association by the Owner and may be assessed by the Association as a Reimbursement Assessment.

(4) Requirements of Written Rental Agreement. Any rental of any Lot shall be only by written rental agreement which shall expressly provide (i) that it is subject to all of the provisions of the Governing Documents, (ii) that the tenants of such Lot shall comply with all provisions of the Governing Documents, and (iii) that any violation of any provisions of the Governing Documents shall constitute a breach and default of the terms of such rental agreement. The rental agreement shall not attempt to, nor shall any such agreement be effective to, transfer membership in the Association to the lessee.

(5) Requirement of Inclusive Rental Agreement. No Owner may rent or hire any garage, accessory building, or similar improvement to anyone who does not have the right of possession of the entirety of the Residence on the Lot.



#### 4.23 COMPLIANCE WITH LAW

A. No Owner shall permit anything to be done or kept in his or her Lot that violated any law, ordinance, statute, rule, or regulation of any local, county, state, or federal body.

#### 4.24 CAMPING.

A. There shall be no camping upon any LOT of the PROJECT.

#### 4.25 MODEL.

A. Excepting the Declarant, no OWNER of any LOT shall build or permit the building thereon of any structure that is to be used as model or exhibit, unless the consent to do so has been granted by the Project Management, and then only subject to the limitations set forth in such consent.

#### 4.26 RESUBDIVISION.

A. No LOT may be resubdivided or reparceled except for the purpose of attaching all portions thereof to adjacent LOTS and only with the approval of the Project Management and the County of Cochise in accordance with applicable Cochise County Code.

#### 4.27 UNLICENSED VEHICLES.

A. Except for electric golf carts incidental to social visits within the project, no person may ride, drive or operate any motor vehicle not licensed for street use within the PROJECT roads, unless otherwise approved by the Project Management

#### 4.28 PROJECT OUTLOT USES.

A. The uses of the Project Outlots and Open Areas, if any, are restricted to the specific uses(s) as are indicated on the recorded Plat Map referenced herein or as may be established by this Declaration. The Project Outlots and Open Areas shall be essentially for the conveyance of stormwater and drainage, ingress and egress to public roadways, water supply, storage and distribution, storm water retention and/or detention, open space, public, quasi-public, and private utilities, and ingress/egress for all maintenance of Open Areas and Outlot areas and any utility(ies) located thereon or thereunder and shall have an overlay of blanket easements for the following:

1. Rights-of-way and easements for all public, quasi-public and private utilities together with rights of access to and from said easements over and across all Outlots and Lots as necessary;
2. Roadway slope maintenance and streetscape irrigation, if any;
3. The blanket drainage easement for the conveyance of drainage to project built and natural drainage features together with an easement for project constructed detention facilities for storm surge attenuations;
4. Fire safe maintenance and hazard abatements pursuant to Arizona and Cochise County fire safe guidelines and policies;
5. Project entryway features and security gate operation and maintenance;

All blanket easements herein referenced being reserved and granted together with all other rights and privileges necessary for the full use and enjoyment thereof.

ARTICLE V  
PROJECT MANAGEMENT, HOMEOWNER'S ASSOCIATION &  
ASSOCIATION MEMBERSHIP

5.1 PROJECT MANAGEMENT.

A. The project contains certain privately maintained areas, Outlots and elements which must be continuously maintained by an organization, entity, committee or association of individuals of either commissioned licensed professionals, trustees, appointees, or individuals who have some commissioned interest or a record title interest in some or all of the lots within the Project.

This organization, committee, and/or association shall be empowered with the rights and duties to assess a charge to each of the individual Lot owners for the continued annual maintenance and operations of the project components described hereinbelow. This Project Management entity may be either an Architectural Review and Maintenance Committee consisting of at least one paid professional together with an organization of Lot owners as an advisory/steering committee or a Lot Owner's Maintenance Committee consisting of a number of interested Lot owners or a Homeowner's Association (the "Association") or any other assemblage of interested individuals organized at the sole discretion of the Declarant for the benefit of the management of the Project.

B. Declarant hereby covenants that prior to the Declarant or any of Declarant's successor's in interest offering any retail lots for sale to the public, the Declarant will obtain a final subdivision public report from the Arizona Department of Real Estate which will incorporate the establishment, creation and/or incorporation of the most appropriate entity in the Declarant's sole discretion to perform such annual private maintenance functions.

5.2 PROJECT PRIVATELY MAINTAINED AREAS.

A. The components of the Project that may require private annual maintenance are as follows:

1. Parking Areas, if any;
2. Street Lighting, if any;
3. Entry Gates and Entrance features, if any;
4. The Open Areas and features, if any;
5. Drainage Channels and Storm Water Detention features; and
6. Community Mailbox Improvements and Areas.

5.3 MANAGEMENT AND OPERATION - The Association, through the Board of Directors, shall manage and operate the Development in accordance with the applicable provisions of the Governing Documents and the applicable provisions of the Arizona Revised Statutes. The Association shall have all of the powers set forth in the Governing Documents together with general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under the laws of the State of Arizona, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.



#### 5.4 ASSOCIATION MEMBERSHIP.

(a) Ownership Includes Membership. Every Owner of a Lot shall be a Member of the Association and shall remain a Member thereof until such time as his or her Lot ownership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a Lot and shall not be transferred, encumbered, pledged, alienated, or otherwise hypothecated in any way, except in connection with the sale or encumbrance of the Lot to which it is appurtenant.

