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REQUEST OF
HIGH LONESOME RANCH LLC
CHRISTINE RHODES-RECORDER
FEE : 29.00 PAGES : 25

AMENDED AND RESTATED

DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND
EASEMENTS FOR HIGH LONESOME RANCH ESTATES—UNIT 1, LOTS 7
THROUGH 50 AND HIGH LONESOME RANCH ESTATES—UNIT II, LOTS 52
THROUGH 141

Dated: 10/11, 2000

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**AMENDED AND RESTATED
DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND
EASEMENTS FOR HIGH LONESOME RANCH ESTATES—UNIT 1, LOTS 7
THROUGH 50 AND HIGH LONESOME RANCH ESTATES—UNIT II, LOTS 52
THROUGH 141**

Declarant is the owner of all or portions of the following described property located in Cochise County, Arizona:

High Lonesome Ranch Estates—Unit 1, Lots 7 through 50 and Common Area A and B, for which a Record of Survey has been recorded in Book 15 of Maps and Plats at Page 56 in the Office of the Recorder of Cochise County, State of Arizona, and High Lonesome Ranch Estates—Unit II, Lots 52 through 141 and Common Area A, for which a Record of Survey has been recorded in Book 16 of Maps and Plats at Page 59-59A in the Office of the Recorder of Cochise County, State of Arizona (all of which are referred to herein as the Properties).

Declarant does hereby wish to continue with the establishment of a general plan for the improvement and development of the Properties as set forth in that certain declaration of conditions, covenants and restrictions for the Properties, recorded in the office of the Cochise County Recorder on December 16, 1999, at Fee Number 991236815 (the "Declaration"), which said Declaration is hereby amended and restated in its entirety in accordance with the provisions hereof, all of which is made applicable to the Properties, as defined.

Anything to the contrary in this Declaration notwithstanding, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Properties can or will be carried out, or that any land outside of the Properties now owned or hereafter acquired by Declarant is or will be subjected to this Declaration or any other declaration, or that any land within or without the Properties is or will be committed to or developed for a particular or any use, or that if land is once used for a particular use, such use will continue in effect.

**ARTICLE 1
DEFINITIONS**

1.1 "Association" shall mean and refer to High Lonesome Ranch Estates Property Owners Association, Inc., its successors and assigns.

1.2 "Association Rules" shall mean the rules and regulations adopted by the Association pursuant to Section 5.3 of this Declaration.

1.3 "Common Area" or "Common Areas" shall mean all real property and any improvements thereon, from time to time owned or controlled by the Association for the common use and enjoyment of the Owners, which real property is designated as Common Area on the Record of Survey as it may from time to time be resubdivided, and common areas, if any,

which may be annexed by Declarant pursuant to the provisions hereof, including easement areas over which the Association has rights and control, such as roadway easement areas.

1.4 "Declarant" shall mean and refer to Title Security Agency of Arizona, an Arizona corporation, as Trustee under Trust No. 709, the beneficiary of which is High Lonesome Ranch, L.L.C., an Arizona limited liability company, and its successors or assigns if such successors or assigns should acquire all or portions of the Properties from Declarant for the purpose of development or by foreclosure or deed in lieu thereof, but only if such successors and assigns have in writing been designated by Declarant as a successor to all or a portion of the rights of Declarant hereunder.

1.5 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for High Lonesome Ranch Estates—Unit 1, Lots 7 through 50 and High Lonesome Ranch Estates—Unit II, Lots 52 through 141, as the same may be amended from time to time.

1.6 "Dwelling Unit" shall mean the improvements placed upon or within the boundary of any Lot intended for use as a residence.

1.7 "Lot" shall mean Lots 7 through 50 and 52 through 141 of the numbered lots of land shown on the Record of Survey (without regard to whether a structure has been constructed thereon), including any improvements constructed or under construction thereon, if any, and including any new Lot created by combining two or more adjacent Lots. In the event of resubdivision pursuant to Section 10.10, each resulting Lot shall be considered one Lot for all purposes, including voting rights and assessments.

1.8 "Member" shall mean and refer to every person or entity who holds membership in the Association.

1.9 "Mobile Home" shall mean a structure, whether or not referred to as a manufactured home, built on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities except that it does not include Recreational Vehicles and Modular Homes.

1.10 "Modular Home" shall mean a factory-built or prefabricated home (i) designed only for erection or installation on a site-built permanent foundation; (ii) not designed to be moved once so erected or installed; (iii) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built houses, and (iv) which to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

1.11 "Mortgage" shall include any consensual monetary encumbrance to a Lot, evidenced by an instrument in recordable form and shall specifically include both mortgages and deeds of trust. The term "Mortgagee" shall include a beneficiary under a Deed of Trust, and the term "First Mortgagee" shall mean the holder of any Mortgage under which the interest of any

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Owner of a Lot is encumbered and which Mortgage has first and paramount priority, subject only to the lien of general or ad valorem taxes and assessments.

1.12 "Owner" shall mean and refer to the record holder, whether one or more persons, and including Declarant, of the fee simple title to any Lot which is part of the Properties, including a buyer under a contract for the conveyance of real estate pursuant to Title 33-701, et seq., Arizona Revised Statutes, but excluding persons holding an interest merely as security for the performance of an obligation, and excluding buyers under executory sales agreements or deposit receipt and agreements.

1.13 "Person" shall include a corporation, company, partnership, trust, firm, association or society, as well as a natural person.

1.14 "Properties" shall mean and refer to that certain real property described in the Record of Survey, as it may be amended.

1.15 "Record of Survey" shall mean the recorded survey or surveys for the Lots within the Properties, as those terms are defined, which surveys are those for High Lonesome Ranch Estates—Units 1 and II identified above.

1.16 "Recreational Vehicle" shall mean a vehicle (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

ARTICLE 2 SCOPE OF DECLARATION

This Declaration is intended to regulate and control the use of the Properties for the benefit of all Owners thereof, pursuant to the general plan of development set forth herein.

ARTICLE 3 COMMON AREAS

3.1 Ownership. Certain property may, in Declarant's sole discretion and subject to the provisions hereof, be transferred to the Association for use as Common Area and subject to the easements created herein and easements created by Declarant for purposes deemed necessary for the full use and enjoyment of the Properties. Common Areas are intended for use as public and quasi-public utility easements, private streets and open areas, and are for the common use and enjoyment of the Members of the Association and their invitees. Declarant has no duty obligation to convey any property as Common Area to the Association, except for such Common Area shown upon the Record of Survey. Title to Common Area shall be subject to all matters of record and to matters a survey or inspection of the land may disclose. Declarant has no duty or obligation to grade, pave, landscape, maintain, repair or otherwise improve any portion of the Common Areas, if any, before or after conveyance to the Association. It is acknowledged by all Owners that the Properties are intended to maintain a rural character and that neither roads nor other Common Areas will be regularly graded or otherwise tended, and that substantial or extraordinary measures to improve the roads is not contemplated unless, in the sole discretion of

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the Association, or at the direction of a majority of Members present at a meeting at which a quorum of Members is present, it is resolved that the Association shall undertake such measures. No designation of Common Area on the Record of Survey or elsewhere shall imply that such areas are free of encroachment or prescriptive rights, nor shall the depiction of Lots on the Record of Survey imply the absence of prescriptive rights along the boundary lines or elsewhere, it being the duty of each Owner to investigate the existence of such rights prior to acquisition of title. Drainage and ordinary wear and tear of the roads, as well as natural storm conditions or other such occurrences, may cause the roads to become impassable or unusable from time to time, or other inconveniences may arise in connection therewith, and no such eventuality shall in any case cause the Association, the Declarant, or any Director or officer thereof, or any Member or other person to have any liability or responsibility to any other Member or Owner. Further, the Association and each Director and officer, as well as the Declarant and all other Owners are fully released from any and all liability relating to the condition of the Common Areas or any accident or injury which may occur thereon, whether or not relating to the condition thereof.

