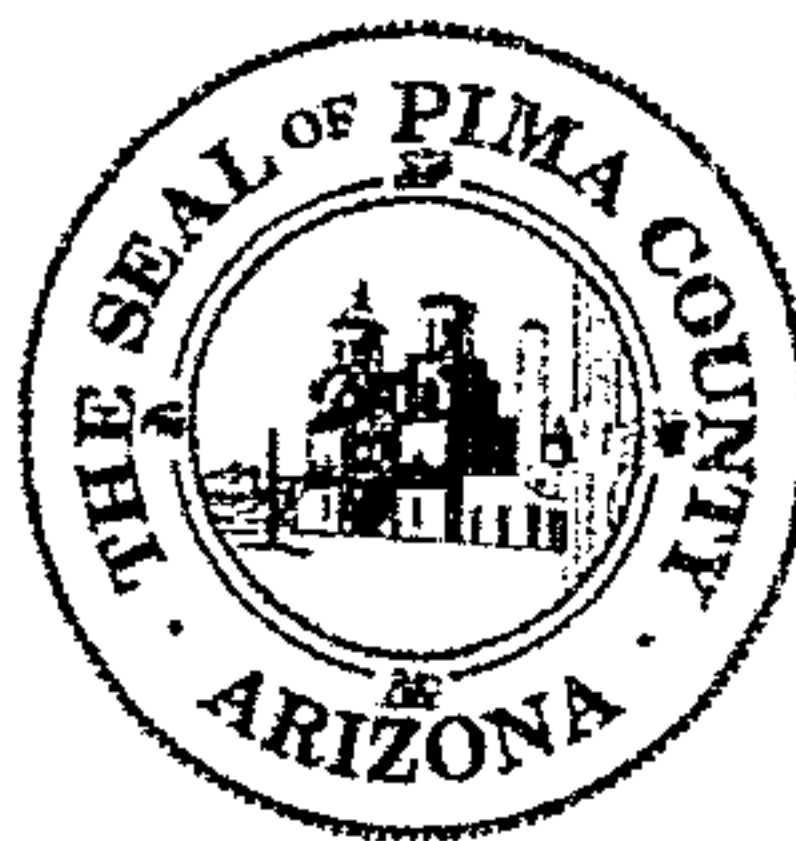


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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS.
RESTRICTIONS AND EASEMENTS
FOR
THE GREENS AT
SANTA RITA SPRINGS
an age-restricted community

4-23-2009 10:00 AM

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1
2 **AMENDED AND RESTATED DECLARATION OF**
3 **COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**
4 **FOR THE GREENS AT SANTA RITA SPRINGS**
5

6 THIS AMENDED AND RESTATED DECLARATION (this "Declaration") is made
7 this 3rd day of March, 2008, by the owners (the "Owners") of the real property
8 described as:
9

10 Lots 1 through 167 (except Lot 56), and Common Areas A, B, C
11 and D of The Greens at Santa Rita Springs, according to the
12 plat recorded in Book 47, page 87 of maps and records of Pima
13 County, Arizona; and
14

15 Lots 168 through 214 (except Lots 203-214) and Common Areas
16 A, B, and C of The Greens at Santa Rita Springs, according to
17 the plat recorded in Book 49, page 42 of maps and records of
18 Pima County, Arizona; and
19

20 Lots 215 through 234 of The Greens at Santa Rita Springs,
21 according to the plat recorded in Book 50, page 67 of maps and
22 records of Pima County, Arizona (being a Resubdivision of
23 The Greens at Santa Rita Springs, Lots 203 through 214,
24 according to the plat recorded in Book 49 at page 42 of maps
25 and records of Pima County, Arizona)
26

27 (collectively, the "Property").
28

29 **RECITALS :**
30

31 A. The developers of the Property and the subsequent owners of Lots within the
32 Property signed and recorded the following documents:
33

34 1. Declaration of Covenants, Conditions, Restrictions and Easements for
35 The Greens at Santa Rita Springs, which was recorded on December 12, 1995, in Docket
36 10188 at page 1152 *et seq.*, office of the Pima County Recorder (the "Original Declaration");
37 and
38

39 2. Supplemental Declaration for Annexation to Covenants, Conditions
40 Restrictions and Easements for The Greens at Santa Rita Springs and Amended and
41 Restated Declaration of Covenants, Conditions, Restrictions and Easements for The Greens

1 at Santa Rita Springs, which was recorded on March 31, 1997, in Docket 10513 at page 2465
2 *et seq.*, office of the Pima County Recorder; and
3

4 3. Second Supplemental Declaration for Annexation to Covenants,
5 Conditions, Restrictions and Easements for The Greens at Santa Rita Springs, which was
6 recorded on December 9, 1997, in Docket 10688 at page 598 *et seq.*, office of the Pima
7 County Recorder; and
8

9 4. Amended and Restated Declaration of Covenants, Conditions,
10 Restrictions and Easements for The Greens at Santa Rita Springs, which was recorded on
11 April 27, 2000, in Docket 11286 at page 1924 *et seq.*, office of the Pima County Recorder; and
12

13 5. Amended and Restated Covenants, Conditions, Restrictions and
14 Easements of The Greens Homeowners Association, Inc., which was recorded on April 25,
15 2005, in Docket 12538 at page 1648 *et seq.*, office of the Pima County Recorder
16

17 B. In accordance with the applicable requirements for amending the restrictions
18 affecting the Property, the Owners of at least 67% of the Lots have approved, in writing, the
19 amendment and restatement of all applicable covenants, conditions, and restrictions of
20 record affecting the Property.
21

22 NOW, THEREFORE, the Owners hereby declare that the Property shall be held,
23 conveyed, encumbered, leased and used subject to the following covenants, conditions,
24 restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and
25 liens (collectively referred to in this Declaration as the "Restrictions"). These Restrictions
26 are for the purpose of enhancing and protecting the value, desirability and attractiveness of
27 the Property. The Restrictions shall run with the Property, shall be binding upon all
28 persons having or acquiring any interest in the Property, and shall inure to the benefit of,
29 be binding upon and enforceable by all Owners, the Association and their successors in
30 interest.
31

32 ARTICLE 1 33 DEFINITIONS 34

35 The terms used in this Declaration and the Governing Documents shall be generally
36 given their natural, commonly accepted definitions unless otherwise specified. Capitalized
37 terms shall be defined as set forth below:
38

39 1.1 "Adjustment Date" means January 1 of each year during the period in which
40 this Declaration remains in effect.
41

1 1.2 “Annual Assessments” means the annual assessments levied by the Board
2 pursuant to Section 8.2 of this Declaration.

3
4 1.3 “Architectural Review Committee” or “ARC” means the committee
5 established pursuant to Article 5 of this Declaration.

6
7 1.4 “Architectural Design Guidelines” or “Guidelines” means the rules and
8 regulations adopted by the Board of Directors, as such rules may be amended and
9 supplemented from time to time.

10
11 1.5 “Articles” means the Articles of Incorporation of the Association which have
12 been filed in the office of the Arizona Corporation Commission as such Articles may be
13 amended from time to time.

14
15 1.6 “Assessments” means all Annual Assessments, Special Assessments.
16 Maintenance Assessments, and Reimbursement Assessments payable to the Association.

17
18 1.7 “Association” means The Greens Homeowners Association, Inc., an Arizona
19 non-profit corporation, its successors and assigns. Such Association is a sub-association of
20 the Santa Rita Homeowners Association.

21
22 1.8 “Board” means the Board of Directors of the Association.

23
24 1.9 “Bylaws” means the Bylaws of the Association, as such Bylaws may be
25 amended or restated from time to time.

26
27 1.10 “Capital Improvement Assessment” means the assessments levied by the
28 Board pursuant to the provisions of Section 8.6 hereof.

29
30 1.11 “Common Area” or “Common Areas” means all real property and the
31 Improvements or amenities thereon, all personal property, all easements and licenses and
32 facilities which shall from time to time be constructed, owned, controlled or operated by
33 the Association for the common use and enjoyment of the Owners.

34
35 1.12 “Community-Wide Standard” means the standard of conduct, maintenance or
36 other activity generally prevailing throughout the Property or all of Santa Rita Springs.
37 Such standard shall be that which has been established by the Declarant, and the
38 Architectural Review Committee, and may be more specifically determined by the Board.

39
40 1.13 “Declarant” means Title Guaranty Agency of Arizona, Inc., an Arizona
41 corporation, as Trustee under Trust No. T-1285, its successors and any person or entity to
42 whom it may expressly in writing assign its rights under this Declaration.

1
2 1.14 "Declaration" means the covenants, conditions, restrictions and easements
3 herein set forth in this entire document, as such Declaration may be amended or rested
4 from time to time.

5
6 1.15 "Developer Owner" shall mean a Person in the business of developing and/or
7 selling real property, and who has acquired ten or more Lots in connection with and in the
8 course of business, for the purpose of developing or selling such Lots, and must be
9 designated in writing by the Declarant to be a Developer Owner.

10
11 1.16 "Dwelling Unit" means any building or part thereof situated upon a Lot.

12
13 1.17 "Event of Foreclosure" means the foreclosure or the transfer of title by
14 trustee's deed at a trustee's sale in regard to a mortgage, deed of trust or other
15 encumbrance superior in priority to an Assessment Lien under Section 8.1 hereof.

16
17 1.18 "Exempt Property" means portions of the Property not subject to
18 Assessments, which shall be the following areas now or hereafter located within The
19 Greens at Santa Rita Springs:

20
21 1.18.1 all Government Property, but only if and to the extent designated as
22 Exempt property in the applicable supplemental Declaration;

23
24 1.18.2 property owned by a public or private utility company (or leased by
25 such company) which is utilized in the provision of utility services to all or portions of the
26 Property and the Owners thereof, but only if and to the extent designated as Exempt
27 Property in the applicable Supplemental Declaration;

28
29 1.18.3 all Common Areas and areas upon which the Association possesses
30 easement rights, for so long as the Association is the owner thereof.

31
32 1.19 "Fair Housing Act" means the Fair Housing Act and its Amendments of 1988
33 and 1995, Public Law 100-430, 42 U.S.C. Section 3601, et seq., and any amendments thereto,
34 and as further interpreted by Rules and Regulations of the Department of Housing and
35 Urban Development promulgated January 23, 198 at page 3290 and thereafter amended by
36 Regulations.

37
38 1.20 "First Mortgage" means the holder of any mortgage under which the interest
39 of any Owner of a Lot is encumbered and which mortgage has first and paramount
40 priority, subject only to the lien or general or ad valorem taxes and assessments and such
41 other matters as are recognized in such First Mortgage as permitted title exceptions. "First
42 Mortgagee" shall mean the holder of a First Mortgage.

1
2 1.21 "Governing Documents" means this Declaration, the Bylaws, the Articles, the
3 Architectural Design Guidelines and the Association Rules that may be adopted by the
4 Board, and any amendments thereto.
5

6 1.22 "Government Property" means all land and Improvements owned or
7 dedicated to a public or governmental agency, political subdivision, quasi-municipality or
8 district for so long as public or governmental authority is the owner or beneficiary thereof,
9 except for land or Improvements, or both, owned and/or operated by a public or
10 governmental agency acting in a proprietary capacity.
11

12 1.23 "Improvements" means any and all construction or alterations made to any
13 Lot, including but not limited to all buildings and structures, driveways, parking areas,
14 fences, walls, landscaping, lakes, ponds, recreational facilities, signs, excavation or site
15 work, including without limitation grading, road construction, utilities, alterations or
16 modifications thereto.
17

18 1.24 "Lot" means an area of real property designated as "Lot" on the Plat.
19

20 1.25 "Maintenance Assessment" means the assessments, if any, levied by the Board
21 pursuant to the provisions of Section 8 of this Declaration.
22

23 1.26 "Master Development Plan" means the conceptual or site development plan at
24 any time in effect for Santa Rita Springs and approved by Pima County, Arizona or any
25 other governmental jurisdiction having the authority to approve and regulate master plans
26 for planned area developments located in Santa Rita Springs, as the same may be amended
27 from time to time.
28

29 1.27 "Member" means every Person who holds membership in the Association as
30 provided in Section 7 of this Declaration.
31

32 1.28 "Occupant" means any Person, other than an Owner, occupying a Lot, or any
33 portion thereof, or building or structure thereon, as a Resident, tenant, licensee or
34 otherwise, other than on a merely transient basis.
35

36 1.29 "Owner" means the Record holder of legal title to the fee simple interest in
37 any Lot, or in the case of a Recorded "contract" (as that term is defined in A.R.S. Section 33-
38 714(2)), the holder of Record of the purchaser's or vendee's interest under said contract, but
39 excluding others who hold such title merely as security. If fee simple title to a Lot is vested
40 of Record in a trustee pursuant to A.R.S. Section 33-801 et seq. for purposes of this
41 Declaration, legal title shall be deemed to be held by the trustor (or the trustor's successor

1 of Record), and not by the trustee. An Owner shall include any Person who holds Record
2 title to a Lot in joint ownership or as an undivided fee interest.

3
4 1.30 "Person" means a natural person, a corporation, a partnership, a trustee or
5 any other legal entitle.

6
7 1.31 "Plat" means any plat affecting the Property recorded in the office of the
8 Recorder for Pima County, Arizona.

9
10 1.32 "Property," "Project" or "The Greens at Santa Rita Springs" means the real
11 property described on the Plat.

12
13 1.33 "Record," "Recording" and "Recorded" means placing or having placed a
14 document of public record in the official Records of Pima County, Arizona.

15
16 1.34 "Resident" means:

17
18 1.34.1 Each Tenant or Lessee who resides on the Property and the members
19 of the immediate family of each Tenant who resides on the Property;

20
21 1.34.2 Each Owner who resides on the Property and the members of the
22 immediate family of each Owner who resides on the Property; and

23
24 1.34.3 Such persons as the Board, in its absolute discretion, may authorize,
25 including without limitation guests of an Owner or a Tenant.

26
27 1.35 "Special Assessments" means the assessments, if any, levied by the Board
28 pursuant to Section 8.11 hereof.

29
30 1.36 "Tenant" means any person who occupies property located within the
31 Property under any type of leasing arrangement, but is not included within the definition
32 of a Lessee.

33
34 1.37 "Visible From Neighboring Property" means, with respect to any given object,
35 that such object would be visible to an individual whose eyes are six feet above the ground,
36 and who is standing at natural grade level on any Lot or Common Area within the Greens
37 at Santa Rita Springs.