(b) Membership Meeting Notice. The annual meeting of the Members shall be held at a date and time established by the Board. Special meetings of the Members may be called at any time by the President or by the Board of Directors or pursuant to the written request of Members entitled to cast at least twenty-five percent (25%) of the total voting power of the Membership. Written notice of annual and special membership meetings shall be mailed first class, postage prepaid, or otherwise delivered at least ten (10) but not more than ninety (90) days before such meeting, to each member entitled to vote at such meeting, except that in the case of a special meeting called pursuant to a written request of members, notice of such special meeting shall be mailed or otherwise delivered within twenty (20) days after receipt of such written request by the Board, and the date of such special meeting shall be set by the Board and shall be not sooner than thirty-five (35) days nor later than ninety (90) days after the date of the Board's receipt of such written request. Notice of meetings shall be addressed or otherwise delivered to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Notice of any meeting of Members shall specify the date, hour, and place of the meeting, and the general nature of those matters which the Board intends to present for action by the Members.

(c) Membership Meeting Quorum. The presence at any meeting, in person or by proxy, of Members entitled to cast at least a majority of the total voting power of the Membership shall constitute a quorum for the transaction of any business. If, however, such quorum shall not be present or represented at any meeting, the Members otherwise entitled to vote at that meeting may not transact any business but may adjourn the meeting from time to time, to be reconvened at a subsequent date which is not less than five (5) days and not more than thirty (30) days from the time of the adjourned meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. At all meetings of the members, each member may vote in person or by proxy.

5.5 CLASSES OF MEMBERSHIP - The Association shall have the following classes of membership:

(a) Class A Members. Each Owner, with the exception of Declarant, shall be a Class A Member of the Association. If a Lot is owned by more than one (1) person, there



shall be only one (1) vote with respect to such Lot. Declarant shall become a Class A Member upon the occurrence of the events specified in Section 5.5(c), below.

(b) Class B Members. The Class B Member shall be Declarant until the occurrence of the events specified in Section 5.5(c), below.

#### 5.6 VOTING RIGHTS OF CLASSES OF MEMBERS.

(a) Commencement of Voting Rights. Voting rights attributable to the ownership of Lots shall not vest until Assessments against those Lots have been levied by the Association.

(b) Class A Members. Class A Members shall have one (1) vote for each Lot that the Member owns. A Class A Member who has sold his or her property to a Contract Purchaser under an agreement to purchase shall delegate to such Contract Purchaser, by proxy, his or her membership rights in the Association. However, the Contract Seller shall remain liable for any default in the payment of Assessments by the Contract Purchaser until title to the property sold shall be transferred to the Contract Purchaser.

(c) Class B Members. The Class B Member shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the first to occur of the following events:

(i) The total outstanding votes held by Class A Members equal the total outstanding votes held by the Class B Members.

(ii) The fifteenth (15th) anniversary of the first conveyance of a Lot in the Development by Declarant.

(d) Members Entitled to Vote. Only Members in Good Standing shall be entitled to vote. The tenants or lessees of any Lot within the Development shall have no voting or membership rights in the Association.

(e) Suspension of Voting Rights. A Member's voting rights may be temporarily suspended under those circumstances described in Article VII, below.

(f) Consent of Membership Classes. As long as there are Class A and Class B memberships within the Association, no action by the Association that must have the prior approval of the Members shall be deemed approved by the Members unless approved by the appropriate percentage of both classes of Members. Whenever any provision of this Declaration or any other Governing Document of the Association requires the approval of a prescribed majority of the voting power of the Members "other than Declarant", the intent of the quoted phrase is that the action be approved by the vote or written assent of a bare majority of the Class B voting power, as well as the vote or written assent of the prescribed majority of the total voting power of Members other than Declarant. After all the Class B memberships have been converted into Class A



memberships, any such provisions shall be deemed to require the vote or written assent of a bare majority of the total voting power of the Association, as well as the vote or written assent of the prescribed majority of the total voting power of Members other than Declarant.

5.7 BOARD OF DIRECTORS. The affairs of the Association shall be managed by or under the direction of a Board of Directors.

(a) Purpose and Function of the Board. The purpose of the Board is to manage and oversee the maintenance obligations prescribed in this Declaration, and establishing, enforcing, and collecting Assessments for such maintenance obligations.

(b) Authorized Number of Board Members. The affairs of this Association shall be managed by or under the direction of a Board of Directors. The initial Board of Directors shall be comprised of three (3) persons designated by Declarant, and shall hold office until the first meeting of the membership. Thereafter, the Board of Directors shall consist of three (3) or five (5) Directors, with the exact number of Directors to be fixed, within the limits specified, by approval of the Board. No reduction in the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires.

