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**ARTICLES OF INCORPORATION
OF
CAVE CREEK VILLAS HOMEOWNERS ASSOCIATION**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, for the purpose of forming a non-profit corporation under the laws of the State of Arizona, does hereby adopt the following Articles of Incorporation.

1. **Name.** The name of this corporation (hereinafter "Association") is Cave Creek Villas Homeowners Association. ^{OK}_{mg}

2. **Duration.** The period of duration of the Association shall be perpetual.

3. **Principal Place of Business.** The initial known place of business and principal office for the transaction of business of the Association is located at 4500 S. Lakeshore Drive, Ste. 205, Tempe, Arizona 85282.

4. **Statutory Agent.** The name and address of the Association's initial Statutory Agent, a bona fide resident of the State of Arizona, are:

O. Craig Randall
c/o D.R. Horton, Inc.
4500 S. Lakeshore Drive, Ste. 205
Tempe, Arizona 85282

5. **Nonprofit corporation.** This Association is organized as a nonprofit corporation under the laws of the State of Arizona.

6. **Purpose and Powers.** This Association does not contemplate the distribution of gains, profits or dividends to its Members. The primary purposes for which the Association is formed are to promote the health, safety and welfare of all of the Residents and to provide for the management, operation, administration, maintenance, repair, improvement, preservation and architectural control of the Common Elements and all other areas for which the Association has such responsibility within Cave Creek Villas, A Condominium. The Condominium is more particularly described in that certain Declaration of Condominium and of Covenants, Conditions and Restrictions (the "Declaration") Recorded June 9, 2004 at Instrument No. 2004-0653384, as thereafter may be amended from time to time, and as further shown on the Plat of the Condominium Recorded on March 29, 2004, in Book 677 of Maps, page 10, Official Records of Maricopa County, Arizona.

In furtherance of said purposes, this Association shall, *inter alia*, have the powers to:

a. Perform all of the duties and obligations of the Association as set forth in the Declaration;

b. Fix, levy, collect and enforce Assessments, late charges, monetary penalties, fines, fees or other charges as set forth in the Declaration;

c. Pay all expenses and obligations incurred by the Association in the conduct of its business, including without limitation, all licenses, taxes or governmental charges levied or imposed against any property owned by the Association;

d. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association (but Common Elements are owned by Unit Owners as provided in the Declaration and are subject to the specific provisions of the Declaration and the Condominium Act relating to ownership, encumbrance and transfer of Common Elements);

e. Borrow money and, only with the assent (by vote or written consent) of two-thirds (2/3) of the Members other than Declarant, and with the consent of Declarant during the Period of Declarant Control, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property (not including the Common Elements owned by the Unit Owners in their allocated undivided interests) as security for money borrowed or debts incurred;

f. Grant easements over the Common Elements to any public agency, authority or utility company consistent with the provisions of Section 3.5 of the Declaration;

g. Convey the Common Elements or subject the same to a mortgage or other security interest, further subject to the provisions of the Declaration and the Condominium Act.

h. Participate in mergers and consolidations with other nonprofit corporations organized for the same purpose, provided that any merger or consolidation shall have the assent of Members as required by the Condominium Act.

i. Have and exercise any and all powers, rights and privileges which a corporation organized under the Arizona Nonprofit Corporation Act (A.R.S. §10-3101 et seq.) and the Arizona Condominium Act (A.R.S. §33-1201 et seq.) by law may now or hereafter have or exercise.

7. Membership Voting Rights. This Association will have Members. The number and qualifications of Members of the Association, the voting and other rights and privileges of Members, their liability for Assessments and the method of collection thereof shall be as set forth in the Declaration and the Bylaws. Without limiting the foregoing, every person or entity who is a record owner of a fee or undivided fee interest in any Unit, including contract

purchasers with right of possession of a Unit pursuant to A.R.S. §§33-741 et seq., but excluding persons or entities holding an interest merely as security for the performance of an obligation, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

8. **Board of Directors.** The affairs of this Association shall be managed by a Board of Directors. The initial Board of Directors shall consist of three directors, who shall serve until their successors are appointed by Declarant in accordance with the Declaration and Bylaws, and whose names and addresses are as follows:

Mark Allen
4500 S. Lakeshore Drive, Ste. 205
Tempe, Arizona 85282

O. Craig Randall
4500 S. Lakeshore Drive, Ste. 205
Tempe, Arizona 85282

William K. Peck
4500 S. Lakeshore Drive, Ste. 205
Tempe, Arizona 85282

After the Period of Declarant Control expires or terminates: (i) the number of directors serving on the Board shall always consist of at least three directors and shall always be an odd number; (ii) the directors on the Board shall not exceed seven (7) in number; and (iii) all directors shall be elected by the Membership as provided in the Declaration and Bylaws.