3.2 Conveyance of Owner's Rights. Any sale, lease or sublease of a Lot by its Owner, or transfer of the same by operation of law, shall serve to transfer, convey, lease or sublease to the same extent all of said Owner's right to use the Common Areas.

3.3 Conveyance of Easements and Rights-of-Way. Notwithstanding any other provision in this Declaration, the Association or Declarant shall at all times have the right to grant and convey to any person or entity easements or rights-of-way, in, on, over, or under any Common Areas for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder roads, overhead or underground utilities, and any similar public or quasi-public improvements or facilities, and for such other purposes as may be deemed proper by the Declarant or the Association. Declarant reserves the right, and shall have the right to cause the Association, to transfer, sell or convey any portion of the Common Area no longer deemed necessary for the workings of the Association, and may cause the change of boundary lines of any or all Common Areas or Lots (with the consent of the Lot Owner) to accommodate necessary ingress, egress and utility easements, or for other purposes deemed necessary by Declarant or by the Association. Any conveyance of Common Area shall serve to extinguish and terminate any and all interest of any Owner or Member therein.

3.4 Gleeson Road Easement. The Association is the grantee of that certain easement pursuant to which the Association (and Members thereof) has access to the Properties from Gleeson Road and pursuant to which the Association has the right to construct limited improvements upon the easement property, including a gate, sign, monument or similar entryway structure. It is understood that said easement is deemed superseded by the provisions hereof, as the roadway subject to said easement is now a part of the Properties.

3.5 Easement Over and Across Lots 52, and 134 through 137. That portion of the roadway shown on the Record of Survey traversing Lots 52, 134, 135, 136 and 137 shall be maintained and repaired by the Association, said roadway being an easement for ingress, egress and utilities in favor of all Owners of land within the Properties, and in favor of any other grantee of easements thereon.

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3.6 Easements in Favor of Adjacent or Nearby Properties. Both the Association and Declarant, independently, shall have the right to grant easements over and across the roadways in the Properties, including over and across the easements maintained by the Association over and across Lots 52, 134, 135, 136 and 137. Any Owner or grantee of all or any portion of Lots 52, 134, 135, 136 and 137 shall be deemed to have taken title subject to such reserved rights relating to the granting of such easements. In addition to the foregoing, and without limitation, should Declarant be affiliated with the owner or owners of property near or adjacent to the Properties, whether such affiliation should be by virtue of being a partner, joint-venturer, member, shareholder, or otherwise, Declarant shall have the right to cause the Association to grant such easements over the Common Area as may be necessary to afford such land ingress, egress and utilities, provided, however, that unless Declarant determines that easements by prescription or otherwise already exist in favor of the land to be benefited, then Declarant shall take reasonable steps to see that the land so benefited contributes its fair share toward the expenses of maintenance and repair of the Common Areas consisting of roadways which benefit such land. This paragraph may not be amended without the prior written consent of Declarant, or its successors or assigns.

ARTICLE 4 EASEMENTS, LICENSES AND ENCROACHMENTS

4.1 Easement for Enjoyment. There is hereby created a blanket, nonexclusive easement upon, across, over and under all of the Common Areas for the use and enjoyment of all Members, their guests, invitees and licensees, subject to reasonable regulations of the Association, and for ingress, egress, installation, replacement, operation, repair and maintenance of all utilities, including but not limited to, water, gas, telephone, electricity, television antennae system, and any equipment or facilities for the installation of a cable communications system.

4.2 Utility Easements. There is hereby reserved unto the Declarant, and its successors and assigns, and unto all public utility companies a perpetual non-exclusive easement and right-of-way over, under and across all Common Areas for the installation and placement of any and all utilities, together with the right but not the obligation to clear and keep clear said easement and rights-of-way from any and all obstructions. Notwithstanding any other provision of this Declaration, this Section may not be amended without the prior written consent of Declarant, or its successors or assigns.

4.3 Access Easement. There is hereby reserved unto the Declarant, and its successors and assigns, a perpetual non-exclusive easement and right-of-way over and across all Common Areas for ingress and egress, vehicular and otherwise, to any land owned by Declarant or its successors and assigns adjacent to the Properties, whether or not such land is annexed hereunder. Declarant and its successors and assigns shall have the right of ingress and egress over and across the Common Areas, or any portion or portions thereof as Declarant or its successors and assigns may determine, together with the right but not the obligation to clear and keep clear said easement and rights-of-way from any and all obstructions. Without limiting the generality of the foregoing, Declarant and its assigns shall have the right but not the obligation to trim and cut trees, foliage, and roots upon and from within the above-described easement and rights-of-way whenever in its judgment the same shall be necessary for the convenient and safe exercise of the

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right herein granted. Notwithstanding any other provision of this Declaration, this Section may not be amended without the prior written consent of Declarant, or its successors and assigns.

4.4 Grazing Easement. There is hereby reserved unto the Declarant and the owners of land located outside of, but adjacent to the Properties, a temporary grazing easement over all of the Properties; provided, however, Declarant reserves the right to revoke such grazing easement at anytime without the consent of any party whatsoever. Each Lot and the Common Areas shall be subject to such grazing easement, unless and until the Owner of such Lot or Common Areas constructs and maintains a fence or wall in such a manner so to keep grazing animals from entering the Owner's Lot or Common Areas. Any such wall or fence shall be constructed and maintained in accordance with the provisions herein, including approval by the A.C.C.

ARTICLE 5 THE ASSOCIATION

5.1 Responsibilities of the Association. The Association shall be responsible for the protection, improvement, alteration, maintenance, repair, replacement, administration, management and operation of the Common Area, if any. It is acknowledged that the Common Area may or may not include the ingress-egress easements set forth on the Record of Survey and that the Common Area may or may not include additional land, improvements and amenities such as one or more water wells to be made available for the use and enjoyment of the Owners. The Association shall, to the extent applicable, be responsible for the entering into of such agreements and the taking of such actions as are reasonably necessary and convenient for the operation and maintenance of the Common Areas and improvements located thereon. The Association shall in no event be required to improve, maintain or repair any Lot or any improvements located thereon, and all improvements, maintenance and repairs shall be the sole responsibility of the Owners thereof.

The Association shall have the right to dedicate to any public entity, agency, county or municipality any and all Common Area, including roadways, should the Association, in its sole discretion, consider such dedication to be in the best interests of the Properties or the Members.

5.2 Bylaws and Articles of Incorporation. The manner in which the Association carries out its responsibilities shall be controlled by the provisions of its Bylaws, its Articles of Incorporation and the provisions herein. The provisions of this Declaration shall control in the event of a conflict.

5.3 Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may, among other things, restrict and govern the use of the Common Areas; provided, however, that the Association Rules shall not discriminate among Owners and occupants and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Properties and the Common Areas. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in this Declaration. A copy of the

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Association Rules, as adopted, or amended, shall be available for inspection at the office of the Association.