(c) Election of Board Members. Except as noted in Section 5.7(c)(i) and (ii), below, each elected Director shall hold office for a term of two (2) years and until a successor Director has been elected or until the earlier disqualification, death, resignation, or removal of such Director. Any tie in the number of votes cast for candidates where more than one Director is to be elected shall be decided by random drawing or other method of chance as determined by the Board of Directors. There shall be no limitation on the number of consecutive terms to which a director can be re-elected. The first election of the Board of Directors shall be conducted at the first annual meeting of the Members and the terms of office shall be staggered depending on the number of Directors being fixed at three (3) or five (5), as follows:

(i) Three (3) Director Board. One (1) Director shall be elected by the votes of Class A Members only, as more particularly described in Section 5.7 (d), below. This initial one (1) elected Director shall serve a term of one (1) year. In addition to the election of the one (1) Director, Declarant shall appoint two (2) Directors pursuant to Declarant's Class B voting rights. The two (2) Directors initially appointed by Declarant at the first annual meeting shall serve a term of two (2) years. Thereafter, term of office of a member of the Board of Directors shall be two (2) years; or

(ii) Five (5) Director Board. Two (2) Directors shall be elected, including one (1) Director who will be elected by the votes of Class A members only, as more particularly provided in Section 5.7(d), below, and one (1) Director who will be elected by the votes of Class A and Class B members. The initial two (2) elected



Directors shall each serve a term of one (1) year. In addition to the election of two (2) Directors, Declarant shall appoint three (3) Directors pursuant to Declarant's Class B voting rights. The three (3) Directors initially appointed by Declarant at the first annual meeting shall serve a term of two (2) years. Thereafter, term of office for a member of the Board of Directors shall be two (2) years.

(d) Special Rule for Election of Director by Class A Members. From the first election of the Board of Directors and thereafter for so long as the majority of the Voting Power of the Association resides with Declarant, or so long as there are Class B Memberships in the Association, not less than twenty percent (20%) of the Board shall be elected solely by the votes of Owners of Lots other than Declarant (i.e. the Class A Members only).

(e) Compensation. No member of the Board shall be compensated for being on the Board. However, upon approval by the Board, any Director may be reimbursed for his or her expenses actually incurred in the performance of his or her duties.

(f) Board Vacancy. Any vacancy occurring on the Board of Directors, except a vacancy created by the removal of a Director by Declarant or by the Members or due to an increase in the authorized number of Directors, may be filled by approval of the Board of Directors, or if the number of Directors then in office is less than a quorum, by the vote of a majority of the remaining Directors at a meeting of the Board, or by unanimous written consent of the Directors then in office, or by a sole remaining Director. A Director so chosen shall serve the remainder of the term of office of the Director whom he or she replaces. The Members may elect a Director at any time to fill any vacancy not filled by the Directors. If the Board of Directors accepts the resignation of a Director tendered to take effect at a future time, the Board or, if the Board fails to act, the Members may elect a successor to take office when the resignation becomes effective.

(g) Board Meetings. The Board shall meet at least annually at a place within the County. Regular and special meetings of the Board shall be open to all Members of the Association, except when the Board meets in executive session meetings as permitted by Arizona Law. A reasonable time limit for all Members to speak to the Board shall be established by the Board. Except for emergency meetings affecting the safety of members and executive sessions for matters which by law are reserved for executive session, Members shall be given notice of the day, time, and place of each meeting of the Board, whether regular or special, at least four days' prior to such meeting. Notice shall be given to all Members by posting the notice in a prominent place or places within the Association Maintenance Area by mail to any Owner who has requested notification of Board meetings by mail, at the address requested by the Owner.

(h) Election of Officers. The Board of Directors shall elect the officers. The election of officers shall take place immediately following the election of the Board of Directors, or at the first meeting of the Board of Directors following an election of the new Director.



5.8 ASSOCIATION RULES - The Board of Directors shall have the power and the authority to establish, promulgate, amend, repeal, and enforce such rules and regulations, which shall be known as "Rules", as the Board deems necessary for the management and operation of the Development and the conduct of business and affairs of the Association. The Rules may concern, but need not be limited to, matters pertaining to use of the Association Maintenance Area, signs, collection and disposal of refuse, minimum standards for maintenance of property, parking and traffic regulations, rental or leasing of Lots, the keeping of pets on Lots, and any other subject matter within the jurisdiction of the Association as provided in the Governing Documents or by law.

5.9 MANAGER AND OTHER PERSONNEL - The Board of Directors shall have the power and authority to employ a manager and such other persons or entities as the Board shall deem appropriate to assist it in managing the Development and conducting the business and affairs of the Association, as more particularly set forth in the this Declaration and in any Bylaws adopted by the Members.

5.10 CAPITAL IMPROVEMENTS - The Board of Directors shall have the power and authority to provide for the construction, reconstruction, installation, or acquisition of capital improvements upon the Association Maintenance Area, provided that in any fiscal year expenditures for capital improvements shall not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year except upon the approval of at least seventy-five percent (75%) of the members. This limitation shall not apply to the expenditure of any funds accumulated in a reserve fund for capital improvements so long as the expenditure is not for the purpose for which the fund was established.

5.11 TRANSFER OR DEDICATION OF ASSOCIATION MAINTENANCE AREA TO PUBLIC AGENCY OR UTILITY - The Board of Directors shall have the power to dedicate or transfer all or any part of the Association Maintenance Area to a public agency, authority or utility or other person or entity for such purposes and subject to such conditions as may be agreed to by the Board, and upon the approval of at least seventy-five percent (75%) of the Members.

5.12 BORROW MONEY - The Board of Directors shall have the power to borrow money in the name of the Association.

5.13 MERGERS AND CONSOLIDATIONS - The Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes as the Association.

5.14 DISSOLUTION - So long as there is any lot, parcel or area for which the Association is obligated to provide management, maintenance, preservation or control, the prior written consent of the County and the consent of all Members must be obtained for the Association to (i) transfer all or substantially all of its assets, or (ii) file a certificate of dissolution.