9. **Elimination of Director Liability.** As set forth in the Arizona Nonprofit Corporation Act, each Director shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if said Director was acting in good faith and within the scope of his official capacity (which is any decision, act or event undertaken by the Association in furtherance of the purpose or purposes for which it is organized), unless such damage or injury was caused by willful and wanton or grossly negligent conduct of the Director. Without limiting the foregoing, it is the intention of this paragraph to provide for the Directors the full benefits and immunities created by or available under the provisions of A.R.S. §§10-3202(B) and 10-3830(D), as the same may be expanded or modified in the future.

10. **Dissolution.** In the event of dissolution, liquidation or winding up of the Association (other than incident to a merger or consolidation), the Association shall pay or adequately provide for the debts and obligations of the Association and otherwise comply with the Arizona Nonprofit Corporation Act and Arizona law. The Directors or Persons in charge of the liquidation shall dedicate the assets of the Association to an appropriate public agency to be used for purposes similar to those for which this Association was created or if such dedication is refused acceptance, then such assets may be granted, transferred or conveyed to any nonprofit corporation, association, trust or other organization devoted to similar purposes. If such actions

are not feasible, or, in the event of a termination of the Condominium, said Directors in charge of the liquidation, said Directors or other Persons in charge of the liquidation, shall divide the remaining assets among the Members in accordance with their respective allocated interests as set forth in the Declaration, except as may be required by law.

11. Amendments. These Articles may be amended by the vote or written assent of Members representing at least sixty-seven percent (67%) of the total allocated votes of the Membership in the Association; provided, however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision. The Board, without the consent of the Members or First Mortgagees, may amend these Articles to conform to the requirements and guidelines of any governmental or quasi-governmental entity or federal corporation that insures, guarantees, or invests in residential mortgages.


12. Incorporator. The name and address of the incorporator of the Association are:

O. Craig Randall
4500 S. Lakeshore Drive, Ste. 205
Tempe, Arizona 85282

13. VA/FHA Approval. During the Period of Declarant Control, the approval of the VA or FHA, as applicable, shall be required prior to the annexation of additional real property to the Condominium (other than the Future Annexable Property described in the Declaration), mergers, consolidations and/or dissolution, of the Association, conveyancing, mortgaging or dedication of Common Elements, or amendment of these Articles.

14. Definitions. All initially capitalized terms used herein without definition shall have the meanings set forth for such terms in the Declaration and/or the Condominium Act.

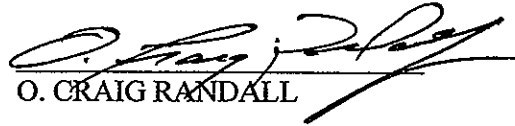
IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this 16 day of June, 2004.


O. CRAIG RANDALL/Incorporator

ACCEPTANCE OF APPOINTMENT AS STATUTORY AGENT
CAVE CREEK VILLAS HOMEOWNERS ASSOCIATION

The undersigned, having been appointed to act as statutory agent for this Arizona non-profit corporation, hereby accepts such appointment and agrees to act in that capacity until his removal or resignation is submitted in accordance with applicable provisions of the Arizona Revised Statutes.

Dated this 16 day of June, 2004.


O. CRAIG RANDALL

**BYLAWS
OF
CAVE CREEK VILLAS HOMEOWNERS ASSOCIATION**

ARTICLE 1 GENERAL PROVISIONS

1.1 Defined Terms. Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Arizona Condominium Act, §33-1201 et seq., and in the Declaration of Condominium and of Covenants, Conditions and Restrictions for Cave Creek Villas, Recorded on June 9, 2004, at Instrument No. 2004-0653384 in the Official Records of the Maricopa County, Arizona Recorder, as amended from time to time. Whenever the context so requires, the use of the singular shall include and be construed as including the plural and the masculine shall include the feminine and neuter.