5.4 Personal Liability. To the fullest extent permitted by law, neither Declarant, the Board, nor any committees of the Association nor any member thereof, nor any officers, directors or employees of the Declarant or of the Association, shall be liable to any Owner or to the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, act, inaction, omission, error, negligence or the like made in good faith and which Declarant, the Board or such committees or officers reasonably believed to be within the scope of their respective duties or rights. To the fullest extent permitted by law, Declarant, and every director, officer or committee member of the Association and/or the Declarant shall be indemnified by the Association.

5.5 Managing Agent. All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement. Any agreement for professional management shall not exceed a term of one (1) year, which term may be renewed by agreement of the parties for successive one-year periods. Any such agreement shall provide for termination by either party with or without cause and without payment of a termination fee upon ninety (90) days' written notice; provided, however, that the Association may terminate the agreement for cause upon thirty (30) days' written notice.

ARTICLE 6 MEMBERSHIP AND VOTING

6.1 Membership. Every person who is an Owner of a Lot shall be a Member of the Association. An Owner shall have and enjoy one Membership for each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Only persons who own Lots under recorded instruments, including deeds and contracts for sale, shall be Members of the Association.

6.2 Voting. The Association shall have two classes of membership:

6.2.1 Class A Membership. The Class A Members shall be all Owners of Lots, other than Declarant (until conversion of the Class B Membership). Each Class A Member shall be entitled to one (1) vote for each Lot owned, except that no Class A Member shall have any votes or be entitled to exercise any voting rights, (and no meetings of Class A Members shall be required) prior to the expiration of the Class B Membership. There shall be no more than one (1) vote for each Lot owned by any Class A Member, and in the event of common ownership, whether by joint tenancy or otherwise, there shall be no more than one (1) Class A vote for each Lot, and the Owners must agree among themselves as to the manner in which a vote shall be cast.

6.2.2 Class B Membership. The Class B Member shall be the Declarant (and successors or assigns of Declarant who are in writing designated as a successor Declarant as provided herein) who shall hold one (1) Class B Membership for each Lot owned and shall be entitled to three (3) votes for each such Class B Membership. The number of Class B votes shall increase if land is annexed hereunder and made part of the Properties. The Declarant may cast

its votes in such proportions on any matter as Declarant determines. The Class B Membership shall cease and be converted to Class A Memberships at such time as seventy-five percent (75%) of the Lots from time to time subject to this Declaration are owned by Class A Members other than Declarant.

Notwithstanding the foregoing, so long as Declarant owns a single Lot, Declarant shall have the right, without obligation, to maintain absolute control over the Association by appointing or removing the Board without the necessity of a vote or meeting of Members, appointing or removing the officers of the Association, appointing or removing the Members of any committees, and amending this Declaration subject to the provisions hereof. In connection with the assignment of the rights of the Declarant to any successor or assignee of Declarant, it shall be permissible for Declarant to retain or to assign, at its sole election, the rights and privileges of the Class B Member.

Any annexation to the Properties of property owned by Declarant shall extend and renew the Class B Membership, and all rights and privileges of Declarant, should any or all of such rights or privileges have expired or been relinquished prior to such annexation.

ARTICLE 7 ASSESSMENTS

7.1 Power to Levy Assessments. The Association, through its Board of Directors, shall have the power to levy regular annual assessments and such special assessments as shall be determined thereby, and to determine the amount thereof, the date upon which payment of said regular and special assessments shall be made and to collect delinquent assessments by action of law, or otherwise, from the Owners.

7.2 Effect of Nonpayment of Assessments; Remedies of Association. Payment of said regular and special assessments shall become delinquent forty-five (45) days after the due date. All delinquent assessments shall be a lien on the Lot of the Owner who fails to pay them and shall bear interest from the date of default until paid at the rate of eighteen percent (18%) per annum, but not to exceed the highest legal rate, payable from the date of default, until such delinquent assessment is paid. The obligation of every Owner to pay assessments levied by the Association is absolute and shall not be affected by any claim the Owner may have, or believes he has, against any other person, including Declarant or the Association, nor shall such obligation be affected by any irregularity in the manner or timing in which notice of assessment is given. Moreover, the sale of a Lot encumbered by the lien of a delinquent assessment property shall not relieve the Owner thereof from the obligation to pay the pro rata share of annual dues and assessments for any portion of a year which he owned said Lot and such Owner personally shall remain jointly and severally liable for such delinquent assessments as with any subsequent Owner.

The lien against any Lot may be foreclosed in the same manner as a Mortgage, and each Owner consents to the recording by the Association of a Notice and Claim of Lien in the event of any assessment remaining delinquent forty-five (45) days after the due date. Said Notice and Claim of Lien may be described by a different title, but shall be recorded in the office of the

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Cochise County Recorder and may set forth the amount of the delinquent assessment and any other matter deemed appropriate by the Association.

7.3 Subordination of Lien to Mortgages. Any lien upon a Lot for delinquent assessments shall be subject and subordinate to a recorded first realty Mortgage upon any of said Lots made in good faith and for value, whether now existing or made and recorded at any time hereafter. Should a Mortgagee of a prior first Mortgage of record, or any assignee of a first Mortgagee, obtain title to any Lot as a result of a foreclosure of a first Mortgage encumbering title thereto, such acquirer of title, his successors or assigns, including any purchaser at a sheriff's sale commenced pursuant to said foreclosure, shall not be liable for assessments by the Association chargeable to such Lot which assessment became due prior to acquisition of title to such Lot by such acquirer; rather, the Owner in default shall remain so liable. After acquisition of title, such acquirer shall pay the share of assessments chargeable to the Lot title to which he has acquired.

7.4 Attorneys' Fees. In the event it shall become necessary for the Association to employ attorneys to collect a delinquent assessment, whether by foreclosure of the lien created herein or otherwise, the delinquent Owner shall pay, in addition to the assessment and interest accrued thereon, such reasonable attorneys' fees and all other costs and expenses incurred by the Association as a result of such delinquency.

7.5 Annual Assessment. The Directors shall, in accordance with the Association's estimated expenses and budget each year, determine assessments whereby each Owner shall pay to the Association within forty-five (45) days from the receipt of notice of assessment, that Owner's share of Association costs and expenses to be incurred in the performance of its obligations. These expenses include, but are not limited to, maintenance, repair and replacement of roads and Common Areas, and all property taxes assessed, the Association's legal and accounting costs, management fees due to outside management personnel or incurred by reason of services rendered in management of the Properties, insurance premiums, reserve accounts, if established by the Board of Directors of the Association, for repairs, maintenance, and replacement, and for other necessary expenses. Each Owner's share of the Association's cost and expenses shall be in the form of an assessment established annually (the "Annual Assessment") by the Board of Directors, which shall be equal and uniform as to all Lots, except as provided in Section 7.11.

The budget, as well as assessments, may take into account services offered or performed by the Declarant, if any, including any discretionary monetary contributions, which Declarant may furnish to the Association to help defray costs and expenses. Declarant shall not be obligated to offer or perform such services nor to make any monetary contributions.

7.6 Owners Not Exempt. The nonuse of or failure to occupy a Lot shall not exempt the Owner thereof from payment of all assessments properly levied against that Lot, and the Owner thereof shall be liable for the same as long as said Owner shall own a Lot.