5.15 LIMITATION OF LIABILITY - Neither the Association or its directors, officers, employees, agents or committee members (collectively and individually referred to as the "Released Party") shall be personally liable for damages or in equity to any of the Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or pursuant to the Bylaws, even if such Released Party is negligent, provided that such Released Party has not acted in bad faith. This standard of care and limitation of liability shall extend, without limitation, to matters such as (i) the establishment of the Association's annual financial budget, (ii) the funding of Association reserve accounts, (iii) the discharge of the Association's maintenance, repair and replacement obligations, (iv) the enforcement of the Governing Documents, and (v) to any other fiduciary duties or responsibilities imposed by law or the Governing Documents.

## ARTICLE VI EASEMENTS

### 6.1 RIGHTS OF PROJECT MANAGEMENT.

A. There is expressly reserved to the Project Management and any Homeowner/Lot Owner's Association an easement, to which the entire project shall be subject, of entry and access for the performance generally of its rights and duties as provided in this declaration or any and all Supplements, Amendments or Modifications thereto. Entry onto the Lot of an Owner pursuant to this easement shall be restricted to reasonable times and must be preceded by reasonable notice to the occupant, unless entry is required by an emergency. Any damage caused to a Residence or Residence Lot by their exercise of the rights of the Project Management granted pursuant to this Paragraph shall be repaired by the Project Management.

### 6.2 PUBLIC SERVICE USE.

A. Declarant hereby expressly reserves and covenants for itself, each Owner, and the Owners of all or any portion of the project, an easement for the County of Cochise, the State of Arizona, and the Government of the United States, and any department, bureau or agency thereof, for the purpose of preserving the public health, safety and welfare. This shall include, but not be limited to, fire protection water supply, and water storage facilities.

### 6.3 UTILITY SERVICES AND CROSS DRAINAGE.

A. There is reserved for the benefit of each Owner, the Project Management, and all utilities and persons rendering services to the project, and easement over, under, upon and through each Lot and Outlot in the project for the construction and maintenance of drainage features as approved by the Architectural Review Committee and for the installation, maintenance and repair of each and every utility service be it public or private; provided, however, that the exercise of this easement shall not result in damage to existing improvements upon any Lot or Outlot or shall it interfere with the construction of the Residence upon a Residence Lot, unless adequate compensation is made for any such damage by the Owner, the utility, or other service or the Project Management exercising the rights granted by this paragraph. This shall include, but not be limited to, water supply lines from any well or alternate



water sources dedicated for Project supply to and from fire protection & water storage facilities and other water providers.

6.3.A Lots 111, 112, 113, 114, 115, 153, 154, 155, 156, 157, 158 and Outlot B of the Development are specifically encumbered by a 20.00 foot wide easement and right-of-way for access to some of the project drainage improvements and detention improvements as established by the recordation of that certain Declaration of Restrictive Covenant as recorded on the 15<sup>th</sup> day of November, 2006 as Fee No. 061142672 of the Official Records of Cochise County.

#### 6.4 OWNER EASEMENTS.

A. In the event that there shall be located within any Residence Lot, pipes, vents, outlets, wires or other improvements serving another or more than one Residence Lot, the Owner of each Residence Lot so served shall have and enjoy a perpetual easement appurtenant to his Residence Lot for the maintenance and use of any such pipe, vent, outlet, wire, or other improvement.

#### 6.5 MAINTENANCE OF EASEMENTS.

A. The easements and rights-of-way granted or reserved by this Declaration that are dedicated to public, quasi-public, or private utilities or other service entities situated upon individual Lots in the project, shall be maintained by the Owner of such Lot, except for those improvements for which a public authority, utility, provider or maintenance district is responsible for.

#### 6.6 INTERFERENCE WITH EASEMENTS.

A. Within the easements and rights-of-way granted or reserved pursuant to the Final Plat, to referenced documents herein, to this Declaration, or dedicated to any public, quasi-public or a private utility or service company purposes, no permanent structure, planting or material shall be placed or permitted to remain thereon which may damage or interfere with the installation, maintenance and use of such easement.

### ARTICLE VII ASSESSMENTS AND LIENS

#### 7.1 COVENANT OF OWNER.

(a) Owner's Assessment Obligation. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (i) Regular Assessments, (ii) Special Assessments, (iii) Reimbursement Assessments, and (iv) Enforcement Assessments levied by the Association as hereinafter provided, together with all Additional Charges. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens as hereinafter provided.



(b) Owner's Personal Obligation. Each Assessment levied by the Association under this article, together with all Additional Charges, shall be a separate, distinct, and personal debt and obligation of the Owner against whom it is assessed, and shall bind his or her heirs, devisees, personal representatives, successors, and assigns. Such obligation to pay Assessments and Additional Charges and the right and power of the Association to initiate all actions and procedures for collection shall run with the land, so that each successive Owner or Owners of Record of any Lot shall, in turn, become liable to pay all such Assessments and Additional Charges assessed during the time he or she is Record Owner of such Lot. After an Owner transfers of Record any Lot he or she owns, he or she shall not be liable for any Assessments levied thereafter with respect to such Lot. Such Owner shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer, together with Additional Charges accruing until time of collection. A Contract Seller of any Lot shall continue to be liable for all Assessments and Additional Charges until a conveyance by deed of such Lot is Recorded.