1.2 Principal Office. The principal office of the Association shall be located at the place designated in the Articles or such other place as may be designated from time to time pursuant to Arizona law. Meetings of Members and the Board of Directors may be held at the principal office of the Association or at such other place as may be designated by the Board of Directors.

1.3 Conflicting Provisions. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

1.4 Corporate Seal. The Association may, but is not obligated to, have a seal in a form approved by the Board of Directors.

1.5 Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

1.6 Books and Records. The Condominium Documents and all other books, records, financial statements, and papers of the Association shall be available for inspection by any Member or First Mortgagee during reasonable business hours at the principal office of the Association where copies may be purchased at reasonable cost. The Association may withhold from inspection those books, records and papers designated in A.R.S. §33-1258.

1.7 Amendment. Except as otherwise provided herein, these Bylaws may only be amended, at a regular or special meeting of the Members, by a vote of Members holding more than fifty percent (50%) of the total allocated votes of the Membership entitled to be cast by the Members present in person or by proxy and, during the Period of Declarant Control, with the consent of Declarant. Section 3.1 of these Bylaws may be amended from time to time unilaterally by vote of the Board of Directors without the consent of the Members to change the number of Directors serving on the Board after the Period of Declarant Control expires or

terminates to either three (3), five (5), or seven (7) directors from the number of director positions then established for the Board. During the Period of Declarant Control: (i) the Declarant, without the consent of any Unit Owner or First Mortgagee, and thereafter the Board, may amend these Bylaws to comply with the Condominium Act or applicable law, to correct any error or inconsistency, or to comply with the requirements or guidelines of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans in the Condominium; and (ii) any amendment of these Bylaws must be approved by the VA or FHA prior to the amendments taking effect, if said agencies have approved the development plan of the Condominium.

1.8 Indemnification. To the extent it has the power to do so under the Arizona Nonprofit Corporation Act, A.R.S. §10-3850, et seq., as it may be amended from time to time, the Association shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in an action by or in the right of the Association or otherwise, by reason of the fact that he is or was a Member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification of any such Person shall be made in accordance with the procedures set forth in the Arizona Nonprofit Corporation Act. Liability of the Directors shall also be limited as provided in the Articles.

1.9 Notices. All notices, demands, statements or other communications required to be given or served under these Bylaws shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, or, in the case of a notice pursuant to Section 5.1 of these Bylaws, registered or certified United States mail, return receipt requested, postage prepaid, (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, (ii) if to the Association, the Board of Directors or the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this section; and (iii) if to Declarant, at the address designated for Declarant in the records of the Arizona Corporation Commission. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Addresses for notice may be changed from time to time by the giving of notice in the manner provided herein for the giving of notices.

ARTICLE 2 MEETINGS OF MEMBERS

2.1 Annual Meeting. The first annual meeting of the Members shall be held within one (1) year of the date on which the Association is incorporated, and an annual meeting of the Members shall be held during each calendar year thereafter. The date, time and place of each annual meeting of the Members shall be determined by the Board of Directors, but shall always be held within the State of Arizona.

2.2 Special Meetings. Special meetings of the Members may be called at any time by the President or a majority of the Board of Directors or by Unit Owners having at least twenty-five percent (25%) of the total allocated votes in the Association. All special meetings of the Association Membership shall be held within the State of Arizona.

2.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, no fewer than ten (10) nor more than fifty (50) days before such meeting to each Member entitled to vote at the meeting addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the items on the agenda, including the general nature of any proposed amendment to the Declaration or the Bylaws, any budget changes or change in Assessments requiring the approval of Members, and any proposal to remove a director or officer.