38
39 **ARTICLE 2**
40 **PROPERTY AND PERSONS BOUND BY THIS DECLARATION**

41
42 2.1 Master Association. The Property is a part of a master planned community

1 known as Santa Rita Springs. The Property shall be subject to the terms and conditions of
2 the Declaration of Covenants, Conditions and Restrictions for Santa Rita Springs recorded
3 in Docket 9955, pages 1005 through 1061, and then re-recorded February 28, 1995, in Docket
4 9989, page 1320, and then Amended and Restated in Docket 10110 at page 949, and re-
5 recorded at Docket 10122 at page 439, with the First Amendment and Notice of
6 Termination in Docket 10122 at page 433, records of Pima County, Arizona (the "Master
7 Declaration"), and the Articles of Incorporation, Bylaws, Architectural Committee Rules
8 (collectively the "Master Association Documents") of the Santa Rita Springs Homeowners
9 Association (the "Master Association"), including all amendments to the Master Declaration
10 or the Master Association Documents. All restrictions, regulations, approvals and
11 consents, submittals and all other provisions of the Master Declaration shall be in addition
12 to any consents required under the terms of this Declaration. If there is any conflict
13 between the Governing Documents and the Master Association Documents, the Master
14 Association Documents shall take precedence.

15
16 2.2 General Declaration. This Declaration is declared and agreed to be in
17 furtherance of a general plan for the development and sale of the Property, and is
18 established for the purpose of enhancing and perfecting the value, desirability and
19 attractiveness of the Property. This Declaration shall run with the Property for all purposes
20 and shall be binding upon and inure to the benefit of Declarant and all Owners and
21 Occupants of the Property and their successors in interest, whether or not stated in any
22 document or deed transferring any interest in any Lot to or from such Owners or
23 Occupants

24
25 2.3 Association Bound. This Declaration shall be binding upon and benefit the
26 Association, its successors and assigns.

27
28 **ARTICLE 3**
29 **AGE RESTRICTIONS, COVENANTS AND CONDITIONS**
30

31 3.1 Age Restrictions. All Dwelling Units located within the Property and
32 described in this Declaration shall comply with the provisions of the Fair Housing Act and
33 the age restriction exemptions created therein (the "Exemption"). The Exemption is based,
34 generally, upon a standard that at least one Person per Dwelling Unit must be 55 years of
35 age or older. Certain exceptions are made to the Fair Housing Act in cases in which at least
36 80% of the dwelling units in a community are so occupied. Accordingly, except as
37 provided below, all Dwelling Units located in the Property shall be occupied by at least one
38 person per household who is 55 years of age or older.

39
40 3.2 Subsequent Transfers. Subsequent to the initial sale of residential Lots by the
41 Declarant to any Owner, or a sale by a Developer Owner to an Owner, all resales shall be
42 subject to the 55 years of age requirements, and it shall be a violation of the terms and

1 conditions of this Declaration should any residential Lot subsequently be sold or resold
2 and then not occupied by at least one person 55 years of age or older per Dwelling Unit.
3 Notwithstanding the foregoing, should an Occupant who is 55 years of age or older die
4 and leave the Dwelling Unit to a surviving spouse or other companion previously residing
5 with the deceased Occupant, then provided that such surviving spouse or other co-habitant
6 is at least 45 years of age, and provided that at least 80% of the Dwelling Units shall
7 continue to be occupied by at least one person 55 years of age or older, the Association
8 may elect to allow the surviving spouse or co-habitant to remain in the occupancy of the
9 Dwelling Unit without violation of this Declaration.

10
11 3.3 Minors. Nothing in this Declaration shall be construed as to permit
12 permanent occupancy of any Lot by any person less than 18 years of age (a "Minor"). To
13 this end, no Minor shall reside in any Dwelling Unit for more than three months during
14 any 12-month period.

15
16 3.4 Occupants. The occupancy restrictions of this Declaration dealing with both
17 minimum age restrictions and the prohibition of Minors applies to all Occupants, whether
18 Owners, Residents, Lessees or Tenants, and to all leases as well as sales.

19
20 3.5 Compliance. The Association shall conduct periodic surveys to assure that
21 the Association is complying with pertinent provisions of the Federal and State Fair
22 Housing Acts. Each Owner acknowledges that the leasing of Dwelling Units and the
23 pattern of resales of Dwelling Units can be difficult to control or predict, and that
24 compliance with the Fair Housing Act and with the Exemption depends upon the
25 cooperation of the Owners and Occupants.

26
27 3.6 Amending Age Restrictions. Notwithstanding anything contained in this
28 Declaration to the contrary, the provisions of this Article may only be amended by an
29 affirmative vote of the Owners of 90% of the Lots.

30
31 **ARTICLE 4**
32 **EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS**
33

34 4.1 Easements and Rights of Enjoyment. Each Owner shall have a non-exclusive
35 easement for the use and enjoyment in and to the Common Areas, which non-exclusive
36 easement shall be appurtenant to and shall pass with the title to each Owner's Lot. All
37 Occupants shall have a non-exclusive, non-transferable temporary license to use and enjoy
38 the Common Areas so long as they remain Occupants. The foregoing grants and rights are
39 subject, among other things, to the following limitations:

40
41 4.1.1 The Governing Documents.
42

1 4.1.2 The right of the Association to suspend the voting rights and the rights
2 to recreational use and enjoyment of the Common Areas of any Owner or Occupant, as the
3 case may be who:

4
5 4.1.2.1 for any period during which an Assessment remains
6 delinquent;

7
8 4.1.2.2 for a period not to exceed 60 days for any infraction of the
9 Governing Documents or any Association Rule; or

10
11 4.1.2.3 for successive 60-day periods if any such delinquency or
12 infraction is not corrected during any preceding suspension period.

13
14 4.1.3 Any Owner or Occupant, in accordance with the Governing
15 Documents or the Association Rules, may delegate his or her rights of use and enjoyment
16 in the Common Areas to the members of his or her family or his or her Occupants or
17 guests, subject to the limitations set forth in this Declaration and the Association Rules.

18
19 4.1.4 The right of the Association to limit the number of guests of an Owner
20 or Occupant who may use the Common Areas.

21
22 4.1.5 The right of the Association to charge reasonable admission, member,
23 use and other fees for the use of facilities located upon the Common Areas.

24
25 4.1.6 The right of the Association to regulate the use and operation of the
26 Common Areas.

27
28 4.2 Recorded Easements. The Property, and all portions thereof, shall be subject
29 to all easements shown on the Plat, and to any other easements of record or of use as of the
30 date of recordation of the Declaration in the office of the Pima County Recorder.

31
32 4.3 Easements for Encroachments.

33
34 4.3.1 The Property, and all portions thereof, shall be subject to an easement
35 of up to ten feet from the Lot lines or Common Area boundaries for the actual extent of
36 incidental encroachments created by construction as designed or constructed by the
37 Declarant or any Owner. This easement shall extend to encroachments caused by the
38 settling, shifting or movement of any portion of the Property.

39
40 4.3.2 Encroachments referred to include, but are not limited to,
41 encroachments caused by error in the original construction of Improvements on any Lot by

1 settling, rising or shifting of the earth, or by changes in position caused by repair or
2 reconstruction of any Improvements on the Property.

3
4 4.4 Easements for Sidewalks and Roads. The Association hereby is granted an
5 easement on the Property (and all portions thereof), and over and across each Lot or
6 Common Area for a distance of ten feet parallel and adjacent to all sidewalks and for the
7 installation, maintenance and use of fire hydrants

8
9 4.5 Reservation of Easements, Exceptions and Exclusions. The Association
10 maintains the right to establish from time to time, by declaration or otherwise, utility and
11 other easements, permits or licenses over the Common Area, for purposes including but
12 not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts,
13 shafts, flues, conduit installation areas, and to create other reservations, exceptions and
14 exclusions for the best interest of all the owners and the Association, in order to serve all
15 the owners within The Greens at Santa Rita Springs as initially built and expanded. The
16 Association further reserves the right to establish from time to time, by dedication or
17 otherwise, utility and other easements.

18
19 4.6 Emergency Easement. A general easement is hereby granted to all police,
20 sheriff, fire protection, ambulance and all other similar emergency agencies or persons to
21 enter upon all streets and upon the Property in the proper performance of their duties.

22
23 4.7 Maintenance Easement. An easement is hereby granted to the Association,
24 and any member of the Board of Directors, and their respective officers, agents, employees
25 and assigns, upon, across, over, in and under the Lots, and a right to make such use of the
26 Lots as may be necessary or appropriate to make emergency repairs or to perform the
27 duties and functions which the Association is obligated or permitted to perform pursuant
28 to the Governing Documents. Included within the foregoing grant of easements is the right
29 to enter upon any Lot for the purpose of performing maintenance to the landscaping or the
30 exterior of Improvements to such Lot as required by the Governing Documents and by
31 such entry shall not be guilty of trespass.

32
33 4.8 Drainage Easement. An easement is hereby reserved to the Association, its
34 officers, agents, employees, successors and assigns to enter upon, across, over, in and under
35 any portion of the Property for the purpose of changing, correcting or otherwise modifying
36 the grade or drainage channels of the Property so as to improve the drainage of water. Best
37 efforts shall be made to use this easement so as not to disturb the uses of the Owners.

1 4.9 Easements for Utilities.

2
3 4.9.1 The Association reserves for itself and grants to all utility providers,
4 perpetual, non-exclusive easements throughout all of the Property (but not through a
5 structure) to the extent reasonably necessary for the purpose of:

6
7 4.9.1.1 installing utilities and infrastructure to serve the Property;

8
9 4.9.1.2 inspecting, maintaining, repairing and replacing utilities and
10 infrastructure to serve the Property; cable and other systems for sending and receiving data
11 and/or other electronic signals; security and similar systems; walkways, pathways and
12 trails; drainage systems; street lights and signage;

13
14 4.9.1.3 access to read utility meters.

15
16 4.9.2 All work associated with the exercise of the easements described in
17 Section 4.9.1 shall be performed in such a manner as to minimize interference with the use
18 and enjoyment of the property burdened by the easements. Upon completion of the work,
19 the Person exercising the easement shall restore the property, to the extent reasonably
20 possible, to its condition prior to the commencement of the work. The exercise of these
21 easements shall not extend to permitting entry into the Dwelling Units, nor shall it
22 unreasonably interfere with the use of any Dwelling Units and, except in an emergency,
23 entry onto any Lot shall be made only after reasonable notice to the Owner or Occupant.

24
25 4.10 Easements for Golf Balls and Certain Golf Activities.

26
27 4.10.1 All of the Lots and the Common Areas are burdened with an
28 easement permitting golf balls unintentionally to come upon such areas, and for golfers at
29 reasonable times and in a reasonable manner to come upon the Lots or Common Areas to
30 retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer must
31 seek the Owner's permission before entry. The existence of this easement shall not relieve
32 golfers of liability for damage caused by errant golf balls. Under no circumstances shall
33 any of the following Persons or entities be held liable for any damage or injury resulting
34 from errant golf balls or the exercise of this easement: the Declarant, the Association and its
35 Members (in their capacity as such), Santa Rita Springs, L.L.C., its successors or any officer,
36 director, partner or agent of the foregoing.

37
38 4.10.2 The owner of any golf course adjacent to any portion of the
39 Property, its agents, successors and assigns, shall at all times have a right and non-
40 exclusive easement in ingress and egress over those portions of the Common Areas
41 reasonably necessary to the operation, maintenance, repair and replacement of the golf
42 course.

1
2 4.10.3 Any portion of the Property immediately adjacent to any golf course
3 is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for
4 overspray of water from the irrigation system serving such golf course. Under no
5 circumstances shall the Association, the Declarant or the owner of such golf course be held
6 liable for any damage or injury resulting from such overspray or the exercise of this
7 easement.
8

9 4.11 Dedication of Common Areas. The Common Areas are dedicated hereby to
10 the common use and enjoyment of Owners and their family, tenants, employees, guests
11 and invitees, and not to the use of the general public.
12

13 **ARTICLE 5**
14 **ARCHITECTURAL REVIEW AND LANDSCAPING**
15 **RESTRICTIONS AND CONTROL**
16

17 5.1 General and Obligation to Obtain Approval. Except as otherwise provided in
18 this Declaration or the Architectural Design Guidelines and without the prior written
19 approval of the Architectural Review Committee (the "ARC") of plans and specifications
20 prepared and submitted to the ARC in accordance with the provisions of this Declaration
21 and the Architectural Design Guidelines:
22

23 5.1.1 No Improvement, structure or thing shall be placed, erected,
24 installed or posted on the Property and no Improvement or other work (including staking,
25 clearing, excavation, grading and other site work, exterior alterations of existing
26 Improvements or planting or removal of landscaping) shall take place within the Property;
27

28 5.1.2 No building, fence, exterior wall, pool, roadway, driveway or other
29 structure, Improvement or thing shall be commenced, erected, altered, changed or made on
30 any Lot at any time;
31

32 5.1.3 No exterior trees, bushes, shrubs, plants or other landscaping shall
33 be planted or placed upon the Property; and
34

35 5.1.4 No material changes or deviations in or from the plans and
36 specifications for any work to be done on the Property, once approved by the ARC, shall be
37 permitted without the prior written consent of the ARC to such change or deviation.
38

39 No approval shall be required to rebuild in accordance with originally
40 approved plans and specifications. If an Owner intends to repaint the exterior of his/her
41 Dwelling Unit the identical color, using the same paint manufacturer and manufacturer's
42 color code of the paint, that was applied to the Dwelling Unit at the time of original

1 construction, the Owner must still notify the ARC in writing (using the appropriate form),
2 for the purpose of maintaining accurate ARC records. Any Owner may remodel, paint or
3 redecorate the interior of the Improvements constructed on his/her Lot without the
4 approval of the ARC. However, modifications to the interior of screened porches, patios
5 and similar portions of Improvements, which are Visible From Neighboring Property, shall
6 be subject to the prior approval of the ARC. No approval shall be required for a reasonable
7 number of small potted plants, seasonal flowers, and/or seasonal decorations on a Lot.
8 The ARC has sole discretion to determine if a Lot has more than a reasonable number of
9 these items. No approval shall be required for plantings enclosed by and below the height
10 of the rear wall of a Lot.

11
12 5.2 Architectural Review. Responsibility for the administration of the
13 Architectural Design Guidelines and review of all applications for construction and
14 modifications under this Article shall be handled by the ARC. The members of the ARC
15 need not be Members of the Association or representatives of Members. The ARC may
16 establish and charge reasonable fees for review of applications hereunder, and may
17 establish fees that are to be paid in full prior to review of any applications and plans and
18 specifications.