7.2 CREATION OF LIEN. Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and shall be secured by a lien upon the property against which such Assessment is levied, notwithstanding the transfer of Record title to such Lot, and any such transfer shall be subject to the Association's lien, provided that, prior to such transfer, a Notice of Delinquent Assessment has been Recorded as provided in this Declaration. The priority of all such liens on each Lot shall be in inverse order so that upon the foreclosure of the lien for any particular charge on any Lot, any sale of such Lot pursuant to foreclosure of the lien will be made subject to all liens securing the respective monthly Assessments and Additional Charges on such Lot for succeeding months. Any reference in the Governing Documents to the right of the Association to utilize the power of foreclose with respect to any Association lien, shall only refer to a judicial action and shall specifically not include any form of non-judicial foreclosure rights which may be set forth in the Arizona Revised Statutes and/or applicable Civil Codes, if any.

7.3 PURPOSE OF ASSESSMENTS. The Assessments levied by the Board shall be used exclusively for (i) managing and operating the Development, (ii) conducting the business and affairs of the Association, (iii) maintaining and promoting the property values of the Owners and Residents of the Development, (iv) improving and maintaining the Association Maintenance Area and, to the extent provided for in the Governing Documents or by law, the Lots situated within the Development, (v) enforcing the Governing Documents, and/or (vi) otherwise benefitting the Owners.

7.4 AUTHORITY OF THE BOARD. The Board shall have the power and the duty to levy Regular Assessments and Special Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable law.

7.5 REGULAR ASSESSMENT.

(a) Calculation of Estimated Requirement. Not less than thirty (30) days nor more



than ninety (90) days prior to the beginning of each fiscal year, the Board shall complete and distribute to all Owners an estimate of the net funds required by the Association for such fiscal year (including a reasonable amount allocated to contingencies and to a reserve fund for restoration, repair, and/or replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis) to manage, administer, operate, and maintain the Development; to conduct the affairs of the Association; and to perform all of the Association's duties in accordance with this Declaration. The funds required by the Association pursuant to this subsection shall be assessed among the Owners of Lots within the Development as "Regular Assessments" as further provided in this Section 7.5.

(b) Allocation of Regular Assessment. Regular Assessments shall be allocated and assessed equally among the Lots within the Development by dividing the amount by the number of Lots, so that each Lot bears an equal share of the Regular Assessment.

(c) Payment of Regular Assessments. Unless the Board shall designate otherwise, Regular Assessments shall be levied on an annual basis and shall be paid in twelve (12) equal monthly installments during the fiscal year, and each installment shall be due and payable on the first day of each month.

(d) Increases in Regular Assessment. Except upon the affirmative vote or written consent of a majority of owners, the Board shall not increase the Regular Assessment for any fiscal year more than one hundred twenty (120%) percent above the amount of the Regular Assessment for the preceding fiscal year.

(e) Commencement of Regular Assessment. Regular Assessments shall commence as to each Lot within the Development on the first day of the first month following the month in which the first conveyance occurs for the sale of a Lot to a person other than Declarant. Each Lot within the Development shall thereafter be subject to its share of the then established annual Regular Assessment. The first annual Regular Assessment shall be prorated, if necessary, according to the number of months remaining in the fiscal year established by the Association.

## 7.6 SPECIAL ASSESSMENTS.

(a) Purpose of Special Assessments. If at any time during any fiscal year the Regular Assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost.

(b) Allocation of Special Assessments. Special Assessments shall be allocated and assessed among the Lots within the Development in the same manner as Regular Assessments.



(c) Approval of Special Assessments. Except in the case of an emergency situation, in any fiscal year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the affirmative vote or written consent of a majority of the Owners.

7.7 REIMBURSEMENT ASSESSMENTS - The Association shall levy a Reimbursement Assessment against any Owner and his or her Lot (i) if a failure by such Owner, or any person or pet for whom the Owner is responsible, to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association to deal with such lack of compliance or to bring such Owner or his Lot into compliance, or (ii) in the event that the Association has expended funds performing repairs as authorized by Section 4.12.3 of this Declaration or for any other reasons specifically authorized by the provisions of this Declaration. A Reimbursement Assessment shall include any costs, including attorneys' fees, incurred by the Association, including costs of collecting from an Owner any amount which the Owner is obligated to pay to the Association. A Reimbursement Assessment shall be due and payable to the Association when levied.

7.8 ENFORCEMENT ASSESSMENTS - The Board may levy an Enforcement Assessment (and any fine imposed by the Board in accordance with the provisions of the Governing Documents shall be deemed to be such an Enforcement Assessment), for violation of any of the provisions of the Governing Documents. Any Enforcement Assessment shall be due and payable to the Association when levied.

7.9 FAILURE TO FIX ASSESSMENTS - The failure or omission by the Board to fix or levy any Regular Assessment provided for by the terms of this Declaration before the expiration of any fiscal year, for that fiscal year or the next fiscal year, shall not be deemed either a waiver or a modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay Assessments or any installment thereof for that or any subsequent year, but the amount of the Regular Assessment fixed for the preceding fiscal year shall be the amount of the Regular Assessment for the ensuing fiscal year until a new Regular Assessment is levied.

7.10 OFFSETS - All Assessments levied by the Board shall be payable in the full amount specified, including any Additional Charges imposed as provided by the terms of this Declaration, and no offsets against any such amounts shall be permitted for any reason whatsoever, including without limitation a claim that the Association has failed to properly exercise its duties of maintenance or enforcement.