2.4 Quorum and Adjournment. Except as otherwise provided in the Articles, the Declaration or these Bylaws, including, without limitation, Section 7.3 of the Declaration, the presence in person or by proxy of Members entitled to cast one-fourth (1/4) of the total authorized votes in the Association shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. Except as provided in Section 7.3 of the Declaration, any adjournment for lack of a quorum shall be to a date not more than thirty (30) days from the original meeting date. Meetings may also be adjourned to another place and time for reasons other than lack of quorum if the place and time are announced at the meeting at which adjournment is taken and the reconvened meeting is held within thirty (30) days of the adjourned meeting.

2.5 Multiple Owners. If more than one Person owns a Unit and only one of those multiple Unit Owners of a Unit is present at a meeting of the Association, he is entitled to cast the vote allocated to that Unit on behalf of the other Persons who co-own the Unit. If more than one of the multiple Unit Owners are present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Unit Owners, unless the Declaration otherwise provides. There is deemed to be agreement of a majority in interest of the co-Owners if any one of the attending co-Owners of the Unit casts the vote allocated to that Unit

without any of the co-Owners present promptly making a protest to the person presiding over that annual or special meeting of the Members.

2.6 Proxies. A vote allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one Person, each co-Owner of the Unit may vote or register protest to the casting of votes by another Unit Owner of the Unit through a duly executed proxy. A Unit Owner may not revoke a proxy except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or if it purports to be revocable without notice. The proxy is revoked on presentation of a later dated proxy executed by the same Unit Owner. A proxy terminates one year after its date, unless it specifies a shorter term or unless it states that it is coupled with an interest and is irrevocable. All proxies, including irrevocable proxies coupled with an interest, shall automatically cease upon conveyance by the Member of his Unit or upon receipt of actual notice by the Secretary of the Board of the death or judicially declared incompetence of such Member.

2.7 Record Date. For any meeting of the Members, the Board of Directors may fix in advance a date, not more than fifty (50) days nor less than ten (10) days before the date of such meeting, as a record date for the determination of the Members of record entitled to notice of, and to vote at, such meeting. The Members entitled to vote at any meeting of the Members will be determined as of the applicable record date if one has been fixed as aforesaid, otherwise as of the time the meeting is convened.

2.8 Cumulative Voting. During the Period of Declarant Control, there shall be no cumulative voting in the affairs of the Association, including the election of Directors. After the expiration or termination of the Period of Declarant Control, Members of the Association may vote by cumulative voting on matters brought before the Membership for a vote pursuant to the provisions of A.R.S. §10-3725.

2.9 Organization and Conduct of Meetings. All meetings of Members will be called to order and thereafter chaired by the President of the Association. If the President is unavailable, such other officer of the Association or such other Member as may be appointed by the Board of Directors may call the meeting to order and chair the meeting. The Board may also delegate the role of chairing the meeting to the Managing Agent (as defined in Section 3.10 below). The Association's Secretary will act as secretary of each membership meeting. In his absence, the chairman of the meeting may appoint any person (whether a Member or not) to act as secretary thereat. After calling a meeting to order, the chairman thereof may require the registration of all Members intending to vote in person and the filing of all proxies with the election inspector or inspectors, if one or more has/have been appointed (or, if not, with the secretary of the meeting). After the announced time for such filing of proxies has ended, no further proxies or changes, substitutions or revocations of proxies will be accepted. If Directors are to be elected, a tabulation of the proxies so filed, if any Person entitled to vote in such election so requests, will be announced at the meeting (or adjournment thereof) prior to the closing of the election polls. Absent a showing of bad faith on his part, the chairman of the meeting will, among other things, have absolute authority to fix the period of time allowed for the registration of Members and the filing of proxies, to determine the order of the business to be

conducted at such meeting and to establish reasonable rules for expediting the business of the meeting (including any informal or question-and-answer portion thereof).

2.10 Action Without a Meeting. Any action that, under the provisions of the Arizona Nonprofit Corporation Act, may be taken at a meeting of the Members may be taken without a meeting if authorized by a writing by all of the Persons who would be entitled to vote upon such an action at a meeting and filed with the Secretary of the Association.