19
20 5.3 Architectural Review Committee. The ARC shall consist of at least three, but
21 not more than seven, persons and shall review all original construction on the Property
22 and all modifications, additions or alterations made on or to existing structures located on
23 the Property. An Owner aggrieved by a decision of the ARC may appeal that decision to
24 the Board of Directors in accordance with procedures in the Architectural Design
25 Guidelines. The Board shall appoint all members of the ARC who shall serve at the Board's
26 discretion. The ARC shall keep and maintain a written record of all actions taken by it.
27 Consultants hired by the ARC may be entitled to compensation from any fees collected by
28 the ARC.

29
30 5.4 Architectural Design Guidelines (the "Guidelines").

31
32 5.4.1 The Guidelines are intended to provide guidance to Owners
33 regarding matters of particular concern to the ARC in considering applications thereunder.
34 The Guidelines are not the exclusive basis for decisions of the ARC and compliance with
35 the Guidelines does not guarantee approval of any application.

36
37 5.4.2 The Board may adopt and amend any or all of the Guidelines. Any
38 amendments to the Guidelines shall be prospective only and shall not apply to require
39 modifications to or removal of structures previously approved once the approved
40 construction or modification has commenced. There shall be no limitation on the scope of
41 amendments to the Guidelines; the ARC (subject to Board approval) is expressly
42 authorized to amend the Guidelines to remove requirements previously imposed.

1
2 5.4.3 The ARC shall make the Guidelines available to Owners who seek
3 to engage in development or construction or modifications within the Property. At the
4 Board's discretion, the Guidelines may be Recorded, in which event the most recent
5 version of the Guidelines, shall control in the event of any dispute as to which version of
6 the Guidelines was in effect at any particular time.
7

8 5.5 Exterior Installations. There shall be no construction, erection, or placement
9 of any thing, permanently or temporarily, on the outside portions of any improvements,
10 Dwelling Units or any Lot, whether such portion is improved or unimproved, except in
11 strict compliance with the Architectural Design Guidelines. This shall include without
12 limitation, signs, basketball hoops, swing sets and similar sports and play equipment,
13 clotheslines, garbage cans or containers, woodpiles, above-ground swimming pools,
14 antennas, and hedges, fences, walls, landscaping, dog runs, animal pens, fences of any kind
15 or gazebos.
16

17 5.6 Procedures.
18

19 5.6.1 In addition to the submission to the ARC of the fee established by
20 the ARC for the review of plans and specifications, plans and specifications showing the
21 nature, kind, shape, color, size, materials and location of all proposed structures and
22 improvements shall be submitted to the ARC for review and approval (or disapproval). In
23 addition, information concerning irrigation systems, drainage, lighting, landscaping and
24 other features of proposed construction shall be submitted to the ARC as applicable. In
25 reviewing each submission, the ARC may consider the quality of workmanship and design,
26 harmony of exterior design with existing structures, and location in relation to surrounding
27 topography, and finish grade elevation, among other things. Decisions of the ARC may be
28 based on purely aesthetic considerations. Each Owner acknowledges that opinions on
29 aesthetic matters are subjective and may vary as members of the ARC change over time.
30

31 5.6.2 In the event that the ARC fails to approve or disapprove any
32 application within 45 days after submission of any fees and information and materials
33 reasonably requested, the application shall be deemed approved. However, no approval,
34 whether expressly granted or deemed granted pursuant to the foregoing, shall be
35 inconsistent with the Guidelines unless a variance has been granted in writing by the ARC
36 pursuant to Section 5.8 hereof. Construction pursuant to approved plans must be started
37 and completed within one year after approval. After one year, the approval lapses and the
38 Owner must resubmit plans for approval in accordance with this Article and the
39 Architectural Guidelines.
40

41 5.7 No Waiver of Future Approvals. Approval by the ARC of proposals, plans
42 and specifications, or drawings for any work done or proposed, or in connection with any

1 other matter requiring approval, shall not be deemed to constitute a waiver of the right to
2 withhold approval as to any similar proposals, plans and specifications, drawings or other
3 matters subsequently or additionally submitted to the ARC for approval.
4

5 5.8 Variance. The ARC may authorize variances from compliance with the
6 Guidelines or any procedures when circumstances such as topography, natural
7 obstructions, hardship or aesthetic or environmental considerations require, but such
8 variances shall be made only in accordance with duly-adopted rules and regulations of the
9 ARC. Such variances may only be granted, however, when the ARC determines that
10 unique circumstances dictate and no variance shall: (A) be effective unless in writing; (B) be
11 contrary to this Declaration; or (C) estop the ARC from denying a variance in other
12 circumstances. For purposes of this Section, the inability to obtain approval of any
13 governmental agency, the issuance of any permit, or the terms of any financing shall not be
14 considered a hardship warranting a variance for the Guidelines.
15

16 5.9 Limitation of Liability. Review and approval of any application and plans
17 and specifications pursuant to this Article is made on the basis of aesthetic considerations
18 only and the ARC shall not bear any responsibility for ensuring the structural integrity or
19 soundness of approved construction or modifications, nor for ensuring compliance with
20 building codes and other governmental requirements. Neither the Declarant, the
21 Association, the Board, the ARC or member, director, or officer of any of the foregoing shall
22 be held liable for any injury, damages or loss arising out of the manner or quality of
23 approved construction on or modifications to any Lot. In all matters, the ARC and its
24 members shall be defended and indemnified by the Association to the fullest extent
25 permitted by law.
26

27 5.10 Enforcement of Architectural Violations.
28

29 5.10.1 Any structure, Improvement or other thing placed on the Property
30 or made in violation of this Article shall be deemed to be "nonconforming work." Upon
31 written request from the Board, Owners shall, at their own cost and expense, remove such
32 structure or Improvement and restore the property to substantially the same condition as
33 existed prior to the nonconforming work. Should an Owner fail to remove and restore the
34 property to substantially the same condition as existed prior to the nonconforming work,
35 the Board or its designees shall have the right to enter the property, remove the violation,
36 and restore the property to substantially the same condition as previously existed. All
37 costs, together with interest at the maximum rate allowed by law, may be assessed against
38 the benefited Lot and collected as provided in Article 8 hereof.
39

40 5.10.2 Unless otherwise specified in writing by the ARC, all approvals
41 granted hereunder shall be deemed conditioned upon completion of all elements of the
42 approved work and all work previously approved with respect to the same Lot, unless

1 approval to modify any application has been obtained. In the event that any Person fails to
2 commence and diligently pursue to completion all approved work, the Association shall be
3 authorized, but not obligated, after notice to Owner of the Lot, to enter upon the Lot and
4 remove or complete any incomplete work and to assess all costs incurred against the Lot
5 and Owner thereof.

6
7 5.10.3 Any contractor, subcontractor, agent, employee or other invitee of
8 an Owner who fails to comply with the terms and conditions of this Article and the
9 Guidelines may be excluded by the Board from the Property. In such event, neither the
10 Association, the ARC, the Board nor their officers or directors shall be held liable to any
11 Person for exercising the rights granted herein.

12
13 5.10.4 In addition to the foregoing, the Association shall have the authority
14 and standing to pursue all legal and equitable remedies available to enforce the provisions
15 of this Article and the decisions of the ARC.

16
17 **ARTICLE 6**
18 **ASSOCIATION AND ASSOCIATION OBLIGATIONS**
19

20 6.1 Association Formed. The Association shall be a non-profit Arizona
21 corporation charged with the duties and vested with the powers prescribed by law and set
22 forth in the Governing Documents. Neither the Articles nor the Bylaws shall be amended
23 or interpreted so as to be inconsistent with this Declaration.

24
25 6.2 Board of Directors and Officers. The affairs of the Association shall be
26 conducted by the Board and such officers as the Board may elect or appoint in accordance
27 with the Articles and Bylaws. The Board may appoint or engage a manager to be
28 responsible for the day-to-day operations of the Association and the Common Areas. The
29 Board shall determine the compensation to be paid to such manager. Any management
30 agreement shall comply with Section 17.10

31
32 6.3 Association Responsibility for Common Areas. The Association, subject to
33 the rights of the owners set forth in this Declaration, shall be responsible for the
34 management and control of the Common Areas dedicated under this Declaration and all
35 Improvements of the Common Areas (including the furnishings and equipment related
36 thereto).

37
38 6.4 Association Rules and Regulations. The Board is empowered to adopt,
39 amend, or repeal such rules and regulations as it deems reasonable and appropriate
40 (collectively, the "Association Rules"), which shall be binding upon all persons subject to
41 this Declaration and shall govern the use or occupancy of the Property. The Rules shall
42 govern such matters as the Board deems to be in furtherance of the purposes of the

1 Association, including, without limitation, the use of the Common Areas. The Rules may
2 be adopted, amended, or repealed at any special or regular meeting of the Board upon a
3 vote of a majority of all the Directors, and shall take effect after 30 days' written notice to
4 the Owners, unless the rule(s) being adopted, amended or repealed has a compelling health
5 or safety purpose, in which case seven days' notice to the Owners is required.
6

7 The Rules and Guidelines are deemed incorporated herein by this reference,
8 and shall have the same force and effect as if they were set forth in and were part of this
9 Declaration, and shall be binding upon all Persons having any interest in, or making any
10 use of, any part of the Property, whether or not copies of the Rules or Guidelines are
11 actually received by such Persons. References to the Restrictions contained herein shall be
12 deemed to refer also to the Rules and Guidelines (except to the extent the Rules or
13 Guidelines are in conflict herewith). The Rules and Guidelines, as adopted, amended or
14 repealed, shall be available for review by each Person reasonably entitled thereto, upon
15 written request to the Board. It shall be the responsibility of each Person subject to the
16 Rules and Guidelines to review and keep abreast of any changes in the provisions thereof.
17

18 6.5 Association's Responsibility for Compliance with Fair Housing Act. The
19 Association, subject to Article 3 above, shall be responsible for monitoring the age of
20 Occupants of Dwelling Units to ensure that Owners are in compliance with the age
21 restriction covenants contained herein and/or the Fair Housing Act. This shall include, but
22 not be limited to, conducting periodic surveys by providing a questionnaire to all Owners
23 of Dwelling Units.
24

25 6.6 Personal Liability. Neither the Declarant, nor any Board member, officer,
26 committee member, employee, agent and/or agent's personnel, representative of the
27 Association or Association, shall be personally liable to any Owner or to any other Person,
28 including the Association, for any damage, loss, costs, fees (including attorney fees) or
29 prejudice suffered or claimed on account of any of their acts, omissions, errors or
30 negligence; provided, however, that the limitations set forth in this Section shall not apply
31 to any Person who has failed to act in good faith or has engaged in willful or intentional
32 misconduct.
33

34 6.7 Implied Rights: Board of Authority. The Association may exercise any right
35 or privilege given to it expressly by the Governing Documents, or reasonably implied from
36 or reasonably necessary to effectuate any such right or privilege. Except as otherwise
37 specifically provided in the Governing Documents, or by law, all rights and powers of the
38 Association may be exercised by the Board without a vote of the membership.
39

40 6.8 Indemnification of Officers, Directors and Others. The Association shall
41 indemnify every officer, director and committee member against all damages and
42 expenses, including attorney fees, reasonably incurred in connection with any action, suit

1 or other proceeding (including settlement of any suit or proceeding, if approved by the
2 then Board of Directors) to which he or she may be a party by reason of being or having
3 been an officer, director or committee member, except that such obligation to indemnify
4 shall be limited to those actions for which indemnity is allowed under the Articles and
5 Arizona law. This right to indemnification shall not be exclusive of any other rights to
6 which any present or former officer, director or committee member may be entitled. The
7 Association shall maintain adequate general liability and officers' and directors' liability
8 insurance to fund this obligation, if such insurance is reasonably available.
9

10 6.9 Mergers and Consolidations. The Association shall have the right, power and
11 authority to participate in mergers or consolidations with any other non-profit corporation
12 whose objectives, methods and taxable status and format of operation are similar to those
13 of the Association ("Merger Candidate"). A merger or consolidation of the Association with
14 a Merger Candidate must be approved in advance by Members holding 50% of the votes in
15 the Association, whether in person or by absentee ballot, at a meeting duly called for such
16 purpose. The Association's properties, rights and obligations shall be transferred to and
17 assumed by the surviving or consolidated corporation by operation of law, or alternatively,
18 the properties, rights and obligations of the merger Candidate shall be transferred by
19 operation of law to the Association as the surviving corporation. The surviving or
20 consolidated corporation, at a minimum, shall have the same administrative
21 responsibilities and enforcement rights established by this Declaration in regard to the
22 Property.
23

24 6.10 Records of the Association. The Association shall keep, or cause to be kept,
25 true and correct records of account at the sole cost and expense of the Association. Such
26 books and records, together with current copies of the governing Documents, shall be
27 available for inspection by all Owners and first Mortgagees of record at reasonable times,
28 by appointment only, during regular business hours.
29

30 **ARTICLE 7**

31 **MEMBERSHIP AND VOTING**

32

33 7.1 Membership in the Association. Each Owner of a Lot, by virtue of being an
34 Owner, shall automatically be a Member of the Association. Membership in the
35 Association shall be appurtenant to each Lot owned and shall not be transferred, pledged,
36 or alienated in any way, except upon the transfer of ownership of a Lot, and then only to
37 the transferee thereof. Any transfer of ownership of a Lot shall operate automatically to
38 transfer said membership to the new Lot Owner. Any attempted transfer of membership
39 separate from the appurtenant Lot or Lots shall be void.
40

41 7.2 Voting Rights. Each Member shall be entitled to one vote for each Lot
42 owned. No change in the ownership of a Lot shall be effective for voting purposes until the

1 Association receives written notice of such change together with satisfactory evidence of
2 the transfer. When more than one Person holds an interest in any Lot, all such Persons
3 shall be Members. The vote for such Lot shall be exercised as the Owners may determine,
4 but in no event shall more than one vote be cast with respect to any Lot owned. Fractional
5 votes are not allowed. In the event a Lot is owned by more than one Person and such
6 Owners are unable to agree on how their vote(s) shall be cast, they shall not be entitled to
7 vote on the matter in question. If any Owner exercises his/her vote on any matter, it will
8 be conclusively presumed that the Owner is acting with the authority and consent of all the
9 other Owners of the Lot unless an objection is made to the Board, in writing, at or prior to
10 the time the vote is cast.

11
12 7.3 Suspension of Voting Rights. The Association may suspend the voting rights
13 of any Member for any period during which any Assessment against his/her Lot by the
14 Association remains unpaid and delinquent.

15
16 7.4 Members' Rights. Each member shall have the rights, duties and obligations
17 set forth in the Governing Documents and the Architectural Design guidelines as the same
18 may be amended from time to time.

19
20 7.5 Use of Association Membership Designees.