7.11 DELINQUENT ASSESSMENTS - Any Assessment payment, including any installment payment, shall become delinquent if payment is not received within fifteen (15) days after its due date. There shall be a late charge of ten percent (10%) or twenty dollars (\$20.00), whichever is greater. A late charge may not be imposed more than once on any delinquent payment, but it shall not eliminate or supersede any charges imposed on prior delinquent payments. Interest also shall accrue on any delinquent payment at the highest rate allowed by



law. Interest shall commence thirty (30) days after the Assessment becomes due.

#### 7.12 COLLECTION OF ASSESSMENTS.

(a) Liquidated Damages. The Association may enforce delinquent Assessments, including delinquent installments, by suing the Owner directly on the debt established by the Assessment. If the Association successfully sues an Owner for the nonpayment of Assessments, the Board of Directors shall be entitled to collect delinquent Assessments, accompanying late charges, penalties, or interest, reasonable attorneys' fees and costs and liquidated damages for the burden and expense of enforcement. Such liquidated damages shall be in a sum equal to fifty percent (50%) of (and in addition to) its reasonable attorneys' fees. Such liquidated damages represent a reasonable sum considering the Association's small size, limited resources, and the significant burden placed on the Board of Directors to prosecute its collection efforts, and represents a fair and reasonable estimate of the costs that will be sustained by the Association due to the undertaking of an enforcement action, including administrative and other overhead costs. Each Owner by acceptance of the deed to a Lot each acknowledges that proof of actual damages would be costly and inconvenient.

(b) Owners' Consent to Liens. If an Owner is delinquent more than sixty (60) days in the payment of Assessments The amount of the Assessments, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Lot of the Owner so assessed upon the Recordation of a Notice of Delinquent Assessment executed by two members of the Board of Directors. The Notice of Delinquent Assessments shall set forth: (i) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this article; (ii) the legal description of the Owner's Lot against which the Assessments and other sums are levied; (iii) the name of the Owner of such Lot; (iii) the name and address of the Association. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Board of Directors shall Record a further notice stating the satisfaction and release of the lien thereof and a reasonable charge can be imposed for the preparation and recordation of that release. Each Owner by acceptance of the deed to a Lot consents to the Association the right to Record a lien pursuant to this subsection (b).

7.13 CERTIFICATE OF SATISFACTION AND RELEASE OF LIEN - Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof, the Board shall Record, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.

7.14 PRIORITY – Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this article shall have priority as of the date of Recording of the original Declaration applicable to the Development over all other liens and encumbrances applicable to the Lots; provided, however, that such Assessment lien shall be



subordinate to the lien of any First Mortgage recorded against the Lot; and provided, further, that such subordination shall apply only to the Assessments which have become due and payable prior to the sale of such property pursuant to a Decree of Foreclosure of any such First Mortgage, or pursuant to a power of sale contained in any such First Mortgage. Such foreclosure sale shall not relieve such property from liability for any Assessments and Additional Charges thereafter becoming due, nor from the lien of any subsequent Assessment.

7.15 ASSOCIATION FUNDS - All Association accounts shall be maintained in one or more banks or other depositories selected by the Board, which accounts shall be clearly designated as belonging to the Association. The Assessments collected by the Association shall be properly deposited into such accounts. The Assessments collected by the Association shall be used for the purposes set forth in Section 7.3, above.

7.16 WAIVER OF EXEMPTIONS - Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption laws of the State of Arizona in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms of this Article.

## ARTICLE VIII ENFORCEMENT

8.1 VIOLATIONS AS NUISANCE - Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance. In addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association, its officers, the Board or by any Owner. The Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or enjoin such violation is not likely to foster or protect the interests of the Association and its Members as a whole.

8.2 LEGAL PRINCIPLES APPLICABLE TO ENFORCEMENT - In any action to enforce this Declaration or any other Governing Documents, the Association and each Owner acknowledges and agrees to be bound by the legal principles and legal presumptions governing developments of this nature.

8.3 OWNER'S RESPONSIBILITY FOR CONDUCT AND DAMAGES - Each Owner shall be fully responsible for informing members of his or her household and his or her tenants, Contract Purchasers, contractors and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or any household pets. If a Lot is owned jointly by two or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall



be joint and several.

8.4 NO AVOIDANCE - No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Association Maintenance Area facilities or by abandonment of his or her Lot.

8.5 RIGHTS AND REMEDIES OF THE ASSOCIATION.

(a) Rights Cumulative. The Association, its Directors, Officers, or agents, and any Owner shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or in equity, or through the use of such other remedies as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive.

(b) Member Not In Good Standing. Upon a determination by the Board of Directors, after prior notice to the affected Member and an opportunity for a hearing, that such Member has violated any provision of the Governing Documents including a failure to pay any Assessment when due, the Board shall give notice in writing to such Member that he or she is deemed not to be a Member in Good Standing. Such Member shall be deemed to remain in that status until such time as the Board shall determine in writing that the violation which resulted in the Board's determination has been cured or remedied or, on some other basis as in the judgment of the Board is just and proper, that such Member shall again be deemed to be a Member in Good Standing of the Association. Such Member shall be so notified in writing with a copy given to the Secretary.

(c) Imposition of Sanctions. In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of an Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's rights as a Member, including an Owner's voting rights or an Owner's right to use the Association Maintenance Area, except for ingress and egress to the Owner's Lot. Except as provided in Section 8.7 below, imposition of sanctions shall be effective only after the Board has held a hearing. The payment of any such fine may be enforced as an Enforcement Assessment as provided in Section 7.8 of this Declaration as well as in any manner permitted by law. Further, each Owner shall be obligated to pay Reimbursement Assessments levied by the Board for reimbursement of any costs incurred by the Association relating to violation of any provisions of the Governing Documents by such Owner, members of such Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees.