7.7 Joint and Several Liability. Upon the voluntary conveyance of a Lot, the selling Owner and his buyer shall be and remain jointly and severally liable for the payment of all

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assessments levied against the Lot prior to the closing of said sale and unpaid at the time of the conveyance, subject to the provisions of this Article.

7.8 Amount of Assessment. The assessment to be charged to each Owner for the Association's fiscal year shall be the amount established by the Board of Directors of the Association and the Board shall determine the time and frequency that said assessments are to be paid for each fiscal year.

7.9 Levy of Assessments. Except as otherwise provided herein, the Board shall levy assessments against each Lot to collect the funds necessary to cover the costs and expenses incurred by the Association together with such reserve funds determined by the Board, in its sole and absolute discretion, to be appropriate. The assessments levied by the Association shall be used for the purpose of promoting the health, safety and welfare of the Owners within the Properties, enhancing the quality of life within the Properties and enhancing and protecting the value, desirability and attractiveness of the Properties, including maintenance of all Common Areas (as provided herein), and including services and facilities, insurance, taxes on the Common Areas or the Association's property, expenses of operation and management, and the discharge of the Association's duties under this Declaration and other agreements to which the Association is a party.

Each Owner of a Lot within the Properties (other than Declarant), by acceptance of a deed or other conveyance, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Annual Assessments, and Special Assessments (collectively, "Assessments"), such Assessments to be fixed, established and collected from time to time as hereinafter provided. All Assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall, to the extent allowed by law, be a charge on the land and shall be a continuing lien (the "Assessment Lien") upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest, costs and reasonable attorneys' fees incurred in the collection thereof, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation and liability of the Owner shall not be deemed to limit or discharge the charge against the land and the continuing lien upon the Lot against which such assessment is made. No Owner of a Lot may exempt himself from liability for the Assessments by waiver of the use or enjoyment of the Common Areas or by the abandonment of his or her Lot.

The amount and time of payment of Annual Assessments shall be determined by the Board after giving due consideration to the current maintenance costs and future needs of the Association. Not later than thirty (30) days prior to the beginning of each fiscal year, or as soon thereafter as the Board may determine, the Board shall prepare a budget containing an estimate of the total expenses to be incurred for the forthcoming fiscal year and set the amount of the Annual Assessment for each Lot. The amount of the Annual Assessments and reserves, if any, shall be in the sole discretion of the Board. Written notice of the Annual Assessments shall be sent to every Owner. Each Owner shall thereafter pay to the Association his or her Annual Assessment in such manner and such times or installments as is established by the Board. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet all common expenses for any reason, it shall immediately determine the approximate amount of such inadequacy, issue a supplemental estimate of the total common

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expenses and the revised Annual Assessments, and give written notice thereof to every Owner. The Board shall not increase the Annual Assessment in any year beyond the maximum increase allowed by law. If the Board determines that the amount collected or to be collected through Annual Assessments is in excess of the Association's needs for the current year and reserves appropriate for future needs, the Board, in its sole discretion, may refund to the Owners who paid such Assessments all or a portion of such excess, reduce the amount of the Annual Assessments or abate collection of Annual Assessments as it deems appropriate.

7.10 Special Assessments. So long as the Declarant owns one or more Lots within the Properties and thereafter subject to the affirmative vote of Owners representing two-thirds (2/3) of the total votes entitled to be cast by Owners, the Board shall determine and levy special assessments, in the same manner as set forth above, in the event that unexpected hazards or expenses require repair or replacement of facilities maintained by the Association, or improvements in or on the Common Areas, and the funds in the Association obtained through the Annual Assessments should be insufficient therefor.

7.11 Lots Owned by Declarant. Notwithstanding any provision of this Declaration, Declarant shall have no obligation to pay any money, contributions or assessments for unimproved or unoccupied Lots it owns, except that Declarant shall pay a full assessment for any Lot it owns which is improved with a separate Dwelling Unit.

In consideration for Declarant's exemption from assessment, Declarant agrees that it shall pay, for any given assessment year in which Declarant has paid or contributed to the Association less than the full regular Annual Assessment for each Lot owned, the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Association and Common Areas, but only up to the full regular Annual Assessment for each such Lot owned. A shortfall or deficiency shall exist if current ordinary expenses of the Association are greater than the revenues of the Association from all sources for the assessment year in question; provided, however, that Declarant shall not be liable for any shortfall or deficiency created by any decrease in the amount of the regular Annual Assessments from those charged during any prior year. Declarant may at any time at its sole discretion elect to cease paying the shortfall or deficiency, if any, and instead to pay up to the full Annual Assessment for each Lot owned by Declarant.

Should Declarant assign its rights to the exemption from Assessments as provided herein, whether such assignment be in whole or in part, then the assignee shall, in the case of any deficiency as described above (and meeting the conditions set forth above), be liable for its ratable share of the same, up to the full amount of the regular Annual Assessment for each Lot owned, and not more. In addition, such assignee's exemption, if any, shall expire with respect to any Lot improved with a completed Dwelling Unit.

ARTICLE 8 INSURANCE OF COMMON AREAS

8.1 Scope of Coverage. The Association shall secure policies of insurance and shall maintain the same so that a policy is in force at all times providing, to the extent that the same is available at reasonable cost, liability insurance coverage for the Common Areas and all insurable

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facilities and improvements thereon in an amount of a minimum coverage of one million dollars (\$1,000,000.00) insuring against liability for bodily injury and property damage resulting from the use of the Common Areas, or the maintenance or operation thereof and any liability arising from a contract of employment between the Association and another person or entity. In addition, the Board may obtain such other types of insurance as may be required or as the Board may deem appropriate. The cost of such insurance shall be paid by the Association. The Association shall have authority to negotiate with the insurance carrier and to adjust losses, make settlements and give releases to the insurance carrier. Each policy of insurance provided for under this Section shall recite that the same may not be cancelled or benefits hereunder be alterable without ten (10) days notice in writing to the Association.

8.2 Lot Owner's Responsibilities. The Association shall in no event be required to replace or restore real or personal property located upon any Lot, and the insurance of Lots and improvements thereon against any and all hazards shall be the sole responsibility of the Owners thereof. In the event of damage to an improvement on a Lot, the Owner thereof shall repair or rebuild the improvement to the same standards and specifications of the original improvement, unless otherwise permitted by the Board.

ARTICLE 9 ARCHITECTURAL REVIEW

9.1 Review by Board. All architectural matters with regard to the Properties shall be subject to the discretionary review of the Board except as otherwise provided herein. The Board shall have the exclusive right, exercisable in its sole discretion, to promulgate and amend written rules and regulations concerning the location, construction, alteration, repair, modification or addition of any building, wall, fence, coping, drive, or similar structure. Such rules and regulations shall be in the sole discretion of the Board provided that the same shall not be in conflict with any provisions in this Declaration. The location or placement of any and all improvements on the Lot, and all plans, specifications and plot plans related to construction of the residence, outbuildings and driveway shall be subject to the approval of the Board. All decisions of the Board are final.

The Board may appoint a committee to perform the functions required of the Board under this Section. In such event all decisions made by the committee are subject to the review of the Board and all decisions of the Board are final.