21
22 7.5.1 Subject to the Association Rules, all of the Owners of a membership
23 may designate a non-member who is leasing or renting the owner's Lot for a period of not
24 less than 30 days (herein referred to as "Designee") to exercise the rights of the Member
25 under this Declaration (except the Member's voting rights). Provided, however, that as a
26 result of such designation:

27
28 7.5.1.1 the Owner making the designation shall surrender all rights
29 to use the Common Areas;

30
31 7.5.1.2 the designation may only be made by the Owner to a
32 maximum of two persons at one time;

33
34 7.5.1.3 such designation shall not relieve the Member of any
35 liabilities or obligations as an Owner or with respect to the Membership; and

36
37 7.5.1.4 the Designee or the Owner pays to the Association a service
38 fee in an amount established by the Board for such designation.

39
40 7.5.2 So long as such designation is in effect, the member shall be
41 permitted to exercise only his or her voting rights and the Board may, among other things,
42 in its discretion, set maximum or minimum periods for which such designation may be in

1 effect and further limit the number of persons who may be so designated by any Member
2 at any one time. The Designee must be an Occupant, lessee or Tenant of a Lot in The
3 Greens at Santa Rita Springs. The Owner of a Lot upon which no Dwelling Units have
4 been constructed shall not have the right to designate a Designee.

5
6 **ARTICLE 8**
7 **ASSESSMENTS AND ESTABLISHMENT OF LIEN**
8

9 8.1 Creation of Assessment Lien: Personal Obligation of Lot Owner.
10

11 8.1.1 The Owner of any Lot within The Greens at Santa Rita Springs, by
12 acceptance of a Deed therefor, whether or not it shall be so expressed in any such deed, is
13 deemed to covenant and agree, and hereby covenants and agrees, to pay to the Association
14 the Annual Assessment or charges, Special Assessments, Capital Improvement Assessment
15 and Maintenance Assessments (collectively the "Assessments") to be established and
16 collected, if applicable, as hereafter provided in this Article.

17
18 8.1.2 The amount and time for payment of the Assessments shall be
19 determined by the Board, pursuant to the Governing Documents. The Assessments,
20 together with interest thereon, and the costs and reasonable attorney fees, if any, incurred
21 by the Association in connection with the enforcement and collection thereof or in
22 otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien
23 upon the Lot against which such Assessments are made and, in addition, shall be the
24 personal obligation of the Owner of such Lot at the time when such Assessments become
25 due and payable. The personal obligation for delinquent assessments shall not pass to the
26 Owners' successors in title unless expressly assumed by them. The Assessment Lien is
27 imposed and created by this Declaration. The recording of a notice in the Pima County
28 Recorder's office, specifying the amount of a delinquent Assessment Lien, shall not be
29 necessary to create or enforce the Assessment Lien; however, the Association has the right
30 to Record the lien.

31
32 8.2 Annual Assessments. The Association, by and through the Board, shall levy
33 the Annual Assessments for the purposes set forth herein. The Annual Assessments levied
34 by the Association shall be used to promote the recreation, health, safety and welfare of the
35 Owners and Occupants, to enhance the quality of life within the Property, to preserve the
36 value of the Property, to pay the costs of administration of the Association, to improve and
37 maintain the Common Areas, private areas and areas surrounding the Property
38 boundaries, and to otherwise further the interests of the Association as the Board deems
39 appropriate.

40
41 8.2.1. Amount of Annual Assessment. The Board of Directors shall
42 determine the amount of the Annual Assessment for each Lot on an annual basis, based

1 upon the operating budget of the Association, including adequate reserves. The Annual
2 Assessment shall be paid annually or quarterly. The amount of the Annual Assessment
3 may not be increased more than 5% of the previous year's Annual Assessment without the
4 approval of two-thirds of the votes cast by Owners in an Association election in which a
5 quorum is represented. Subject to the provisions of this Section, the Board may, during any
6 fiscal year, revise the amount of the Annual Assessment in order to meet expenses which
7 exceed the amounts previously budgeted for the year, and collect such increased Annual
8 Assessment.

9
10 8.2.2 Excess Funds. If the estimated total Annual Assessment for the
11 current year proves to be excessive in light of the actual expenses, the Association may, at
12 the discretion of the Board, retain such excess as additional working capital, or reserves,
13 reduce the amount of the Annual Assessment for the succeeding year, or abate collection of
14 Annual Assessments for such period as it deems appropriate. No reduction or abatement
15 of Annual Assessments because of any such anticipated surplus may diminish the quantity
16 or quality of services.

17
18 8.2.3 Reserves. The responsibility of the Board shall be only to provide
19 for such reserves as the Board, in good faith, deems reasonable, and neither the Board nor
20 any member thereof shall have any liability to any Owner or Member, or to the
21 Association, if such reserves prove to be inadequate.

22
23 8.3 Uniform Rate of Assessment. The amount of any Annual Assessment or
24 Capital Improvement Assessment against each Lot shall be fixed at a uniform rate per Lot.

25
26 8.4 Rate of Assessment. Subject to Sections 8.2 and 8.5, the amount of the Annual
27 Assessments and Capital Improvement Assessments shall be fixed by the Board, in its sole
28 discretion.

29
30 8.5 Capital Improvement Assessments.

31
32 8.5.1 In addition to the Annual Assessment, the Association may levy a
33 Capital Improvement Assessment for the purpose of defraying, in whole or in part, the cost
34 of any construction, reconstruction, repair or replacement of a capital improvement owned
35 by the Association, or for defraying other extraordinary expenses, provided however, that
36 such Capital Improvement Assessment shall have the approval of two-thirds of the votes
37 cast by Owners in an Association election in which a quorum is represented. Capital
38 Improvement Assessments shall be assessed uniformly among the Members, as authorized
39 in Section 8.3 hereof.

40
41 8.5.2 All amounts collected as Capital Improvement Assessments may
42 only be used for capital improvements or other extraordinary expenses, and shall be

1 deposited by the Association with any other funds of the Association, and shall be deemed
2 a contribution to the capital account of the Association by the Members.
3

4 8.6 Maintenance Assessments. In addition to any Annual Assessment, the Board
5 shall have the authority to levy and collect Maintenance Assessments for costs and
6 expenses attributable to the special characteristics or needs of a particular Lot if the Owner
7 of a Lot contracts with the Association for the Association to provide particular
8 maintenance services in regard to such.
9

10 8.7 Assessment of Certain Maintenance Costs. In the event the need for
11 maintenance or repair of areas maintained by the Association is caused through the willful
12 negligent act or omission of any Owner, Occupant or Lessee (or of any other Person for
13 whom such Owner or Lessee is legally responsible under applicable state law), the cost of
14 such maintenance or repair shall be added to and become a part of the Assessments to
15 which such Owner and such Owner's Lot is subject, and shall be secured by the
16 Assessment Lien, and by a Recorded Assessment Lien if deemed appropriate by the Board.
17

18 8.8 Special Assessments. Special Assessments shall be levied by the Association
19 against an Owner and his or her Lot to reimburse the Association for:
20

21 8.8.1 Costs incurred in bringing an Owner and his or her Lot into
22 compliance with the provisions of the Governing Documents;
23

24 8.8.2 Document fees, purchase fees and transfer fees, as established by the
25 Board, in the Board's sole discretion, which shall include, but not be limited to:
26

27 8.8.2.1 Costs incurred for the reproduction and distribution of
28 The Greens at Santa Rita Springs documents; and
29

30 8.8.2.2 A transfer fee charged upon every Lot for the transfer,
31 sale or conveyance from an Owner to a new Owner.
32

33 8.8.3 Any other charge designated as a Special Assessment in this
34 Declaration, the Articles, Bylaws, Association Rules or Architectural Design Guidelines;
35

36 8.8.5 Attorney's fees, late fees, interest, and other costs or charges
37 provided to be paid as, or which are incurred in connection with, a Special Assessment in
38 Accordance with this Declaration, the Articles, Bylaws, Association Rules, or Architectural
39 Design Guidelines.
40

41 8.9 Annual Assessment Period. Except as otherwise provided in this
42 Declaration, the Assessment Period shall be the fiscal year commencing on January 1 of

1 each year and terminating on December 31 next following. The Board may, in its sole
2 discretion, from time to time, change the Assessment Period.

3
4 8.10 Billing and Collection Procedures.

5
6 8.10.1 The Board shall have the right to adopt procedures for the purpose
7 of making, billing, and collecting the Assessments, which procedures may include
8 delegating to a sub-association or one or more subsidiary associations the authority and
9 obligation of billing and collecting some or all of the Assessments. The failure of the
10 Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability
11 for Assessments. No recorded Assessment Lien shall be foreclosed or otherwise enforced
12 until the Owner has been given not less than 30 days' written notice thereof prior to the
13 commencement of such foreclosure or enforcement. The notice shall be addressed to the
14 Owner at the address of the Owner on the records of the Association. It shall be the
15 responsibility of the Owner to inform the Association in writing of a change of address.

16
17 8.10.2 The Association shall be under no duty to refund any payments
18 received by the Association even if the ownership of a Lot changes during an Assessment
19 Period. Any successor Owner shall be given credit for any unrefunded prepayments made
20 by a prior Owner.

21
22 8.11 Collection Costs and Interest on Delinquent Amounts. Any Delinquent
23 Amount shall have added thereto a flat late fee as determined by the Board if such
24 Delinquent Amount is not paid within ten days after its due date. In addition, the
25 Delinquent Amount shall bear interest from its due date until paid, at a rate equal to the
26 greater of: (a) 18% per annum, or (b) the then prevailing interest rate on loans provided by
27 J.P. Morgan Chase Bank. The Owner shall be liable for all late fees, interest, costs,
28 including, but not limited to, attorneys' fees and costs and collection agency fees which
29 may be incurred by the Association in collecting any Delinquent Amount. The Board may
30 also record an Assessment Lien against the applicable Lot and may establish a fixed fee to
31 be reimbursed to the Association for the Association's cost in recording such Assessment
32 Lien, processing the delinquency, and recording a release of lien. The foregoing fee shall be
33 treated as a collection cost of the Association secured by the recorded Assessment Lien.

34
35 8.12 Statement of Payment.

36
37 8.12.1 Upon receipt of a written request therefor from any Owner, the
38 Board, within a reasonable time thereafter, shall issue to the requesting party a written
39 statement stating that as of the date of such statement:

40
41 8.12.1.1 All Assessments (including collection fees, if any, in
42 regard thereto) have been paid with respect to such Owner's Lot;

1
2 8.12.1.2 If such Assessments have not been paid, the amount(s)
3 then due and payable.
4

5 8.12.2 The Association may make a reasonable charge for the issuance of
6 such statement. Any such statement shall be conclusive and binding with respect to any
7 matter set forth therein.
8

9 8.13 Exempt Property. Exempt Property shall be exempt from Assessments
10 (except as may be provided in Sections 8.8 and 12.3) and the Assessment Lien, and shall
11 have no voting rights in the Association. However, should any Exempt Property cease to
12 be Exempt Property for any reason, it shall thereupon be subject to Assessments (prorated
13 as of the date it ceased to be Exempt Property) and the Assessment Lien, and shall have
14 voting rights in the Association as otherwise determined in this Declaration.
15 Notwithstanding any provision to the contrary in this Declaration, a Supplemental
16 Declaration applicable to Government Property may provide for such Government
17 Property to be totally exempt from all the provisions of this Declaration for so long as such
18 property remains Government Property.
19

20 ARTICLE 9 21 ASSESSMENTS AND ENFORCEMENT 22

23 9.1 Enforcement. In the event of a default in payment of any Assessment when
24 due, in which case the Assessment shall be deemed delinquent, and in addition to any
25 other remedies herein or by law provided, the Association may enforce each such
26 obligation in the manner provided by law or in equity, or without any limitation to the
27 foregoing, by either or both of the following procedures.
28

29 9.1.1 Enforcement of Personal Obligation. The Board may cause a suit at
30 law to be commenced and maintained in the name of the Association against an Owner to
31 enforce each Assessment obligation. Any judgment rendered in any such action shall
32 include the amount of the delinquency, together with late fees and interest thereon, from
33 the date of delinquency until paid, court costs and reasonable attorney fees in such amount
34 as the Court may adjudge against the delinquent Owner.
35

36 9.1.2 Continuing Lien. As provided in Section 8.1, all Assessments, plus
37 interest, late fees and costs connected therewith shall be a continuing lien upon the Lot
38 assessed. Such lien shall be deemed to have attached as of the date of recordation of the
39 Original Declaration and shall be senior to all matters other than tax liens for real property
40 taxes on the Lot (as applicable hereafter), assessments on the Lot in favor of any municipal
41 or other governmental assessing unit, reservations in patents, and the lien of any First
42 Mortgagee.

1
2 9.1.3 Notice and Claim of Lien. At any time after occurrence of any
3 default in the payment of any such Assessment, the Association, or any authorized
4 representative may, but shall not be required to, make a written demand for payment by
5 the defaulting Owner (or Member). Said demand shall state the date and amount of
6 delinquency. Each default shall constitute a separate basis for demand, but any number of
7 defaults may be included within a single demand. The Association may, whether or not
8 such a written demand is first made, file and record a claim of lien on behalf of the
9 Association against the Lot of the defaulting Owner. Such a claim of lien shall be executed
10 and acknowledged by any officer of the Association, recorded in the office of the County
11 Recorder of Pima County, and shall contain substantially the following information:

12
13 9.1.3.1 The name of the delinquent Owner (or Member);

14
15 9.1.3.2 The legal description of the Lot against which claim of lien
16 is made;

17
18 9.1.3.3 The total amount claimed to be due and owing for the
19 amount of the delinquency, late fees, interest thereon, collection costs and reasonable
20 attorney fees (with any proper offset allowed);

21
22 9.1.3.4 A statement that the claim of lien is made by the
23 Association pursuant to this Declaration;

24
25 9.1.3.5 A statement that the lien is claimed against said Lot in an
26 amount equal to the amount stated; and

27
28 9.1.3.6 A statement that the claim of lien will also extend to all
29 Assessments which became due but are not paid from the date of the recording of the claim
30 of lien to the date of payment of an amount set forth herein (including interest thereon, late
31 fees, reasonable attorneys' fees, costs and collection), and that the claim of lien will only be
32 deemed satisfied and released when the Owner (or Member) is current in the payment of
33 all such amounts.

34
35 9.1.4 Upon recordation of a duly-executed original or copy of such claim
36 of lien, and the mailing of a copy thereof to said Owner, the lien claimed therein shall
37 immediately attach and become effective in favor of the Association as a lien upon the Lot.
38 Such a lien shall be junior to tax liens for real property taxes on the Lot, Assessments on
39 any Lot in favor of any municipal or other governmental assessing unit, and the lien of any
40 First Mortgage.