2.11 Suspension of Voting Rights. In the event any Unit Owner is in arrears in the payment of any Assessment or other fees or charges that are either secured by an Assessment Lien or by a civil judgment Recorded against a Unit Owner's Unit, for any period commencing fifteen (15) days after the due date in the case of amounts secured by the Assessment Lien or, for any period commencing fifteen (15) days after the Recording of any civil judgment in the case of Association charges that are not so secured, the Unit Owner's right to vote as a Member of the Association shall be automatically suspended. The Unit Owner's right to vote shall remain suspended until all payments secured by the Assessment Lien or any Recorded civil judgment are brought current. In addition, a Unit's Owner's right to vote may be suspended for a period not to exceed sixty (60) days for any single infraction of the Condominium Documents.

2.12 Membership Mandatory. The Membership of the Association shall consist of all record Owners of Units. Membership in the Association shall be mandatory and such Membership and voting rights are appurtenant to, and may not be separated from, ownership of the Unit. No Owner during his ownership of a Unit shall have the right to relinquish or terminate his Membership in the Association.

ARTICLE 3 BOARD OF DIRECTORS

3.1 Number/Composition.

During the Period of Declarant Control:

The affairs of this Association shall be managed by a board comprised of three (3) directors. Declarant shall have the sole right to appoint and remove the members of the Board of Directors. Declarant-appointed Directors need not be Unit Owners. Declarant may voluntarily surrender his right to appoint and remove the members of the Board of Directors before termination of the Period of Declarant Control, and, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective.

After the Period of Declarant Control expires or terminates:

The number of director positions on the Board may be changed from time to time by an amendment to these Bylaws unilaterally adopted by the Board of Directors, with such

amendment to be effective at the next meeting of the Association membership at which an election of directors is to be held. The number of directors may never be less than three (3) nor more than seven (7) and must always be an odd number. All directors shall be elected by the Unit Owners. Each director so elected by the Membership must be a Unit Owner or an officer, director, member, manager, partner or other principal of any Unit Owner that is a legal entity or is otherwise not a natural person. No member of the Association whose right to vote has been suspended pursuant to Section 2.11 above may stand for election to the Board by the Membership and such person shall automatically be deemed disqualified.

3.2 Term of Office. All directors elected by the Unit Owners at a meeting of the Association Membership after the Period of Declarant Control expires or is earlier terminated shall serve staggered terms as follows: If a three person Board: The first director shall serve a three-year term, the next director elected shall serve a two-year term, and the remaining director shall serve a one-year term. If a five person Board: The first two directors shall serve a three-year term, the next two directors shall serve a two-year term, and the remaining director shall serve a one-year term. If a seven person Board: The first three directors shall serve a three-year term, the next two directors shall serve a two-year term, and the two remaining directors shall serve a one-year term. Thereafter, all directors shall be elected to three (3) year terms. All elections of directors shall be for such terms as will preserve the staggering of terms as provided in this Section 3.2. To determine which director shall serve terms of three, two or one year(s), respectively, the director(s) obtaining the most votes at the election at which they were elected shall serve the longest terms until all such terms are filled.

3.3 Removal. Except with respect to the members of the Board of Directors appointed by the Declarant, at any annual or special meeting of the Members any one or more of the members of the Board of Directors may be removed from the Board of Directors, with or without cause, by Members having more than two-thirds (2/3) of the votes entitled to be cast by the Members present in person or by proxy at the meeting, and a successor shall then and there be elected to fill the vacancy thereby created.

3.4 Compensation/Conflicts of Interest. No director shall receive compensation for any service he may render to the Association which is within his duties as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties. A director may receive compensation for services rendered to the Association which are outside his duties as a director if the payment of such compensation is approved by all of the other directors. Any director with a "conflict of interest" as determined by the most strict interpretation of the director "conflict of interest" provisions of the Arizona Nonprofit Corporation Act (A.R.S. §10-3860 et seq.) and the Condominium Act (A.R.S. §33-1242), as amended from time to time, may not vote on any proposal to provide director compensation to himself or any other director and shall recuse himself from participating in any discussions regarding a "conflicting interest" transaction.

3.5 Action Taken Without A Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

3.6 Vacancies. Except with respect to members appointed by the Declarant and vacancies caused by the removal of a member of the Board of Directors by a vote of the Unit Owners as set forth in Section 3.3 of these Bylaws, all vacancies in the Board of Directors shall be filled by a vote of a majority of the remaining directors though less than a quorum or by a sole remaining director. Any person so elected shall serve the unexpired portion of the prior director's term. Any newly created directorship shall be deemed a vacancy. Any person elected to fill such a vacancy shall serve until the next annual meeting of the Members.