9.2 Procedures. Prior to the construction or placement of any improvement upon a Lot, whether such improvements are initial improvements or later alterations, modifications or other changes, all Owners shall be required to obtain the written approval of the Board which approval may be given in the sole discretion of the Board. The Owner shall submit to the Board a set of written plans for the proposed improvements sufficient in detail to show the elevation, color, style, size, height, and location on the Lot of the proposed improvements. The plans shall be in accordance with the provisions of this Declaration and written rules and regulations of the Board, and shall be in sufficient detail to permit the Board to make their determination. Approval of the plans shall be evidenced, if at all, by the written endorsement of the Board made on the plans. The Board shall review and shall either approve or disapprove said plans and specifications within forty-five (45) days from receipt thereof. Any plans not so approved or

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disapproved. After approval by the Board, no changes or deviations in or from the plans insofar as the exterior of the proposed improvements are concerned, shall be made without the written approval of the Board. After construction is completed, no further change, including any change of exterior color, shall be made without the written permission of the Board.

For purposes of this Article, architecture and improvements shall be deemed to include, but not limited to, buildings, radio and television antennae, satellite dishes, walls, fences, patios, porches and any and all other structure.

9.3 Alterations and Modifications; Discretion of Board. In reviewing plans for any improvements, construction, alterations, modifications, additions or other changes to the exterior of a structure upon a Lot, the Board shall exercise its discretion in deciding whether or not an alteration or modification is in harmony with the overall scheme of subdivision development. The Board shall have the right to deny new proposed construction or alterations or modifications for purely aesthetic reasons if the Board considers the alteration or modification to be unattractive in relation to the overall scheme of development, to be a nuisance or upset of design, to be in contrast to or out of harmony with the style of existing structures, or if the physical views of the Properties will be disrupted by the alteration or modification.

9.4 Approval for Declarant Not Required. Notwithstanding any other provisions of this Declaration, Declarant shall not be responsible to submit any plans or seek approval for structures, improvements or alterations the Declarant or its agents shall undertake on the Properties.

9.5 Conflict of Interest. In the event a conflict of interest arises wherein a member of the Board wishes to alter, remodel, and/or add to his existing structure, the remaining Members of the Board shall approve or disapprove said plans. This subsection shall not apply to Declarant, and neither Declarant nor its employees shall be disqualified from performing functions of the Board or from being Members thereof.

ARTICLE 10 LAND USE

10.1 Owner's Responsibilities: Water, Septic, Sewer and Other Utilities. Each Owner is responsible for the construction, installation, operation and maintenance of water, septic and sewer systems needed or desired to serve such Owner's Lot and Dwelling Unit. Each Owner is responsible for the construction, installation, operation and maintenance of electricity, cable television and any other utilities needed or desired to serve such Owner's Lot and Dwelling Unit. Declarant makes no representation or warranty with respect to the quality and availability of water and other utilities within the Properties. Declarant makes no representation as to the suitability of the Properties to receive and support such water, sewer and septic systems and other utilities, including the suitability of the soils and whether any given Lot could pass a percolation test.

10.2 Land Use and Building Type. No improvement or structure whatever, other than a first-class private dwelling house, patio wall, fence, swimming pool and customary

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outbuildings, which include guest houses, tack houses, barns, servants' quarters, garages or carports, may be erected, placed or maintained on any Lot. The color of all structures and improvements shall be earthtone. Bright or highly reflective colors, and gaudy or garish colors are prohibited. All outbuildings, walls, fences, carports, and garages must substantially match the appearance of the main dwelling house in both architectural style and color.

All improvements shall be constructed of new materials, except that used brick or adobe brick may be used. Pitched roofs shall be permitted on such dwellings only if the Board approves the same and determines that the roofing material is non-reflective and appropriate for the Properties considering appearance, color and quality of materials. Only first-class materials and workmanship shall be used to build, repair or maintain all structures and improvements.

Homes may be either built of masonry or frame stucco, with permanent concrete foundations, or may be prefabricated, Modular Homes with permanent foundations.

The size, height, location and all other particulars relating to outbuildings shall be subject to review and approval of the Board, as with all other improvements. Due to the varying topography of the subdivision, allowances and requirements may vary considerably between Lots. It is the intention of the general scheme of the Properties that primary dwellings should not stand out, that primary dwellings on ridges should blend in with the ridge, and that the mountains and natural landscape should be visible from the Properties.

The use of exposed concrete block products of any kind is specifically prohibited, unless limited to structures approved by the Board, and further treated or painted in a manner approved by the Board. Any and all sewage disposal facilities shall be constructed in compliance with all applicable State and county Department of Health Standards. Due to the existing nature of topography (land terrain), the exterior color design of all improvements on all Lots, including the roofs thereon, shall not be of a reflective nature. Earth tone colors shall be used in materials, paints, etc., including roofing, so that the color scheme shall blend and be in harmony with the topography and native growth and, in general, look as natural as possible in its environment. The Board may, in its discretion, require in the Association Rules that all exterior water, electric, telephone, gas, and any and all sewage disposal facilities on the Properties be installed and placed underground. Windmills and water tanks for domestic use are permitted.

10.3 Conformity to Development Codes. All structural and design work shall be accomplished in accordance with the Uniform Building Code as adopted by the County of Cochise or other competent jurisdiction. Electrical and mechanical work shall conform to all applicable local and national codes. All buildings, fences, ledges, improvements or appurtenances or other structures of any nature shall be in compliance with the setback requirements of the County of Cochise or other competent jurisdiction, including but not limited to, the front, side and rear setbacks; the same must be approved by the Board before the commencement of any construction.

10.4 Mobile Homes, Temporary Structures, etc. No Mobile Home shall be permitted or placed upon any Lot or anywhere else in the Properties. No Mobile Home, temporary house, house trailer, travel trailer, Recreational Vehicle, tent, garage, camper, boat, bus or similar vehicle, or outbuilding of any kind shall be placed or erected upon any part of the Properties for

use as living quarters. No residence placed or erected on any Lot shall be occupied in any manner at anytime prior to its being completed in accordance with approved plans, as hereinafter provided, nor shall any residence, when completed, be in any manner occupied until made to comply with all requirements, conditions and restrictions set forth herein; provided that, during the actual construction or alteration of a building or buildings on any Lot, temporary residential structures approved by the Board and such other necessary temporary buildings for storage of materials and equipment may be erected, occupied and maintained by the person doing such work. The work of constructing, altering or remodeling any building on any part of the Properties shall be prosecuted diligently from the commencement thereof until the completion thereof, and shall be finished and completed no later than twelve (12) months after the issuance of a building permit by the appropriate regulatory body. The use of any temporary residential structure pursuant to this Section shall not exceed twelve (12) months and shall be subject to the prior approval of the Board.

10.5 Indoor Toilet. All residences shall install water flush toilets, and all bathrooms, toilets and other sanitary conveniences shall be located within the Dwelling Unit. All waste water shall be discharged into a municipal/county approved septic sewage disposal system to be installed by the Lot Owner or into some other municipal/county approved sewage disposal system.

10.6 Building Set Backs. All building set backs of the Cochise County Zoning Code shall be observed. Notwithstanding any variance granted by Cochise County, no building or other improvements shall be constructed closer than one hundred (100) feet from any front Lot line (or from any roadway comprising a Common Area), nor closer than thirty (30) feet from the side or back lot line of any Lot unless approved in writing by the Board, except that fences, walls or hedges may be constructed directly on the Lot line. No barn, stable or similar enclosure shall be constructed closer than one hundred (100) feet from any Lot line.