1 9.2 Foreclosure of Lien. Any Assessment Lien may be foreclosed by appropriate
2 action in court or in the manner provided by law for the foreclosure of a realty mortgage or
3 trust deed as set forth by the laws of the State of Arizona, as the same may be changed or
4 amended. The lien provided for herein shall be in favor of the Association and shall be for
5 the benefit of all other Owners. The Association shall have the power to bid in at any
6 foreclosure sale and to purchase acquire, hold, lease, mortgage, and convey any Lot. In the
7 event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title
8 search fees, late fees, interest and all other costs and expenses shall be allowed to the extent
9 permitted by law. Each Owner hereby expressly waives any objection to the enforcement
10 and foreclosure of this lien.

11
12 9.3 No Waiver or Offset. No Owner may exempt himself or herself from
13 personal liability for Assessments, or release the Lot owned by him or her from the liens or
14 charges arising under this Declaration or any Supplemental Declaration or by any other
15 recorded instrument by waiver of his or her Occupants' or guests' rights of use and
16 enjoyment of the Common Areas. No Owner shall be entitled to claim any offsets against
17 Assessments for any reason, including, without limitation, a claim that the Association is
18 not properly exercising its duties or responsibilities under this Declaration.

19
20 9.4 Subordination of the Lien to First Mortgages: Sale or Transfer of Lots. The
21 lien of the Assessments provided for herein, including without limitation any fees, costs,
22 late fees, or interest which may be levied by the Association in connection with unpaid
23 Assessments, shall be subordinate to the lien of any First Mortgage. Sale or transfer of any
24 Lot pursuant to foreclosure of any such First Mortgage or any proceeding in lieu thereof,
25 including deed in lieu of foreclosure, or cancellation or forfeiture of such executory land
26 sales contract, shall extinguish the lien of Assessments or charges which became due prior
27 to any such sale or transfer, or foreclosure, or any proceeding in lieu thereof, including
28 deed in lieu of foreclosure, or cancellation or forfeiture of any such executory land sales
29 contract. However, any such delinquent Assessments or charges, including interest, late
30 fees, costs and reasonable attorneys' fees, which are extinguished as provided herein, may
31 be reallocated and assessed to all Lots as a common expense. No such sale, transfer,
32 foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor
33 cancellation or forfeiture of such executory land sales contract, shall relieve any Owner of
34 any Lot from liability for any Assessments or charges thereafter becoming due, nor from
35 any lien thereof. In the event of foreclosure of a First Mortgage or the taking of a deed in
36 lieu thereof, such First Mortgages shall not be liable for unpaid Assessments or other
37 charges which accrued prior to the acquisition of title to the Lot in question by such First
38 Mortgage.

39
40 9.5 Mortgage Protection. Notwithstanding and prevailing over any other
41 provisions of this Declaration, or the Association's Articles or Bylaws, or the Association
42 Rules, the following provisions shall apply to and benefit each First Mortgagee of a Lot:

1
2 9.5.1 Liability for Assessments and Other Charges:
3

4 9.5.1.1 First Mortgagees shall not in any case or manner prior to
5 acquiring title to a Lot be personally liable for the payment of any Assessment or charge,
6 nor for the observance or performance of any covenant, restriction, contained in the
7 Governing Documents except for those matters which are enforceable by injunctive or
8 other equitable actions, not requiring the payment of money, nor shall a First Mortgagee be
9 liable for any violation of the Restrictions that occurred prior to such First Mortgagee
10 acquiring title.
11

12 9.5.1.2 At such time as the First Mortgagee shall become record
13 Owner of a Lot, said First Mortgagee shall be subject to all of the terms, conditions, and
14 restrictions of this Declaration, including but not limited to the obligation to pay for all
15 Assessments and charges accruing thereafter, in the same manner as any Owner.
16

17 9.6 Right to Exercise Rights of Owner. During the pendency of any proceeding to
18 foreclose the First Mortgage, including any period of redemption, the First Mortgagee (or
19 receiver appointed in such action) may, but need not, exercise any or all of the rights and
20 privileges of the Owner of the mortgaged Lot, including but not limited to the right to vote
21 as a Member of the Association to the exclusion of the Owner's exercise of such rights and
22 privileges.
23

24 9.7. Right to Pay Charges on Common Area . First Mortgagees are hereby
25 granted the right to jointly, or singly, pay taxes or other charges which are in default and
26 which may or have become a charge against any Common Area owned by the Association
27 and such First Mortgagees may, jointly or singly, pay overdue premiums on hazard
28 insurance policies, or secure new hazard insurance coverage on the lapse of a policy for
29 such Common Area and any First Mortgagees making such payments shall be owed
30 immediate reimbursement therefore from the Association.
31

32 9.8 Priority. Nothing in this Declaration shall in any manner be deemed to give a
33 Lot Owner, or any other party, priority over any rights of a First Mortgagee of a Lot
34 pursuant to the terms of such First Mortgagee's mortgage in the case of a distribution to an
35 Owner of insurance proceeds or condemnation awards for losses to or a taking of any Lot
36 of any part of the Common Area owned by the Association.
37

38 9.9 Other Rights. Each First Mortgagee shall, upon written notice to the
39 Association identifying the name and address of the holder, and the Lot number or address
40 of the Lot encumbered by its mortgage, be entitled to:
41

1 9.9.1 Receive written notification from the Association of any default in
2 the performance by the Owner of a Lot encumbered by the Mortgage in favor of such First
3 Mortgagee of any obligation under this Declaration or under the Governing Documents of
4 the Association which is not cured within 60 days.

5
6 9.9.2 Inspect the books and records of the Association, by appointment,
7 during normal business hours.

8
9 9.9.3 Receive an annual financial statement of the Association within 90
10 days following the end of any fiscal year of the Association.

11
12 9.9.4 Receive written notice of all meetings of Members of the
13 Association.

14
15 9.9.5 Receive written notice of any condemnation loss or casualty loss
16 affecting a material portion of the Property.

17
18 9.9.6 Receive written notice of any lapse, cancellation or material
19 modification of any insurance policy or fidelity bond.

20
21 **ARTICLE 10**
22 **USE OF ASSOCIATION FUNDS**

23
24 10.1 Use of Association Funds. The Association shall apply all funds and
25 property collected and received by it (including the Annual Assessments, Capital
26 Improvement Assessments, Special Assessments, Maintenance Assessments, fees, loan
27 proceeds, surplus funds and all funds and property received by it from any other source)
28 for the common good and benefit of the Association and its Members. In so doing, the
29 Association shall devote said funds and property, among other things, to the acquisition,
30 construction, alteration, maintenance, provision and operation, by any manner or method
31 whatsoever, of any and all land, properties, Improvements, facilities, monuments,
32 monument walls, water features, lighting features, trail systems, services, projects,
33 programs, studies and systems, within or without The Greens at Santa Rita Springs, which
34 may be necessary, desirable or beneficial to the general interest of the Greens at Santa Rita
35 Springs and the Members of the Association. The Association may also expend its funds
36 for any purpose which any municipality may expend its funds under the laws of the State
37 of Arizona or such municipality's charter.

38
39 10.2 Borrowing Power. The Association may borrow money in such amounts, at
40 such rates, upon such terms and security, and for such periods of time as the Board deems
41 necessary or appropriate.
42

10.3 Association's Right in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all Funds received by it in such year, and the Board may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year.

ARTICLE 11

RIGHTS, POWERS AND DUTIES OF THE ASSOCIATION

11.1 Rights, Powers and Duties of the Association. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights, powers and duties as are set forth in the Articles and Bylaws, together with such rights and powers as may be necessary in order to effect all the objectives and purposes of the Association as set forth herein. Some, but not all, duties of the Association shall include:

11.1.1 the maintenance of the walkways, drainage easements, pedestrian easements, slope easements, monuments, water features and walkways (if applicable) located within the Common Areas and properties, and entry way features and landscaping leading into the Property, including decorative structures, walls, etc.;

11.1.2 the maintenance of the landscaped portions of the Common Areas and other areas to be maintained by the Association, including all areas between Common Areas and the private walls of each Dwelling Unit and, all abutting property as within reason, outside of the Property;

11.1.3 the operation, maintenance (including insurance) and, if necessary, the replacement, restoration or reconstruction of Association or Common Area related signage, walls, fences, and other improvements originally constructed by Declarant on the Common Areas; and,

11.1.4 the payment of ad valorem real estate taxes, assessments and other charges on those portions of the Common Areas owned by the Association.

11.2 Contracts with Others. Subject to the restrictions and limitations contained herein, the Articles, the Bylaws and the laws of the State of Arizona, the Association may enter into contracts with others. However, any management contract entered into by the Association must be terminable, without penalty, by the Association for cause at any time and without cause upon reasonable notice.

11.3 Procedure for Change of Use of Common Area. Upon adoption of a resolution by the Board stating that the then current use of a specified part of the Common

1 Areas is no longer in the best interests of the Owners and Occupants, and the approval of
2 such resolution not less than 2/3rds of the votes cast by Members voting in a duly-held
3 Association election in which a quorum of votes is represented, the Board shall have the
4 power and right to change the use thereof (and in connection therewith to take whatever
5 actions are required to accommodate the new use), provided such new use (A) also shall be
6 for the common benefit of the Owners and Occupants; and (B) shall be consistent with any
7 recorded restrictions, governmental regulation, or zoning regulations.
8

9 11.4 Dedication of Common Areas by the Board. The Board shall have the right
10 to dedicate or transfer all or any part of the Common Areas to any public agency, authority
11 or utility provided that:
12

13 11.4.1 Such a transfer or dedication does not have substantial, adverse
14 effect on the enjoyment of the Common Areas by the Owners and Occupants or on the
15 easements and licenses with respect to the Common Areas granted by this Declaration to
16 the Owners and Occupants;
17

18 11.4.2 It is required by a recorded subdivision plat, a zoning stipulation or
19 an agreement with the County.
20

21 11.5 Procedure for Conveyance of Common Area by Members. Except as
22 authorized in Section 11.4, the Association shall not make any dedication or transfer or
23 change the size, shape or location of the Common Areas, exchange the Common Areas for
24 other property or interests which become Common Areas, or abandon or otherwise
25 transfer Common Areas (to a non-public authority) except upon: (A) the adoption of a
26 resolution by the Board stating that the ownership and/or use of the relevant Common
27 Area is no longer in the best interests of the Owners and Occupants, and that the change
28 desired shall be for their benefit and shall not substantially, adversely affect them; (B) the
29 approval of such resolution by not less than 51% of the Lot Owners.
30

31 11.6 Common Area Use Fees. The Association shall have the right to grant non-
32 Members the temporary right to use and enjoy, on a specific and limited basis, one or more
33 of the Common Areas in exchange for such consideration as the Board may deem
34 appropriate.
35

36 11.7 Agreements with Adjoining Landowners for Common Areas. The
37 Association shall have the right to (but is not required to) enter into agreements with
38 persons owning land adjacent to Common Area, pursuant to which the adjoining
39 landowner pays for all costs associated with the installation and maintenance of enhanced
40 landscaping on Common Areas located within the Property.
41

11.8 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it might otherwise be. The Association shall not be considered insurers or guarantors of security within the Property, nor shall the Association be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar system or other security system or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

ARTICLE 12
MAINTENANCE OBLIGATIONS OF OWNERS/COMMUNITY-WIDE
STANDARD/PARTY WALLS AND OTHER SHARED STRUCTURES

12.1 Owners' Maintenance Responsibility. Each Owner shall maintain his or her Lot and all structures, parking areas, other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and applicable covenants unless maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to a Supplemental Declaration. For purposes of this Section, the "Lot" shall include portions of an Owner's property that lie outside the patio walls and/or between walls and the curb. In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibilities, the Association may, but shall not be obligated to, perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 12.3 hereof. The Association shall afford the Owner notice and ten days to cure the problem prior to entry, except when entry is required due to an emergency situation.

12.2 Standard of Performance. Unless otherwise specifically provided herein, maintenance responsibility shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and the Governing Documents.

12.3 Improper Maintenance and Use of Lots. No Lot may present a nuisance, or substantially detract from or negatively affect the appearance or quality of any neighboring Lot or other area within the Property. Nor may any Lot be used in a manner which violates this Declaration, the Association Rules, or any applicable Supplemental Declaration. In the event the Owner, Occupant or Lessee of any Lot fails to perform such Owner's obligations under this Declaration, any applicable Supplemental Declaration, the Association Rules or the Architectural Design Guidelines, the Association may cause corrective action to be taken by having a worker upon the Lot without being guilty of trespass, and maintain landscaping, remove any weeds, rubbish or debris, or do any other necessary work. The

1 cost thereof, including any incurred court costs and attorney fees (if any), shall be a
2 Maintenance Assessment to which the offending Owner and the Owner's Lot is subject.
3 The Association shall afford the Owner notice of at least 10 days to cure the problem prior
4 to entry, except when entry is required due to an emergency situation.
5

6 12.4 Association's Right of Entry. The Board shall have the right to enter or to
7 authorize an agent or contractor to enter, without being guilty of trespass, upon the Lot of
8 an Owner for the purpose of repairing, modifying or demolishing Improvements which are
9 not in conformance with the provisions of the Declaration or the Guidelines, and all
10 expenses thereof shall be paid by the owner in violation to the Association. This shall
11 include the right of entry to abate a nuisance.
12

13 12.5 Shared Structures. A "Shared Structure" means each wall, fence, driveway
14 or similar structure built as a part of the original construction of improvements to
15 contiguous Lots which serves and/or separates any two Lots. The cost of reasonable repair
16 and maintenance of a Shared Structure shall be shared equally by the Owners who make
17 use of the Shared Structure. If a Shared Structure is destroyed or damaged by fire or other
18 casualty, then to the extent that such damage is not covered by insurance and repaired out
19 of the proceeds of insurance, any Owner who has used the Shared Structure may restore it.
20 The other Owners who use or have the benefit of the Shared Structure shall contribute to
21 the restoration cost in equal proportions. However, such contribution will not prejudice
22 the right to call for a larger contribution from the other users under any rule of law
23 regarding liability for negligent or willful acts or omission. To the extent not inconsistent
24 with the provisions of this Section, the general rules of law regarding party walls and
25 liability for property damage due to negligence or willful acts or omission shall apply to a
26 Shared Structure. The right of any Owner to contribution from any other Owner under this
27 Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.
28 All disputes regarding a Shared Structure shall be submitted to the Board of Directors,
29 whose decision on the matter shall be final and binding.
30

31 **ARTICLE 13** 32 **USE AND OCCUPANCY RESTRICTIONS** 33

34 13.1 Residential Use. Each Lot designated as "residential" under the Master
35 Development Plan may be used only for residential purposes. No business or commercial
36 building may be erected on any residential Lot. Except as provided in Section 13.4, no
37 business or commercial enterprise, or other nonresidential use may be conducted on any
38 residential Lot. The leasing of a Dwelling Unit shall not be considered a business.
39