3.7 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place within the State of Arizona as shall be determined from time to time by the Board of Directors. All regular meetings of the Board shall be held in compliance with the provisions of A.R.S. §33-1248 of the Condominium Act that allow for any Member or his designated representative to attend and speak at such Board meeting before any deliberative action is taken on a matter; provided, further, that only one person representing a Unit may speak on any issue; and the Board may establish a reasonable time limit for persons speaking at the meeting and may establish a reasonable limit on the number of persons speaking on each side of an issue.

3.8 Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each director, given in writing, by hand delivery, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors. Special meetings of the Board shall be held within the State of Arizona. Members and their designated representatives may attend and speak at special Board meetings in the same manner as provided in Section 3.7 above.

3.9 Quorum/Proxy Voting. A majority of the directors shall constitute a quorum for the transaction of business. Except as provided in the Condominium Act, every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board of Directors. A director may vote in person or by proxy in the manner provided in the Arizona Nonprofit Corporation Act.

3.10 Waiver of Notice/Attendance by Members/Notice to Members. Before any meeting of the Board, any director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice to that director. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place of the meeting unless such attendance is for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Such meetings shall be held at least once during each fiscal year and are open to all Members of the Association as provided in Section 3.7 and Section 3.8 above, provided, however, that a portion of any meeting dealing with certain matters specified in A.R.S. §33-1248 concerning litigation and other confidential matters of the Association may be closed to the Members. After the Period of Declarant Control expires or terminates, notice of the time and place of Board meetings may be

given to Members by newsletter, conspicuous posting on or near the Common Element mail boxes, or by any other reasonable means as determined by the Board. During the Period of Declarant Control, no notice of Board meetings need be given to Unit Owners; provided, however, that information regarding the time and place of the next scheduled Board meeting shall be provided to any Member who requests such information in good faith.

3.11 Powers and Duties.

(A) The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Condominium Act or the Condominium Documents required to be exercised or done by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board of Directors shall have the following powers and duties:

(i) Open bank accounts on behalf of the Association and designate the signatories thereon;

(ii) Make, or contract for the making, of repairs, additions to, improvements to or alterations of the Condominium and repairs to the Common Elements, in accordance with the Condominium Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

(iii) In the exercise of its discretion, enforce by legal means the provisions of the Condominium Documents;

(iv) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, and replacement of the Common Elements and provide services for the Condominium, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

(v) Provide for the operation, care, upkeep and maintenance of all of the Common Elements and services of the Condominium (which may be provided by affiliates of Declarant, subject to the restrictions contained in the Condominium Documents) and comply with all Arizona Department of Health Services pool safety and public health rules;

(vi) Borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance of the Common Elements; provided, however, the consent of Members having at least two-thirds (2/3) of the total allocated votes of each class of Membership in the Association shall be obtained in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of \$50,000;

(vii) Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year and obtain an annual financial audit, review or compilation of the

Association's financial records as determined in the best judgment of the Board to be appropriate for an Association of this size and financial condition; with such audit, review or compilation to be performed by a qualified Person such as a licensed and insured independent accountant pursuant to A.R.S. §33-1243(H) of the Condominium Act;

(viii) Adopt and publish Rules and regulations governing the use of the Common Elements and facilities and the personal conduct of the Members and their Lessees and their respective Invitees thereon and establish penalties for the infraction thereof;

(ix) In accordance with these Bylaws, suspend a Member's voting rights and rights to use the recreational Common Element amenities;

(x) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Condominium Documents;

(xi) Except for members of the Board of Directors appointed by the Declarant, declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(xii) Except for members of the Board of Directors appointed by the Declarant, declare the office of a member of the Board to be vacant in the event such member's right to vote as a Member of the Association has been suspended pursuant to Section 2.11 above for a period not less than sixty (60) consecutive days, or, regardless of whether such member's right to vote has been suspended, in the event such member is delinquent in the payment of any Common Expense Assessment or Special Assessment for a period of not less than sixty (60) consecutive days;