The Board in its discretion may grant variances from the height and set back provisions of this Section, but not from regulatory restrictions adopted by Cochise County.

10.7 Screening. Mechanical and electrical equipment to be installed by an Owner shall, within reason, be concealed from the view of any street or Lot in the subdivision. Included within this restriction are tanks, air conditioning, evaporative coolers, pool pumps, heating equipment and service yards and storage areas. No such equipment or areas shall be permitted to remain exposed at the side or rear of any Lot unless reasonably concealed by planting, or fence, or other screening material.

10.8 No Business Use. No business use shall be made of any Lot except by Declarant who may use a Lot for sales and administrative use related to the development of the Properties. Home occupations such as bookkeeping, accounting, arts and crafts and the practice of law shall be permitted if traffic of customers to and from a residence does not interfere with the peaceful enjoyment of the Properties, and only if there is no advertisement or solicitation in connection therewith, no parking in the private streets or roadway easements, and no noise, commotion, or external evidence of such activity.

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10.9 Rubbish and Storage. No rubbish or debris of any kind shall be placed or permitted on any Lot so as to render any such Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants. Debris, rubbish or other waste shall not be kept except in sanitary containers which shall be screened from the view of other Lots and Common Areas, and the contents of which containers shall be removed by the Owner to a County-approved landfill on a regular basis. No outdoor burning of debris or rubbish shall be permitted on any portion of the Properties. The Declarant and/or Association, upon ten (10) days written notice to the Lot Owner, shall have the right to remove any debris or rubbish from the Lot and the Owner shall be obligated to pay to the Declarant or Association, upon demand, all reasonable costs incurred in removal of such debris or rubbish.

10.10 Resubdivisions. No Lot shall be resubdivided into more than two (2) Lots, and no resubdivided portion may be less than eighteen (18) acres in size. Should land be proposed to be exchanged between adjacent Owners for purposes of better facilitating ingress, egress or utility service, or for other purposes, and should the Board approve of such exchanges, then this Section shall not be deemed violated; provided, however, that no resulting parcel shall be less than eighteen (18) acres in size. This Section shall not apply to resubdivisions by the Declarant, and Declarant may at its discretion resubdivide at any Lot or Lots it owns.

10.11 Noise and Nuisances. No Owner shall engage in any activity or permit any activity to occur on the Properties which shall result in unusual, loud or obtrusive noise or sounds. No excessively glaring or bright lights, foul odors or other nuisance shall be permitted to exist or operate upon the Properties so as to be offensive or detrimental to any Property or Owner. Hunting, shooting of firearms within the Properties and indiscriminate use of vehicles creating excessive dust or noise shall be considered a nuisance. Normal construction activities and roadway construction and maintenance shall not be considered a nuisance. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance.

10.12 Vehicle Parking and Storage. Parking and/or storing of recreational vehicles (including, but not limited to, horse trailers, motorhomes, vans, campers, trailers and boats) is permitted on a Lot provided that such vehicles are not parked and/or stored within the easements and building setbacks set forth herein or in the Record of Survey. No such vehicle, nor any bus or similar vehicle, shall be permitted to constitute an eyesore, or to remain in dilapidated or shabby condition or in a state of apparent disrepair. Nor shall any such vehicle be permitted if it is not used for extended periods of time and has all appearances of being abandoned, wrecked, in disrepair, or an attractive nuisance. All repairs, rebuilding or maintenance work on any motorized or nonmotorized vehicle or other piece of equipment is prohibited within the easements and building setbacks set forth herein or in the Record of Survey, and any such repairs, rebuilding or maintenance work performed within a Lot shall be screened from the view of neighboring Lots and Common Areas. The use and/or occupancy of a recreational vehicle (including, but not limited to, a motorhome, van, camper, trailer, or boat) as living quarters on either a temporary or permanent basis is prohibited on any portion of the Properties, except as otherwise provided in Section 10.4 herein. Tractor and tractor-trailer combinations shall be prohibited upon the Properties, except to deliver materials or supplies, or for short periods of time to accommodate construction in progress, as approved by the Board.

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10.13 Inoperable Vehicles and Commercial Vehicles. No inoperable, junk, or wrecked vehicles shall be placed on or stored on any Lot or Common Areas, nor shall any commercial, construction, or like vehicles (except those of the Declarant or its agents) be placed on or stored on any Common Areas (except those of the Declarant or its agents), except as may be permitted by the Association, in writing, for limited periods of time.

10.14 Native Growth. The natural growth on the Properties shall not be destroyed or removed except by the Board or as approved in writing by the Board in connection with review of home sites, driveways, yards, gardens and like items in accordance with the provisions hereof. In the event growth is removed, except as stated above, the Board may require the replanting or replacement of same, the cost thereof to be borne by the Owner responsible for such removal.

10.15 Signs. No billboards or advertising signs of any character shall be erected or permitted on any Lot or Dwelling Unit. An Owner may erect a name sign, not to exceed five square feet, subject to the Board's approval.

Notwithstanding any other provision of this Section, Declarant or its agents shall have the right to place signs on the Common Areas or on Lots owned by Declarant for the purpose of advertising and promoting the sales by Declarant or its agents.

10.16 Mineral Exploration. No portion of the Properties shall be used in any manner to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

10.17 Tanks. No tanks of any kind shall be erected, placed or permitted upon any part of the Properties, except for one (1) water tank. Water tanks for use in connection with any Dwelling Unit on the Properties, must be buried, walled-in, screened or painted to blend with the surrounding land.

10.18 Clotheslines. Clotheslines shall be of a retractable type concealed from view of neighboring Lots and streets and shall not be left extended unless in use.

10.19 Animals. All livestock, poultry and domestic animals shall be maintained so as to avoid creation of a hazard or a nuisance. Livestock, poultry and domestic animals shall be kept only for the personal use and enjoyment of the residents of the Lot. While the use of a Lot for ranching purposes is allowed, no stockyards, no commercial horseback riding stables or any other activity which would create excessive dust, noise or obnoxious odors shall be permitted. All livestock and poultry shall be confined within a fenced area, and all fences for any livestock or animals shall be constructed of new materials or the equivalent thereof and of such height and strength as to adequately contain and all permitted livestock or animals. All areas maintained for livestock and poultry shall at all times be kept clean, with all manure removed on a regular basis to prevent offensive odors.

10.20 Waivers. Any or all of the restrictions of this Section are subject to waiver by the Board in its discretion, and any such waiver may apply at the option of the Board to fewer than all of the Lots without waiver of such restriction as to any other Lot or Lots.

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

10.22 Exemption of Declarant. Nothing in this Declaration shall limit the right of Declarant or its agents, to complete excavation, grading and construction of improvements on any Lot or Common Areas within the Properties, or to alter the foregoing or to construct such additional improvements as Declarant deems advisable so long as any Lot therein remains unsold, or to use any structure in the subdivision as a real estate sales, administrative or leasing office. Declarant need not seek or obtain the approval of the Board of Directors of the Association or Board for the installation of any improvements, including landscaping. The rights of Declarant hereunder or elsewhere in these Restrictions may be assigned.

ARTICLE 11 GENERAL PROVISIONS

11.1 Enforcement. The Association or any Member shall have the right, but not the duty, 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. The prevailing party in any Court action shall be awarded reasonable attorney's fees and costs.