40 13.2 Antennas. The installation, use or maintenance of any antenna, satellite or
41 microwave dish or other device for transmission or reception of television or radio signals
42 shall be constructed on any Lot in accordance with the Design Guidelines. If any FCC Rules

1
2 modify or override a portion of the Architectural Design Guidelines, the remaining
3 Architectural Design Guidelines shall remain in full force and effect.
4

5 13.3 Animals. Nothing contained in this Section shall be construed to prohibit
6 assistive animals.
7

8 13.3.1 Each Owner or Occupant of a Lot may keep a reasonable number of
9 dogs, cats and other usual and common household pets on a Lot, provided that they are
10 not kept, bred or maintained for any commercial purpose.
11

12 13.3.2 No animal shall be allowed to become a nuisance.
13

14 13.3.3 The Board of Directors has the right to determine, in its sole and
15 absolute discretion, whether a particular animal is a common household pet or a nuisance,
16 or whether the number of animals kept on a Lot is reasonable. The Board may require that
17 the pet be removed from the Property. If the pet's owner fails to honor such request, the
18 Board may have the pet removed.
19

20 13.3.4 All animals must be kept under leash or controlled at all times so that
21 they will not interfere with any Owner's or Occupant's use and enjoyment of the Common
22 Areas, and it shall be the responsibility of all pet owners to clean up after their pets. All
23 dogs shall be restrained when not confined on a Lot. In any event, no Owner or Occupant
24 shall permit any pet in his/her control or ownership to deposit waste on another Owner's
25 Lot.
26

27 13.3.5 Pets shall be licensed, registered and inoculated as required by law.
28

29 13.3.6 There shall be no dog runs or animal pens or enclosures on any Lot
30 that are Visible From Neighboring Property.
31

32 13.3.7 There shall be no feeding, capturing, trapping or killing of wildlife
33 within the Property, except in circumstances posing an imminent threat to the safety of
34 persons using the Property.
35

36 13.3.8 The Board may adopt rules (in accordance with Section 5.5), amending
37 or adding to the restrictions in this Section on pets and animals within the Property.
38

39 13.4 Business Activities. No trade or business may be conducted in or from the
40 Property, except:
41

1 13.4.1 Patio or garage sales may be held on a Lot for no more than two
2 week-ends in a calendar year in accordance with the Association Rules;

3
4 13.4.2 The lease of a Dwelling Unit shall not be considered a business.

5
6 13.4.3 Owners or Occupants may conduct business activities on a Lot so
7 long as:

8
9 13.4.3.1 the existence or operation of the business activity is not
10 apparent or detectable by sight, sound or smell from outside the Dwelling Unit;

11
12 13.4.3.2 the business activity conforms to all zoning requirements for
13 the Property;

14
15 13.4.3.3 the business activity does not involve any person conducting
16 such business who does not reside on the Property or door-to-door solicitation of Owners
17 or Occupants of the Property;

18
19 13.4.3.4 the existence or operation of the business does not increase
20 that Dwelling Unit's use of Common Area facilities over the standard for single family
21 dwelling;

22
23 13.4.3.5 the existence or operation of the business does not require
24 customers or delivery trucks to visit the residence; and

25
26 13.4.3.6 the business activity does not constitute a nuisance, or a
27 hazardous or offensive use, or cause the pertinent Lot Owners to violate any other
28 provisions of this Declaration, or threaten the security or safety of other Owners or
29 Occupants of the Property, as may be determined in the sole discretion of the Board.

30
31 13.5 Derricks, Boring, Etc. No derrick or other structure designed for use in
32 boring for oil or natural gas shall be erected, placed or permitted upon any part of the
33 Property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or
34 minerals of any kind be produced or extracted therefrom.

35
36 13.6 Disease and Insects. No Owner or Occupant shall permit any thing or
37 condition to exist upon any area of the Property which shall induce, breed or harbor
38 infectious plant diseases or noxious insects.

39
40 13.7 Drainage. There shall be no obstruction or rechanneling of drainage flows
41 after location and installation of drainage swales or channels, storm sewers or storm drains,
42 except that the Association shall have such right, provided that the exercise of such right

1 shall not materially diminish the value of or unreasonably interfere with the use of any Lot
2 without the Owner's consent.

3
4 13.8 Equipment. Except for emergencies, no equipment which gives off disturbing
5 sounds or loud noises, including but not limited to radios, stereos, TVs, phonographs, lawn
6 mowers, power hedge clippers, power chainsaws and other similar noisy equipment, shall
7 be operated on any part of the Property except in a reasonable and non-offensive manner,
8 and in accordance with applicable Pima County Ordinances. All equipment, service yards,
9 woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to
10 conceal them from the view of neighboring Lots and streets.

11
12 13.9 Flagpoles and Flags. Flag poles shall be 15 feet or less in height. If a light
13 source is installed to be directed at the pole and/or flag, the light source must be lower
14 power and not intrude on a neighbor's home or patio. Only flags expressly permitted by
15 federal or state statute are allowed to be flown on a flag pole or otherwise displayed, unless
16 approved by the Architectural Review Committee.

17
18 13.10 Garages. There shall be no conversion of any garage into finished space for
19 use as living area in any Dwelling Unit without the prior written approval of the ARC of all
20 plans and specifications associated therewith. Garage doors shall remain closed at all times
21 except when entering and exiting the garage. However, garage doors may be opened while
22 loading and unloading the Occupant's vehicle or for other special reasons provided that
23 any applicable procedures in the Association Rules are followed.

24
25 13.11 Hazardous Activities & Materials Prohibited. No activities shall be conducted
26 on the Property which are or might be unsafe or hazardous to any person or property.
27 Without limiting the generality of the foregoing statement: There shall be no storage of
28 gasoline, heating, or other fuels on the Property, except that a reasonable amount of fuel
29 may be stored on each Lot for operation of lawn mowers and similar tools or equipment,
30 and the Association shall be permitted to store fuel for operation and maintenance vehicles,
31 generators, and similar equipment. No open fires shall be lighted or permitted on the
32 Property, except in a contained cooking unit while attended and in use for cooking
33 purposes or within a safe and well-designed fireplace, firepit, or chimenea. There shall be
34 no discharge of firearms on the Property; however, the Board shall have no obligation to
35 take action to prevent or stop such discharge. Plantings along the streets and especially at
36 corners must not obstruct the visibility or safety of drivers.

37
38 13.12 Nuisance. The Board shall have the sole discretion in determining if any
39 activity by an Owner, his/her family, invitees or lessees is in violation of this Section.

40
41 13.12.1 No rubbish, trash, debris, weeds, dead or decaying vegetation, or
42 other items of any kind shall be placed or permitted on any Lot so as to render any such

1 property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other
2 property in the vicinity thereof, or to its Occupants.

3
4 13.12.2 No loud or offensive noise, excessively glaring or bright lights, or any
5 other use or practice which is the source of annoyance to Occupants or which interferes
6 with the peaceful enjoyment or possession and proper use of the Property, or any portion
7 thereof, by its Occupants, shall be permitted to exist or operate upon the Property. Without
8 limiting the generality of any of the foregoing provisions, no exterior speakers, horns,
9 whistles, bells or other sound devices, except security devices used exclusively for security
10 purposes, shall be located, used or placed on any such property without the prior written
11 approval of the Board of Directors. Unreasonable noises penetrating beyond the private
12 property of an Owner shall not be permitted between the hours of 10:00 p.m. and 8:00 a.m.

13
14 13.12.3 No activity which emits foul or obnoxious odors outside the
15 Dwelling Unit or creates other conditions which tend to disturb the peace or threaten the
16 safety of other Occupants;

17
18 13.12.4 No pursuit of hobbies or other activities which tend to cause an
19 unclean, unhealthy or untidy condition to exist outside of enclosed structures on Lots;

20
21 13.12.5 No noxious or offensive activity which, in the reasonable
22 determination of the Board, tends to cause embarrassment, discomfort, annoyance or
23 nuisance to persons using the Common Areas, recreational facility or to the Owners or
24 Occupants in The Greens at Santa Rita.

25
26 13.12.6 No dumping of grass clippings, leaves or other debris, petroleum
27 products, fertilizers or other potentially hazardous or toxic substances anywhere in
28 Property.

29
30 13.13 Renting or Leasing. An Owner is responsible for all violations of the
31 Governing Documents by his/her Tenants and other Occupants. Only an entire Lot may
32 be rented. At least one Tenant in any rented Dwelling Unit must be 55 years of age or
33 older, in compliance with Article 3 hereof.

34
35 13.13.1 Obligations of Tenants. All provisions of the Governing Documents
36 which govern the conduct of Owners and Occupants, and which provide for sanctions
37 against Owners for non-compliance, shall also apply to Tenants. The Owner shall provide
38 his/her tenant with copies of the Declaration, Architectural Design Guidelines, and Rules.
39 In the event the Owner fails to do so, the Association shall provide copies to the tenant and
40 charge the Owner the cost of doing so.

1 13.13.2 Requirements for Leases. All leases shall be in writing and shall
2 specifically provide:

3
4 13.13.2.1 The lease is subject in all respects to the provisions of the
5 Declaration, Architectural Design Guidelines and Rules, and the lease shall incorporate, by
6 reference, the Governing Documents referred to in this Section.

7
8 13.13.2.2 The failure of the Tenant to comply with the terms and
9 conditions of the Declaration, Architectural Design Guidelines, and Rules constitutes a
10 material default of the lease, and the Owner shall be entitled to reenter and retake
11 possession of the premises pursuant to the provisions of the Arizona Landlord Tenant Act,
12 A.R.S. Section 33-1301 et seq.

13
14 13.13.3 Enforcement of Leasing Restrictions. An Owner shall provide a copy
15 of an operative lease within ten days of the Association's written request therefor. An
16 Owner shall be responsible for any violation of the Declaration, Architectural Design
17 Guidelines and Rules by his/her Lessee or Tenant or any other persons residing in the
18 Dwelling Unit, and their guests or invitees. In the event of any violation, the Owner, upon
19 demand of the Association, shall immediately take all necessary actions to correct any such
20 violations.

21
22 13.14 Right of Inspection. During reasonable hours, any member of the Board, or
23 any authorized representative of the Board shall have the right, upon reasonable notice to
24 the Owner of a Dwelling Unit, indicating the reason for said inspection, to enter upon and
25 inspect the Lot (except the interior of Dwelling Unit), for the purpose of ascertaining
26 whether or not the provisions of this Declaration have been or are being complied with,
27 and such persons shall not be deemed guilty of trespass by reason of such entry.

28
29 13.15 Solar Devices. Owners are advised to submit a plan for approval by the
30 ARC prior to the installation of any Solar Energy Devices on their Lot to assure that
31 placement is in accordance with applicable Guidelines.

32
33 13.16 Signs. No sign of any kind shall be erected, placed or permitted to remain
34 on a Lot or Common Area, unless the sign has been approved by the Board, except:

35
36 13.16.1 "For Sale" signs (no more than one per Lot) which shall not exceed
37 18" x 24" with a rider sign no larger than 6" x 24," which shall be appended to the "For
38 Sale" sign.

39
40 13.16.2 "Open House signs," which may be: (A) on a free-standing frame;
41 (B) for an open house at a Lot for sale, in accordance with the Association Rules; and (C)
42 located only on the Lot that is for sale.

1
2 13.16.3 Signs or other postings which may be required by legal proceedings;
3

4 13.16.4 A reasonable number of signs on a Lot indicating protection of the
5 property by a security company.
6

7 13.16.5 Signs in support of a political candidates for public office or
8 referenda that meet the requirements of the Arizona Revised Statutes and Pima County
9 Code.¹ Such signs may be in place no more than 45 days before nor 15 days after the
10 applicable election day, or any other time period specified in a statute that overrides this
11 Declaration.
12

13 13.16.6 Estate or Moving Sale signs, in accordance with Section 13.4.1.
14

15 13.17 Storage. There shall be no storage of furniture, appliances, machinery,
16 equipment or other goods and chattels not in active use on the Common Area or any
17 portion of a Lot that is Visible From a Neighboring Property.
18

19 13.18 Tanks. No tanks of any kind, either elevated or buried, shall be erected,
20 placed, or permitted upon any Lot.
21

22 13.19 Temporary Structures. There shall be no tents, shacks or other structures of
23 a temporary nature on any Lot.
24

25 13.20 Timeshares. Use of any Lot for the operation of a time sharing program,
26 whereby the right to exclusive use of the Lot or Dwelling Unit rotates among participants
27 in the program on a fixed or floating time schedule over a period of years, is prohibited.
28

29 13.21 Trash Containers and Collection. There shall be no accumulation of rubbish,
30 trash, or other garbage on a Lot, except between regular trash pickups, and then only in
31 approved trash containers. Trash containers shall not be Visible From Neighboring
32 Property except on the dates of regular garbage pickups.
33

34 13.22 Vehicle Use, Parking and Storage.
35

36 13.22.1 General Rule. Vehicles may park only in an enclosed garage of a
37 Lot and, not on driveways or public or private streets. Occupant vehicles may park in the

1

As of the date of this Declaration, the Pima County Sign Code provides that political signs may not cover more than a total of 16 sq. ft. of space on a Lot and must be set back at least 10 ft. from the front and side lot lines.

1 driveway or on the street while loading or unloading, or while the Occupant is performing
2 household activities in the garage or yard. When parked in the driveways, vehicles shall
3 not extend over the curb into the street. The Board may adopt rules to amend, revise, add
4 or delete the use, parking and storage restrictions in this Section. Residents employed by a
5 public service corporation, municipal utility, public safety agency with a vehicle that meets
6 the requirements of A.R.S. §33-1809, may park that vehicle in their driveway or on the
7 street, as provided in the foregoing statute.

8
9 13.22.2 Prohibited Vehicles. No boats, campers, commercial trucks², trailers,
10 motor homes, recreational and other vehicles, other than passenger cars and pick-up trucks
11 (collectively, "Prohibited Vehicles"), shall be parked or placed permanently or temporarily
12 on the streets, Lots, or driveways in the Property. Prohibited Vehicles that are owned,
13 leased or in the care of an Owner or Occupant or his/her guests or invitees MUST be stored
14 within an enclosed garage. Delivery and service vehicles shall be exempt from the
15 pertinent provisions of this Section during the daylight hours for such period of time as is
16 reasonably necessary to make a delivery to a Lot or to the Common Area. Any parking of
17 Prohibited Vehicles on the Property shall not interfere with any neighbors' driveways,
18 sidewalk or street access or traffic line of vision.