(d) Inadequacy of Legal Remedy. Except for the non-payment of any Assessment levied pursuant to the provisions of Article 7 of this Declaration, it is hereby declared that a remedy at law to recover damages for a default in the performance of any of the terms and provisions of any of the Governing Documents or for the breach or violation of any such provisions is inadequate and that the failure of any Owner or a member of the household of any Owner or an Owner's tenants, guests, or household pets or any other occupant or user of any of the property within the Development to comply with any provision of the Governing Documents may be enjoined in any judicial proceedings initiated by the Association, its Officers or Board of Directors, or by any Owner or by their respective successors in interest.

(e) Limitation on Disciplinary Rights. The Association shall not have the power and authority to cause a forfeiture or abridgment of a Member's right to the full use and occupancy of his or her Lot as the result of the failure by such Owner, members of such Owner's household, or his or her tenants, guests, invitees or household pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, or a decision arising out of an arbitration proceeding. The provisions of this subsection shall not affect the Association's right to impose fines or monetary penalties or to suspend an Owner's membership rights, as provided in the Governing Documents.

8.6 DISCIPLINARY RULES - The Board or a committee appointed by the Board for that purpose may adopt rules and regulations that further elaborate upon and refine procedures for conducting disciplinary proceedings and otherwise imposing sanctions upon Members of the Association for violation of provisions of the Governing Documents. Such rules, when approved and adopted by the Board, shall be deemed to be a part of the Association Rules provided for in, and constituting a part of, the Governing Documents.

8.7 EMERGENCY SITUATIONS - The following shall constitute emergency situations: (i) an immediate and unreasonable infringement of or threat to the safety or peaceful enjoyment of Residents of the Development, (ii) a traffic or fire hazard, or (iii) a threat of material damage to or destruction of the Development or any portion thereof. Notwithstanding any other provisions of the Governing Documents, under circumstances involving conduct that constitutes an emergency situation, the Association may undertake immediate corrective action.

8.8 ALTERNATIVE DISPUTE RESOLUTION - Although not obligated by law, Members and the Association shall attempt mediation in accordance with the procedures described in the attached Exhibit "A" with respect to any dispute subject to the Governing Documents.

8.9 NON-WAIVER - Failure to enforce any provision of the Governing Documents at anytime shall not be deemed a waiver of the right to do so thereafter with respect to the same or any other violation of any provision of the Governing Documents.



8.10 NOTICES - Any notices required or given under this Article shall, at a minimum, set forth the date, time, and location of any hearing, a brief description of the act or omission constituting the alleged violation of the Governing Documents, a reference to the specific Governing Document provision or provisions alleged to have been violated, and the sanction, disciplinary action, or other enforcement action being contemplated by the Board, if any. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice to the affected Member; provided, however, that if notice is given by mail, it shall be sent by first-class mail, postage prepaid, sent to the most recent address for the affected Member as shown on the records of the Association.

8.11 COSTS AND ATTORNEYS' FEES - In the event any action is taken to enforce any of the provisions of the Governing Documents, the prevailing party shall, be entitled to recover the full amount of all costs incurred, including attorneys' fees, in enforcing any Governing Document provision. The remedies of the Association to recover the amount of such costs and attorneys' fees shall include, without limitation, the imposition of a Reimbursement Assessment as provided in Section 7.7 of this Declaration.

8.12 OWNER INDEMNIFICATION - Each Owner, by acceptance of his or her deed, agrees for himself or herself and for the members of his or her household, his or her Contract Purchasers, tenants, guests or invitees, to (i) indemnify each and every other Owner for, (ii) to hold each and every other Owner harmless from, and (iii) to defend each and every other Owner against, any claim of any person for personal injury or property damage occurring within the Lot of such Owner, except that such Owner's liability may be diminished to the extent that the injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in such Lot or is fully covered by insurance.

## ARTICLE IX AMENDMENTS

9.1 AMENDMENT BEFORE FIRST CONVEYANCE. Before the conveyance of the first Lot within the Development to a purchaser other than Declarant, and subject to Section 9.2(c), below, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant of an instrument amending or revoking the Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be recorded.

9.2 AMENDMENT AFTER FIRST CONVEYANCE. After the conveyance of the first Lot within the Development to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect upon compliance with the following provisions:

(a) Member Approval Requirements. Except as provided in this paragraph, any amendment to this Declaration shall be approved by the vote or assent by written ballot of an Absolute Majority, including the holders of not less than a majority of the Total Voting Power of each class of Members. If a two-class voting structure is no



longer in effect in the Association because of the conversion of Class B membership to Class A membership, any amendment thereof will require the vote or assent by written ballot of both: (i) an Absolute Majority of the Association; and (ii) the vote of a majority of the Total Voting Power held by Members other than Declarant. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

(b) Right of Amendment if Requested by County. Anything in this Article to the contrary notwithstanding, Declarant and the Board of Directors reserve the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by the County which requires a conforming amendment to this Declaration. Any such amendment shall be effectuated by the Recordation of a Certificate of Amendment duly signed by or on behalf of the authorized agents, or authorized officers of Declarant, or the Association as applicable, with their signatures acknowledged, specifying that the County requested the amendment and setting forth the amendatory language requested by the County. Recordation of such a Certificate shall be deemed conclusive proof of the County's request for such an amendment, and such Certificate, when Recorded, shall be binding upon all of the real property comprising the Development and all persons having an interest therein.