11.2 Interpretation. Except for judicial construction, the Association, through its Board, shall have the exclusive right to construct and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound hereby.

11.3 No Waiver. No delay or omission on the part of Declarant, its successors or assigns, the Association or any Member in exercising their right of enforcement hereunder shall be construed as a waiver of any breach of any of the restrictions and covenants herein contained or acquiescence in any breach hereof and no right of action shall accrue against Declarant, its successors or assigns, the Association or any Member for their neglect or refusal to exercise such right of enforcement, nor shall any right of action accrue against Declarant for including herein provisions, conditions, restrictions or covenants which may be unenforceable.

11.4 Lien of Mortgages. No breach of the provisions, conditions, restrictions or covenants contained within this Declaration shall defeat or render invalid the lien of any Mortgage made in good faith for value as to any portion of the Properties. Such provisions, conditions, restrictions and covenants shall be enforceable against any portion of the Properties acquired by any person through foreclosure or by deed in lieu of foreclosure or any breach occurring after such acquisition.

11.5 Severability. Invalidation of any covenant, restriction, provision or term of this Declaration by judgment or court order shall not affect any other covenant, restriction, provision or term hereof which shall remain in full force and effect.

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11.6 Amendment. Except as provided elsewhere in this Declaration, the terms hereof may be amended by the Association; provided, however, that any amendments made by the Association shall be approved by at least sixty-seven percent (67%) of the total votes held by Owners, and shall be made only by an instrument in writing signed by the President and Secretary of the Association and recorded with the County Recorder of Cochise County, Arizona. Until January 1, 2030, or until all Lots are sold, each and every amendment hereof made by the Association shall be first submitted to Declarant for its approval and Declarant shall have the reasonable right to veto any proposed amendment, and upon such veto, such amendment shall be null and void and of no force and effect. Furthermore, at no time may any special reserved power, right or privilege of the Declarant hereunder, including the reserved powers and privileges relating to easements and access, be amended without the prior written approval of Declarant.

In addition to the foregoing, Declarant reserves the absolute right, so long as it owns a single Lot, to amend this Declaration of its own volition, and without the necessity of any vote or consent whatsoever, if such amendment shall, in Declarant's sole and absolute discretion, be deemed necessary to: (a) achieve compliance with the regulations of the Federal Housing Administration, Veterans Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association or any institutional public or private lending or mortgage assistance company; or (b) avoid ambiguity, correct errors, provide for the regulation of unforeseen physical, topographical or soils problems or other events, or to provide for the better management or administration of the Properties.

11.7 Term. The aforesaid provisions, conditions, restrictions and covenants, and each and all thereof, as amended from time to time, shall run with the land and continue and remain in full force and effect at all times and against all persons until January 1, 2030, at which time they shall be automatically extended for successive periods of twenty-five (25) years, unless repealed by seventy-five percent (75%) of the votes of Owners.

11.8 Annexation and Withdrawal of Land.

11.8.1 Annexation. Additional property may be annexed hereunder by the Owner thereof with the approval of (a) the Owners of two-thirds (2/3) of the Lots within the Properties; or (b) Declarant so long as it owns any Lot within the Properties. In addition, Declarant expressly reserves and shall have the right at any time, and without the consent or approval of any person or entity, to annex into the Properties, and under the purview hereof, any land adjacent to or nearby the Properties. Any such annexation shall be accomplished by recordation of a Declaration of Annexation in the Office of the County Recorder of Cochise County, Arizona, which document shall provide for annexation to this Declaration of the property described in such document and shall be executed by all appropriate parties as set forth above. Upon recording of any Declaration of Annexation, the annexed property shall be part of the Properties hereunder and the lots described therein shall be deemed Lots hereunder. The Declarant expressly reserves, for itself and the Developer, the right in the course of development of the annexed property to designate common areas, which the Association shall accept and hold as Common Area hereunder.

All provisions of this Declaration, including but not limited to those provisions regarding special Declarant rights, shall apply to annexed property immediately upon recording the annexation document, unless provided to the contrary in the annexation documents.

11.8.2 Withdrawal. Declarant may, at its sole discretion and without the approval, assent, or vote of the Association or other Owners or Members, from time to time until fifteen (15) years after recordation of this Declaration, withdraw any real property subject to this Declaration by executing and recording a Notice of Withdrawal, making reference to this Declaration, and specifically describing the withdrawn property. The property so described shall be deemed completely excluded from this Declaration and shall no longer be a part of the Properties.

It is specifically understood that this right of withdrawal may be exercised in Declarant's sole and absolute discretion, and that once withdrawn, none of the provisions hereof shall apply to or encumber the land so withdrawn. Further, Declarant may cause the Association to grant and convey such easements as may be necessary to benefit such land withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by Declarant to be proper.

11.9 Binding Effect. By acceptance of a deed or acquiring any ownership interest in any Lot, each person or entity, for himself or itself, his or its heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme to the development of the Properties and hereby evidences his intent that all restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees and transferees thereof. All rights and easements created by this Declaration accrue to the benefit of Declarant and its successors and assigns.

11.10 Captions. All captions and titles used in this Declaration are intended solely for convenience or reference purposes only and in no way define, limit or describe the true intent and meaning of the provisions hereof.

DECLARANT:

TITLE SECURITY AGENCY OF ARIZONA,
AN ARIZONA CORPORATION, AS TRUSTEE
UNDER TRUST NO. 709

By: Leslie D. Hoag
Leslie D. Hoag, Trust Officer

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STATE OF ARIZONA

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)ss.
)

COUNTY OF Pima

The foregoing instrument was acknowledged before me, a notary public, this 11th day of October, 2000, by Leslie D. Hogg, Trust Officer TITLE SECURITY AGENCY OF ARIZONA, AN ARIZONA CORPORATION, AS TRUSTEE UNDER TRUST NO. 709, and not in its corporate capacity.

[Handwritten Signature]

Notary Public

My commission expires:

2-5-03



Approved:

HIGH LONESOME RANCH ESTATES PROPERTY OWNERS ASSOCIATION

By: *[Signature]*
Its: President

By: *[Signature]*
Its: Vice President

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SEP 28 2001



FEE # 010928105
OFFICIAL RECORDS
COCHISE COUNTY
DATE 09/28/01 HOUR 4

When Recorded Return To:

Snell & Wilmer L.L.P.
One South Church Avenue
Suite 1500
Tucson, Arizona 85701-1612

REQUEST OF
PIONEER TITLE AGENCY
CHRISTINE RHODES-RECORDER
FEE : 11.00 PAGES : 6

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For Recorder's Use

FIRST AMENDMENT TO
AMENDED AND RESTATED DECLARATION OF CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
HIGH LONESOME RANCH ESTATES-UNIT I, LOTS 7 THROUGH 50 AND
HIGH LONESOME RANCH ESTATES-UNIT II, LOTS 52 THROUGH 141

This First Amendment to Amended and Restated Declaration of Conditions, Covenants, Restrictions and Easements for High Lonesome Ranch Estates-Unit I, Lots 7 through 50 and High Lonesome Ranch Estates-Unit II, Lots 52 through 141 (this "Amendment") is made this 21 day of Sept, 2001, and hereby amends and modifies that certain Amended and Restated Declaration of Conditions, Covenants, Restrictions and Easements for High Lonesome Ranch Estates-Unit I, Lots 7 through 50 and High Lonesome Ranch Estates-Unit II, Lots 52 through 141, recorded in Fee # 001028197, Cochise County Records (the "Declaration"), having reference to High Lonesome Ranch Estates-Unit I, Lots 7 through 50 and Common Area A and B, for which a Record of Survey has been recorded in Book 15 of Maps and Plats at Page 56 in the Office of the Recorder of Cochise County, Arizona, and High Lonesome Ranch Estates-Unit II, Lots 52 through 141 an Common Area A, for which a Record of Survey has been recorded in Book 16 of Maps and Plats at Page 59 in the Office of the Cochise County Recorder, Cochise County, Arizona (all of which are referred to herein as the "Properties").