19
20 13.22.3 Temporary Street Parking of Prohibited Vehicles. Notwithstanding
21 any other provisions of this Declaration, a Recreational Vehicle ("RV") may be parked on
22 the street or driveway of a Lot for loading or unloading, or for guest parking for a
23 maximum of 72 hours in any 30-day period. RV owners needing more time for loading
24 and unloading or guest parking must comply with procedures in the Association Rules. In
25 no event may RV generators be operated within the Property at any time. All utility lines
26 crossing a sidewalk during loading and unloading must be covered to prevent tripping.

27
28 13.22.4 Use of Recreational Vehicle as Living Quarters. The use or
29 occupancy of a recreational vehicle, motorhome, van, camper, trailer, or boat as living
30 quarters on either a temporary or permanent basis is strictly prohibited on any portion of
31 the Property.

32
33 13.22.5 Guest Parking. Vehicles belonging to day visitors may be parked in
34 the driveway or on the street. Passenger vehicles belonging to houseguests may be parked
35 in the driveway of a Dwelling Unit for up to one week. For houseguests parking longer
36 than one week, the Occupant must comply with the procedures in the Association Rules.

37
38 13.23 Water Usage. There shall be no sprinkler or irrigation systems or wells,
39 reservoirs of any type which draw water from ground or surface waters within the

2

A.R.S. 33-1809 (Arizona Planned Communities Act) requires the Association to allow parking of public service and public safety emergency vehicles under certain circumstances.

1 Property, except that the Association shall have the right to draw water from such sources.
2

3 13.24 Window Coverings and Reflective Materials. No reflective materials,
4 including but not limited to aluminum foil, reflective screens or glass, mirrors or similar
5 type items, shall be permitted on any window or anywhere else on a Lot or Dwelling Unit
6 so as to be visible from outside the Dwelling Unit.
7

8 13.25 Modification. The Board may modify or increase the foregoing restrictions
9 or otherwise restrict and regulate the use and occupancy of the Property and the Lots by
10 the Association Rules, adopted by the Board from time to time in accordance with Section
11 6.4.
12

13 ARTICLE 14 14 INSURANCE PROVISIONS 15

16 14.1 Required Coverage. The Association, acting through its Board or its duly
17 authorized agent, shall obtain and continue in effect the following types of insurance, if
18 reasonably available, or if not reasonably available the most nearly equivalent coverages as
19 are reasonably available:
20

21 14.1.1 Blanket property insurance covering "risks of direct physical loss" on
22 a "special form" basis (or comparable coverage by whatever name denominated) for all
23 insurable improvements on the Common Area. If such coverage is not generally available
24 at a reasonable cost, then "broad form" coverage may be substituted. All property
25 insurance policies obtained by the Association shall have policy limits sufficient to cover
26 the full replacement cost of the insured improvements under current building ordinances
27 and codes;
28

29 14.1.2 Commercial general liability insurance on the Common Areas,
30 insuring the Association and its Members for damage or injury caused by the negligence of
31 the Association or any of its Members, employees, agents, or contractors while acting on its
32 behalf. If generally available at reasonable cost, such coverage (including primary and any
33 umbrella coverage) shall have a limit of at least One Million Dollars per occurrence with
34 respect to bodily injury, personal injury, and property damage; provided, should
35 additional coverage and higher limits be available at reasonable cost which a reasonably
36 prudent person would obtain, the Association shall obtain such additional coverage or
37 limits;
38

39 14.1.3 Workers Compensation insurance and employers liability insurance,
40 if and to the extent required by law;
41

42 14.1.4 Director's and Officer's Liability coverage;

1
2 14.1.5 Fidelity insurance or bond covering all Persons responsible for
3 handling Association funds in an amount determined in the Board's best business
4 judgment but not less than an amount equal to one-sixth of the Annual Assessments on all
5 Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all
6 defenses based upon the exclusion of Persons serving without compensation; and
7

8 14.1.6 Such additional insurance as the Board, in its best business
9 judgment, determines advisable.
10

11 14.2 Additional Requirements. All insurance coverage obtained by the Board
12 shall:
13

14 14.2.1 be written with a company authorized to do business in the State of
15 Arizona which satisfies the requirements of the Federal National Mortgage Association, or
16 such other secondary mortgage market agencies or federal agencies as the Board deems
17 appropriate;
18

19 14.2.2 be written in the name of the Association as trustee for the benefited
20 parties. Policies on the Common Areas shall be for the benefit of the Association and its
21 Members;
22

23 14.2.3 not be brought into contribution with insurance purchased by
24 Owners, occupants, or their Mortgagees individually;
25

26 14.2.4 contain an inflation guard endorsement;
27

28 14.2.5 include an agreed amount endorsement, if the policy contains a co-
29 insurance clause;
30

31 14.2.6 provide that each Owner is an insured person under the policy with
32 respect to liability arising out of such Owner's interest in the Common Area or membership
33 in the Association;
34

35 14.2.7 provide a waiver of subrogation under the policy against any
36 Owner or household member of an Owner;
37

38 14.2.8 include an endorsement precluding cancellation, invalidation,
39 suspension, or non-renewal by the insurer on account of anyone or more individual
40 Owners, or on account of any curable defect or violation without prior written demand to
41 the Association to cure the defect or violation and allowance of a reasonable time to cure;
42 and

1
2 14.2.9 include an endorsement precluding cancellation, invalidation, or
3 condition to recovery under the policy on account of any act of omission of anyone or more
4 individual Owners, unless such Owner is acting within the scope of its authority on behalf
5 of the Association.
6

7 14.3 Restoring Damaged Improvements
8

9 14.3.1 In the event of damage to or destruction of Common Area or other
10 property which the Association is obligated to insure, the Board or its duly authorized
11 agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of
12 the cost of repairing or restoring the property to substantially the condition in which it
13 existed prior to the damage, allowing for changes or improvements necessitated by
14 changes in applicable building codes.
15

16 14.3.2 Damaged improvements on the Common Area shall be repaired or
17 reconstructed unless 75% of the Members decide within 60 days after the loss not to repair
18 or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not
19 available to the Association within such 60-day period, then the period shall be extended
20 until such funds or information are available. However, such extension shall not exceed 60
21 additional days. No First Mortgagee shall have the right to participate in the determination
22 of whether the damage or destruction to the Common Area shall be repaired or
23 reconstructed.
24

25 14.3.3 If a decision is made not to restore the damaged improvements, and
26 no alternative improvements are authorized, the affected property shall be cleared of all
27 debris and ruins and thereafter shall be maintained by the Association in a neat and
28 attractive, landscaped condition consistent with the Community-Wide Standard.
29

30 14.3.4 Any insurance proceeds remaining after paying the costs of repair or
31 reconstruction, or after such settlement as is necessary and appropriate, shall be retained by
32 the Association for the benefit of its Members and placed in a Capital Improvements
33 account. This is a covenant for the benefit of Mortgagees and may be enforced by the First
34 Mortgagee of any affected Lot.
35

36 14.3.5 If insurance proceeds are insufficient to cover the costs of repair or
37 construction, the Board may, without a vote of the Members, levy Special Assessments to
38 cover the shortfall against those Owners responsible for the premiums for the applicable
39 insurance coverage under Section 14.1.
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ARTICLE 15
ENFORCEMENT

15.1. Right of Association to Enforce. The Association or any Owner has the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. This shall include enforcement of the Rules and Architectural Design Guidelines adopted by the Board of Directors to carry out the Association's purposes and duties under the Governing Documents.

15.1.1 Attorney Fees. In the event of a dispute between the Association and an Owner or between Owners, the prevailing party in any Court action or administrative proceeding shall be awarded its reasonable attorney's fees and costs. If no Court action or administrative proceeding is brought, the Association shall be reimbursed by the pertinent Owner(s), all reasonable attorneys' fees and costs it incurs in enforcing the Governing Documents.

15.1.2 Waiver. No delay or omission on the part of the Association in exercising its right to enforcement of this Declaration shall be construed as a waiver of or acquiescence in any breach of any of the restrictions and covenants, and no right of action shall accrue against the Board of Directors, the Association or any Owner for their neglect or refusal to exercise such right of enforcement.

15.1.3 Protection of Mortgagee. No breach of the foregoing provisions, conditions, restrictions or covenants shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of the Property. Such provisions, conditions, restrictions and covenants shall be enforceable against any portion of the Property acquired by any person through foreclosure for any breach occurring after such acquisition.

15.2 Fines and Penalties. If any Owner, his/her family, or any guest, licensee, invitee, or tenant violates the Governing Documents, the Board may levy a fine/penalty upon the Owner of the Lot for each violation and/or may suspend the right of such person to use the recreational facilities of the Common Area, under such conditions as the Board may specify. Each day a violation continues after written notice to cease has been mailed shall be considered a separate violation and shall be subject to the imposition of a fine. Any fines which remain unpaid for a period of 10 days after notice to pay, including the imposition of late fees and interest, shall be deemed delinquent and subject to collection by the Association by any lawful means.

15.3 Suspension of Right to Use Common Area. If a member of the Owner's household, or any licensee, tenant or lessee, Occupant or invitee violates the provisions of

1 this Declaration or any other Governing Document, the Board may suspend the right of
2 such Owner to use the Common Area Recreational Facility, under such conditions as the
3 Board may specify, for a period not to exceed 45 business days for each violation. Each day
4 an infraction continues under either this Declaration or the Governing Documents is a
5 separate violation. Before the exercise of the remedy under this Section, the Board shall
6 follow the Enforcement Procedures in Section 15.4.

7
8 15.4 Enforcement Procedures. The following enforcement procedure will be
9 followed:

10
11 15.4.1 Notice. Written notice to cease and desist from an alleged violation
12 shall be served upon the Owner who is the alleged violator specifying: (A) the provision of
13 the Governing Documents that has been violated; (B) the date of the violation or the date
14 the violation was observed; (C) the action required to abate the violation; (D) the process
15 the Owner must follow to contest the notice; and (E) if the violation is a continuing one, a
16 time period of not less than 10 days in which to cure the violation, unless the violation
17 constitutes a safety or health hazard, or if the violation is not a continuing one, a statement
18 that any further violation of the same provision of the Governing Documents may result in
19 the imposition of a fine or penalty after notice and hearing.

20
21 15.4.2 Owner's Right to Respond. An Owner receiving notice of a violation
22 may provide the Board of Directors with a written response by certified mail within 10
23 business days after the date of the notice. The Owner's response must be sent to the
24 Association's address of record. Within 10 business days after receipt of the Owner's
25 response, the Association shall respond to the Owner's questions or assertions. The
26 Association's response must include: (A) the provision of the Governing Documents that
27 has allegedly been violated; (B) the date of the alleged violation or the date the alleged
28 violation was observed; and (C) the first and last name of the person(s) who observed the
29 violation. Except as otherwise provided by applicable law, the Association may not
30 proceed with any action to enforce the Governing Documents against the violator,
31 including the collection of attorney fees, before or during the time limits prescribed for the
32 exchange of information between Board and the Owner.

33
34 15.4.3 Notice of Hearing. If the violation continues past the period allowed
35 in the Association's notice for abatement without penalty, or if the same provision of the
36 Governing Documents is subsequently violated, and the Board intends to levy a
37 fine/penalty, the Board shall serve the violator with written notice of a hearing to be held
38 by the Board in executive session. Service may be made personally or by first class mail to
39 the violator's address of record. The notice shall contain: (A) the nature of the alleged
40 violation; (B) the time and place of the hearing, which time shall be not less than ten days
41 from the giving of notice; (C) an invitation to attend the hearing and produce any
42 statement, evidence and witnesses on his/her behalf; and (D) the proposed sanctions to be

1 imposed, which may include the imposition of a fine.

2
3 15.4.4 Hearing. The hearing shall be held in executive session of the Board of
4 Directors, pursuant to the aforesaid Notice, thereby affording the Owner a reasonable
5 opportunity to be heard. Protocol of the hearing will be set by the Board of Directors.
6 Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be
7 heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate
8 if a copy of the notice together with a statement of the date and manner of delivery is
9 entered into the minutes by the officer or director who delivered such notice. If the Owner
10 does not appear at the hearing, the Board will presume the validity of the Notice of
11 Violation and may levy a fine or penalty.

12
13 15.5 Notice of Violation. In the event that any Owner, his/her guests, tenants or
14 family members are in violation of any of the provisions of the Governing Documents, the
15 Association, after providing notice and an opportunity to cure the violation, has the right to
16 record a "Notice of Violation" with the Pima County Recorder's Office, stating the name of
17 the Owner, the Lot and the nature of the violation, and the Association's intent not to waive
18 any of its rights of enforcement. The Notice shall remain of record until the violation is
19 cured.

20
21 15.6 No Obligation to Enforce. The Association is not obligated to take any
22 enforcement action if the Board determines, in its sole discretion, that because of
23 considerations pertaining to the Association's finances, possible defenses, the time and
24 expense of litigation or other enforcement action, the likelihood of a result favorable to the
25 Association, or other facts deemed relevant by the Board, enforcement action would not be
26 appropriate or in the best interests of the Association. The failure of the Association or an
27 Owner to take enforcement action with respect to a violation of the Governing Documents
28 shall not constitute or be deemed a waiver of the right of the Association or any Owner to
29 enforce the Governing Documents in the future.

30
31 15.7 Cumulative Rights and Remedies. All rights and remedies of the Association
32 under the Governing Documents or at law or in equity are cumulative, and the exercise of
33 one right or remedy shall not waive the Association's right to exercise another right or
34 remedy.

35
36 15.8 Violation of Law. Each and every provision of this Declaration, as amended
37 from time to time, is subject to any and all applicable federal, state and local governmental
38 rules and regulations, ordinances and subdivision regulations. Any violation of any
39 federal, state, municipal or local law, ordinance or regulation pertaining to the ownership,
40 occupation or use of any portion of the Property is declared to be a violation of the
41 Governing Documents and subject to any and all enforcement procedures set forth in such
42 Governing Documents.

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

ARTICLE 16
TERM: AMENDMENTS AND TERMINATION

16.1 Term Method of Termination. This Declaration shall be effective upon its Recordation and, as amended or restated from time to time, shall continue in full force and effect for a term of 25 years from the date of its recordation in the office of the Pima County Recorder. Thereafter, this Declaration (as amended or restated from time to time) shall be automatically extended for successive periods of ten years each unless there is an affirmative vote to terminate this Declaration by Members holding 90% of the votes in the Association, within six months prior to the expiration of the initial term hereof or any 10-year extension. In addition, this Declaration may be terminated at any time if Members representing 90% of the votes in the Association, vote in favor of termination at an election held for such purpose. If the necessary votes and consents are obtained, the Board shall record a certificate of termination, duly executed by the President or Vice President of the Association and attested to by the Secretary of the Association. Upon the recording of the termination certificate, this Declaration shall be of no further force and effect and the Association thereupon shall be dissolved in accordance with its Articles and Bylaws and the laws of the State of Arizona.