(c) Right of Amendment by Board. The Board of Directors may, without the approval of the Members, amend any part of this Declaration to the limited extent necessary to comply with a change in applicable federal, state or local legislation, or to correct a typographical error.

9.3 EFFECTIVE DATE OF AMENDMENT - The amendment will be effective upon the Recording of a Certificate of Amendment, duly executed and certified by the president and secretary of the Association setting forth in full the amendment so approved and that the approval requirements of Section 9.2, above have been duly met. If the consent or approval of any governmental authority, Mortgagee, or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

9.4 RELIANCE ON AMENDMENT. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## ARTICLE X GENERAL PROVISIONS

### 10.1 ACCEPTANCE OF PROVISIONS OF GRANTEES.

A. Each Owner of any part or portion of or interest in the property, and any purchaser under any grant deed or contract of sale, or any lessee under any lease covering any part or portion of or interest in the property, whether from Declarant or a subsequent Owner,



shall accept the same subject to all of the restriction, conditions, covenants, reservations, easements and charges set forth in this Declaration; and by such acceptance for themselves, their heirs, personal representatives, successors and assigns, agrees with Declarant and with the grantees and subsequent Owners of any part or portion of or interest in the property to keep, observe and comply with this Declaration, and to perform all obligations on the part thereunder.

#### 10.2 HEADINGS.

A. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

#### 10.3 SEVERABILITY OF PROVISIONS.

A. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate the remaining provisions.

#### 10.4 VIOLATIONS AS NUISANCE.

A. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by any Owner.

#### 10.5 NO DISCRIMINATORY RESTRICTIONS.

A. No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing or occupancy of his Lot on the basis of race, sex, marital status, familial status, national ancestry, color or religion.

#### 10.6 LIBERAL CONSTRUCTIONS.

A. The provisions of this Declaration should be liberally construed to effectuate its purpose. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce the provisions thereafter.

#### 10.7 TERM.

A. This Declaration and the covenants, conditions and restrictions contained herein shall be and remain in full force and effect for a term of thirty (30) years from the date this declaration is recorded in the office of the County Recorder, after which time such Declaration and the covenants, provisions and restrictions contained therein shall be automatically extended for successive periods of ten (10) years each unless an instrument, signed by a majority percentage of the Owners has been recorded at least one (1) year prior to the end of such period in the office of the County Recorder, agreeing to change this Declaration in whole or in part.

#### 10.8 EFFECTIVE DATE.

A. This Declaration shall become effective when recorded in the office of the County Recorder but will not become operative until the date of the recordation of the first retail conveyance of a Lot in the project to a Grantee other than the Declarant or any affiliates or subsidiary of the Declarant.



10.9 NOTICES.

A. Any notice permitted or required by this Declaration may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, first class, certified, postage prepaid, addressed to the person to be notified as follows:

1. If to an Owner, other than Declarant, to the address of the Lot owned by the Owner, in whole or in part, or to the address last furnished by such Owner to the Project Management for the purpose of giving notice and delivering documents.

2. If to the Declarant, as follows:

Rancho San Pedro, LLC  
5901 S. Belvedere Ave.  
Tucson, AZ 85706  
Fax: (520) 696-3250  
Attn: April A. Worden, Manager

In witness whereof, the Declarant has executed this instrument as of the 27<sup>th</sup> day of AUGUST, 2013.

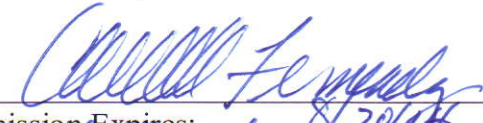
RANCHO SAN PEDRO, LLC

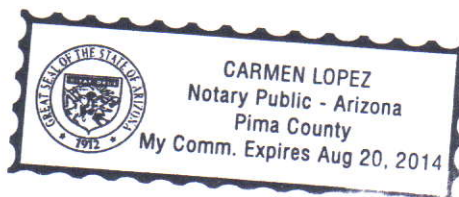
  
\_\_\_\_\_  
April A. Worden, Manager

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF PIMA        )

On August 27, 2013 the undersigned, personally appeared April A. Worden, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument the persons, (or the entity upon behalf of which the persons acted,) executed the instrument.

WITNESS my hand and official seal.

Signature:   
My Commission Expires: 8/20/14





**EXHIBIT "A"**

**ALTERNATIVE DISPUTE RESOLUTION DISCLOSURE**

**The Association supports the use of alternative dispute resolution procedures and follows the dispute resolution procedures described in the Arizona Revised Statutes.**

**THE ASSOCIATION'S DISPUTE RESOLUTION PROCEDURES**

The Association's dispute resolution procedure for disputes between the Association and a Member is as follows:

- a. Either party to a applicable dispute may invoke the following procedure:
  - (1) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
  - (2) A Member of the Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.
  - (3) The Association's Board of Directors shall designate a member of the Board to meet and confer.
  - (4) The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.
  - (5) A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf to the Association.
- b. An agreement reached under this section binds the parties and is judicially enforceable if both of the following conditions are satisfied:
  - (1) The agreement is not in conflict with law or the Governing Documents.
  - (2) The agreement is either consistent with the authority granted by the Board of Directors to its designee or the agreement is ratified by the Board of Directors.
- c. A Member of the Association may not be charged a fee to participate in the process.