High Lonesome Ranch Estates Property Owners Association, an Arizona non-profit corporation ("Association"), as the Association under the Declaration and having obtained (i) the approval of at least sixty-seven percent (67%) of the total votes held by Owners (as defined in the Declaration) and (ii) the approval of the Declarant (as defined in the Declaration), is empowered to make this Amendment pursuant to the terms and provisions of the aforesaid Declaration, and pursuant to Arizona law.

Any capitalized term not defined herein shall have the meaning set forth in the Declaration.

NOW THEREFORE, the Association does hereby amend and modify the Declaration as follows:

A. ARTICLE 10, SECTION 10.6 of the Declaration is hereby deleted in its entirety and replaced with the following:

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10.6 Building Set Backs. All building set backs of the Cochise County Zoning Code shall be observed. Notwithstanding any variance granted by Cochise County, no building or other improvements shall be constructed closer than one hundred (100) feet from any front Lot line (or from any roadway comprising a Common Area), nor closer than thirty (30) feet from the side or back lot line of any Lot unless approved in writing by the Board, except that fences, walls or hedges may be constructed directly on the Lot line. No barn, stable or similar enclosure shall be constructed closer than one hundred (100) feet from any Lot line. There shall be a height limit on all structures of no more than two (2) stories.

The Board in its discretion may grant variances from the height and set back provisions of this Section, but not from regulatory restriction adopted by Cochise County.

B. ARTICLE 10, SECTION 10.8 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.8 Business Use. Business use shall be limited in order to maintain the peaceful enjoyment of the Properties. Declarant may use a Lot for sales and administrative use related to the development of the Properties. Home occupations shall be permitted if traffic of customers to and from a residence does not interfere with the peaceful enjoyment of the Properties. Boarding of horses may be permitted on a limited basis and only with prior approval of the Board and subject to Architectural Review. Any business use conducted outdoors shall be subject to Architectural Review. In no event shall any Lot be used as a junk yard, storage yard, equipment yard, or similar use. There shall be no parking in the private streets or roadway easements in connection with any permitted business activity and no excessive noise or other nuisance created by or caused by any permitted business activity.

C. ARTICLE 10, SECTION 10.11 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.11 Noise and Nuisances. No owner shall engage in any activity or permit any activity to occur on the Properties which shall result in unusual, loud or obtrusive noise or sounds. No excessively glaring or bright lights, foul odors or other nuisances shall be permitted to exist or operate upon the Properties so as to be offensive or detrimental to any Property or Owner. Indiscriminate hunting or shooting of firearms and use of vehicles creating excessive dust or noise shall be considered a nuisance. Occasional hunting or shooting of firearms in a safe manner, and only within an Owner's property, so as not to endanger persons, animals, or property shall not be considered excessive noise or nuisance, and shall adhere to any County, State, and/or Federal Laws and Guidelines. Normal construction activities and roadway construction and maintenance shall not be considered a nuisance. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance.

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D. ARTICLE 10, SECTION 10.14 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.14 Native Growth. The natural growth on the Properties shall not be destroyed or removed except by the Board or as approved in writing by the Board in connection with the Architectural Review of home sites, driveways, yards, gardens and like items in accordance with the provisions hereof. Where portions of a property may have excessive growth and/or underbrush, such may be removed to allow for more convenient access or enhance the area's safety; any such removal shall be accompanied by replacement of natural grasses or other vegetation in order to control erosion and maintain property aesthetics, and shall adhere to any County, State, and/or Federal Laws and Guidelines. In the event growth is removed, except as stated above, the board may require the replanting or replacement of same, the cost thereof to be borne by the Owner responsible for such removal.

E. ARTICLE 10, SECTION 10.15 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.15 Signs. No billboards or advertising signs of any character shall be erected or permitted within the Common Areas or on any Lot or Dwelling Unit. An Owner may erect a name sign and/or entry gate and sign subject to Architectural Review.

Notwithstanding any other provision of this Section, Declarant or its agents shall have the right to place signs on the Common Areas or on Lots owned by Declarant for the purpose of advertising and promoting the sales by Declarant or its agents.

F. ARTICLE 10, SECTION 10.17 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.17 Tanks. Any and all tanks for use in connection with any Dwelling Unit on the Properties must be buried, walled-in, screened or painted to blend with the surrounding land.

G. ARTICLE 10, SECTION 10.19 of the Declaration is hereby deleted in its entirety and replaced with the following:

10.19 Animals. All livestock, poultry and domestic animals shall be maintained so as to avoid creation of a hazard or a nuisance. All animals, including domestic animals, shall be confined within an Owner's property boundaries and shall at no time be allowed to run loose on any other properties or Common Areas and/or easements. While the use of a Lot for ranching purposes is allowed, no activity which would create excessive dust, noise, or obnoxious odors shall be permitted. All livestock and poultry shall be confined within a fenced area and all fences for any livestock or animals shall be constructed of new materials or the equivalent thereof and of such height and strength as to


adequately contain all permitted livestock and animals. All areas maintained for livestock and poultry shall at all times be kept clean, with all manure removed on a regular basis to prevent offensive odors.

Except as modified herein, all provisions of the Declaration remain fully effective and intact.

This Amendment shall be effective when recorded in the Office of the Cochise County Recorder, Cochise County, Arizona.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed this 21 day of Sept., 2001.

HIGH LONESOME RANCH ESTATES
PROPERTY OWNERS ASSOCIATION, an
Arizona non-profit corporation

By: 
Louis B. Christensen
President

By: 
Mary Katherine Keil
Secretary

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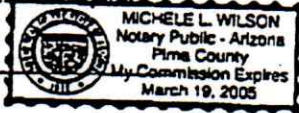
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STATE OF ARIZONA)
) ss.
COUNTY OF Pima)

The foregoing instrument was acknowledged before me this 21 day of Sept, 2001, by Louis B. Christensen, the President of High Lonesome Ranch Estates Property Owners Association, an Arizona non-profit corporation, on behalf of the corporation.

Michele L. Wilson
Notary Public

My Commission Expires:



STATE OF ARIZONA)
) ss.
COUNTY OF Pima)

The foregoing instrument was acknowledged before me this 21 day of Sept, 2001, by Mary Katherine Keil, the Secretary of High Lonesome Ranch Estates Property Owners Association, an Arizona non-profit corporation, on behalf of the corporation.

Michele L. Wilson
Notary Public

My Commission Expires:



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DECLARANT APPROVAL

TITLE SECURITY AGENCY OF
ARIZONA, an Arizona corporation, as
Trustee under Trust No. 709, and not in its
corporate capacity

By: Leslie D. Hogg
Name: Leslie D. Hogg
Title: Trust Officer

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