16.2 Amendments. This Declaration may be amended by recording a certificate of amendment, duly executed by the President of the Association and attested to by the Secretary of the Association, which certificate shall set forth that at least 67% of the votes then entitled to be cast, voted affirmatively for the adoption of the amendment. Such amendment shall become effective upon its recordation.

ARTICLE 17

GENERAL PROVISIONS

17.1 Interpretation of Covenants. Except for judicial interpretation and as hereinafter provided, the Association, by the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration and all other Governing Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof or of any Supplemental Declaration or Governing Documents, shall be final, conclusive, and binding as to all Persons and property benefited or bound by this Declaration or of the other Governing Documents.

1 17.2 Mortgagee Protection. No breach of the provisions, conditions, restrictions
2 or covenants contained within this Declaration shall defeat or render invalid the lien of any
3 Mortgage made in good faith for value as to any portion of the Property. Such provisions,
4 conditions, restrictions and covenants shall be enforceable against any portion of the
5 Property acquired by any person through foreclosure or by deed in lieu of foreclosure or
6 any breach occurring after such acquisition.
7

8 17.3 Severability. Any determination by a court of competent jurisdiction that any
9 provision of this Declaration is invalid or unenforceable shall not affect the validity or
10 enforceability of any of the other provisions hereof.
11

12 17.4 Rule Against Perpetuities. If any of the interests, privileges, covenants, or
13 rights created by this Declaration shall be unlawful or voidable for violation of the rule
14 against perpetuities or any related rule, then such provision shall continue until 21 years
15 after the death of the last survivor of the now living descendants of the President of the
16 United States in office on the date this Declaration is Recorded.
17

18 17.5 Change of Circumstances. Except as otherwise expressly provided in this
19 Declaration, no change of conditions or circumstances shall operate to extinguish,
20 terminate or modify any of the provisions of this Declaration.
21

22 17.6 Binding Effect. By acceptance of a deed or acquiring any ownership interest
23 in any Lot, each person or entity, for himself or itself, his or its heirs, personal
24 representatives, successors, transferees and assigns, binds himself, his heirs, personal
25 representatives, successors, transferees and assigns, to all of the provisions, restrictions,
26 covenants, conditions, rules and regulations now or hereafter imposed by this Declaration
27 and amendments thereof. In addition, each such person by so doing thereby acknowledges
28 that this Declaration sets forth a general scheme to the development of the Property and
29 hereby evidences his intent that all restrictions, conditions, covenants, rules and regulations
30 contained herein shall run with the land and be binding on all subsequent and future
31 owners, grantees, purchasers, assignees and transferees thereof.
32

33 17.7 Gender and Number. Whenever the context of this Declaration so requires,
34 the words used in the masculine gender shall include the feminine and neuter genders;
35 words used in the neuter gender shall include the masculine and feminine genders. Words
36 in the singular shall include the plural and words in the plural shall include the singular.
37

38 17.8 Captions. All captions, titles or headings of the Articles and Sections in this
39 Declaration are for the purpose of reference and convenience only and are not to be
40 deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in
41 determining the intent or context thereof.
42

1 17.9 Notices. If notice of any action or proposed action by the Board or any
2 committee or of any meeting is required by applicable law, this Declaration or any other
3 Governing Document or any resolution of the Board to be given to any Owner or Occupant
4 then, unless otherwise specified herein or in the resolution of the Board, such notice
5 requirement shall be deemed satisfied if notice of such action or meeting is published once
6 in a newspaper in general circulation within Pima County, Arizona. This Section shall not
7 be construed to require that any notice be given if not otherwise required and shall not
8 prohibit satisfaction of any notice requirement in any other manner.
9

10 17.10 Management Agreement. Any agreement providing professional
11 management services or other services to the Association shall not exceed three years. Any
12 agreements must provide for termination by either party without cause and without
13 payment of a termination fee on 90 days or less written notice.
14

15 17.11 Survival of Liability. The termination of membership in the Associations
16 shall not relieve or release any such former Member from any liability or obligation
17 incurred under or in any way connected with the Association during the period of such
18 membership, or impair any rights or remedies which the Association may have against
19 such former Member arising out of, or in any way connected with such membership and
20 the covenants and obligations incident thereto.
21

22 17.12 Construction. In the event of any discrepancies, inconsistencies or conflicts
23 between the provisions of this Declaration and any other Governing Documents, the
24 provisions of this Declaration shall prevail.
25

26 IN WITNESS WHEREOF, the undersigned certify that at least 67% of the Owners
27 have voted to approve this Amended and Restated Declaration, thereby superseding and
28 replacing the covenants, conditions and restrictions enumerated in Section A of the
29 foregoing Recitals.
30

31 THE GREENS HOMEOWNERS ASSOCIATION, INC.,
32 an Arizona non-profit corporation
33

34 By: Jane H. Mac's
35
36 Its: President
37

38 ATTEST:

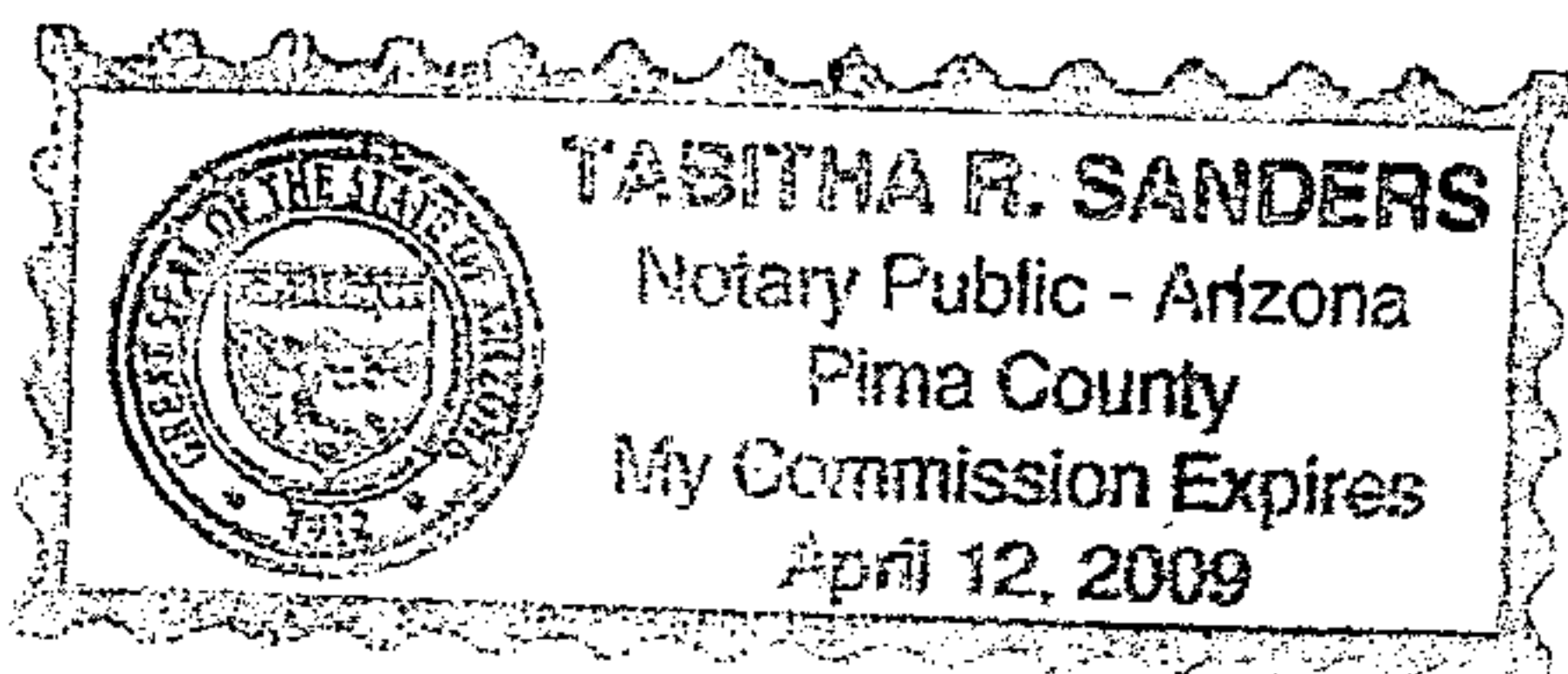
39 David J. Stewart
40
41
42 Secretary

1
2
3
4 STATE OF ARIZONA)

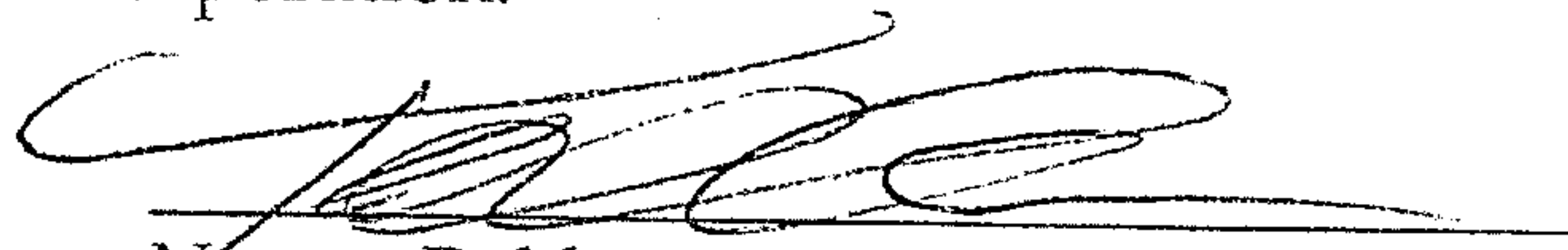
5 : ss.

6 County of Pima)
7

8 ACKNOWLEDGED BEFORE ME this 6 day of March, 2009, by
9 Jane Henry Mairs, as President of THE GREENS HOMEOWNERS
10 ASSOCIATION, INC., an Arizona non-profit corporation.
11



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19

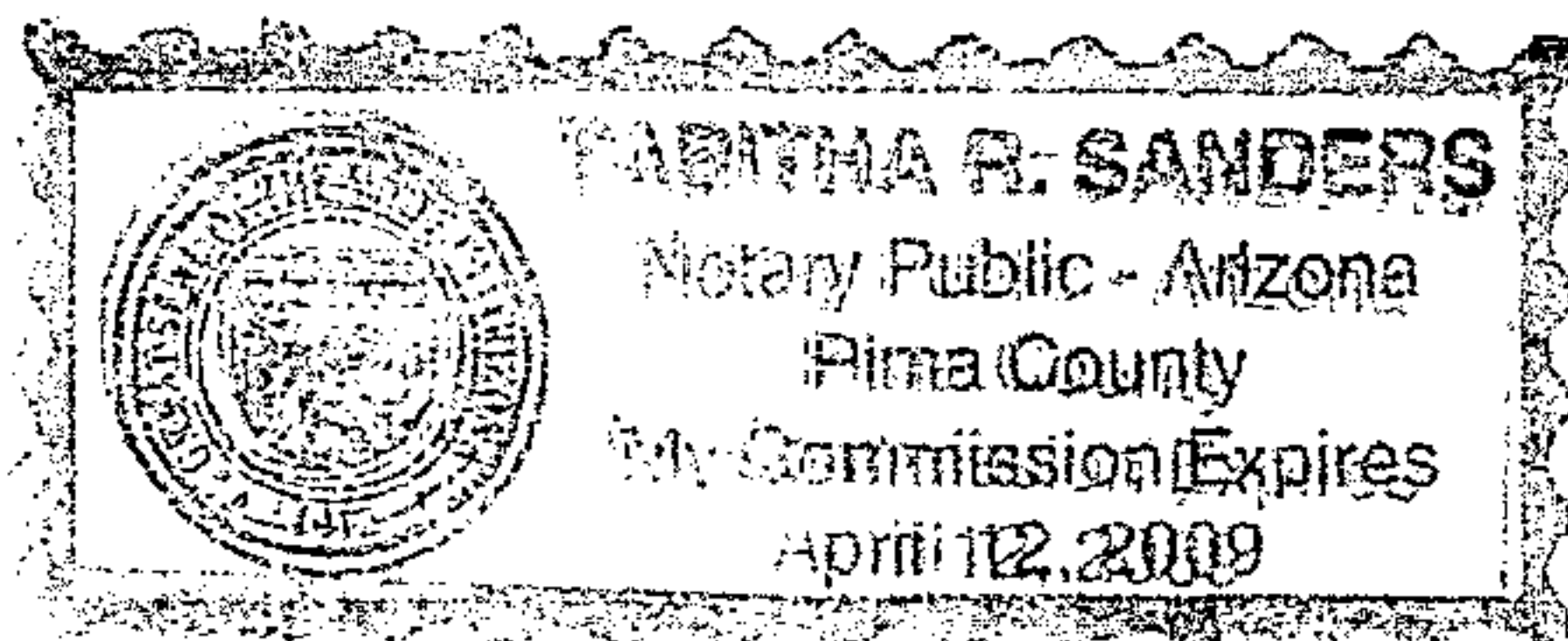

Notary Public

20 STATE OF ARIZONA)

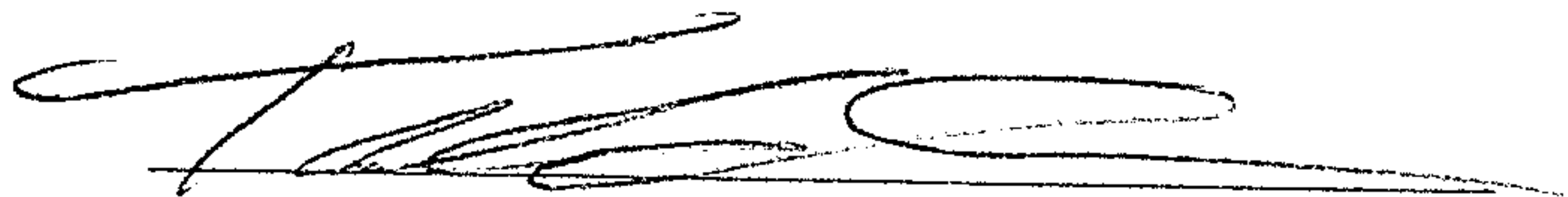
21 : ss.

22 County of Pima)
23

24 ACKNOWLEDGED BEFORE ME this 6 day of March, 2009, by
25 Diane Stewart, as Secretary of THE GREENS HOMEOWNERS
26 ASSOCIATION, INC., an Arizona non-profit corporation.
27
28



33
34
35
36


Notary Public