(xiii) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote;

(xiv) Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(xv) Levy Assessments, Collection Costs and other fees and charges of the Association in accordance with the Declaration and these Bylaws and take all necessary action to collect the same as permitted under Arizona law;

(xvi) To the extent required by the Declaration and/or by Arizona law, issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid and any information required pursuant to A.R.S. §33-1260 of the Condominium Act;

(xvii) Procure and maintain adequate property, liability and other insurance as required or permitted by the Declaration;

(xviii) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(xix) Cause a current and updated Association Contact Notice to be Recorded for the Association pursuant to A.R.S. §33-1256(J) unless that duty has been delegated to a Managing Agent pursuant to Section 3.11(B) below;

(xx) Prepare and file annual tax returns with the federal government and the State of Arizona and to make such elections as may be necessary to reduce or eliminate the tax liability of the Association, including an election to be taxed under Section 528 of the Internal Revenue Code or any successor statute conferring income tax benefits on homeowners associations; and

(xxi) Institute, defend, and intervene in any litigation or administrative proceedings in its own name or on behalf of the Unit Owners, subject to the provisions and restrictions of Articles 10 and 11 of the Declaration.

(B) The Board of Directors may employ for the Condominium a "Managing Agent" at a compensation established by the Board of Directors. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including, but not limited to, all of the duties listed in the Condominium Act and the Condominium Documents, except for such duties and services that under the Condominium Act or the Condominium Documents may not be delegated to the Managing Agent. The Managing Agent shall cause the Association to be in compliance with the Recorded Association Contact Notice requirements of A.R.S. §33-1256(J) of the Condominium Act. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors or the officers of the Association by the Condominium Act and the Condominium Documents other than the following powers:

(i) To adopt the annual budget, any amendment thereto, or to assess any Common Expenses:

(ii) To adopt, repeal or amend Rules;

(iii) To designate signatories on Association bank accounts;

(iv) To borrow money on behalf of the Association;

(v) To acquire and mortgage Units or other real property; or

(vi) To allocate Limited Common Elements.

(C) Any contract with the Managing Agent must provide that it may be terminated with or without cause and without payment of any penalty or termination fee on not more than thirty (30) days' written notice. The term of any such contract may not exceed three (3) years. Any contract or lease purporting to bind the Association to a contract or lease with Declarant

and/or affiliates shall be terminable by the Association at will after the Period of Declarant Control expires or is earlier terminated pursuant to the provisions of A.R.S. §33-1245(A)(2).

ARTICLE 4 OFFICERS AND THEIR DUTIES

4.1 Enumeration of Officers. The principal officers of the Association shall be the president, vice-president, the secretary, and the treasurer. The Board of Directors may create such other offices as the affairs of the Association may require. During the Period of Declarant Control, all officers of the Association shall be appointed and may be removed at will by the Declarant. After the termination of the Period of Declarant Control, all officers shall be elected by the Board of Directors. The President must be a member of the Board of Directors. Any other officers may, but need not, be members of the Board of Directors.

4.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

4.3 Term. After the termination of the Period of Declarant Control expires or terminates, the officers of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year, unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4 Resignation and Removal. Except for officers appointed by the Declarant, any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.5 Vacancies. Except for officers appointed by the Declarant, a vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

4.6 Multiple Offices. Any two or more offices may be held by the same person except that the offices of President and Secretary shall be held by different persons after the Period of Declarant Control expires or is earlier terminated.

4.7 Powers and Duties. The powers and duties of the officers shall be as follows:

(A) President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Board of Directors or the Members; shall see that orders and resolutions of the Board of Directors are carried into effect; sign checks and promissory notes of the Association jointly with the Treasurer; cause the Treasurer to deposit monies in bank accounts of the Association; and shall generally manage the business of the Association.

(B) Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

(C) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

(D) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign checks and promissory notes of the Association jointly with the President; shall keep proper books of account; shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at the regular annual meeting, and deliver a copy of each to the Members; and, in general, perform all the duties incident to the office of Treasurer.

4.8 Compensation. No officer shall receive compensation for any service he may render to the Association which is within his duties as an officer. However, any officer may be reimbursed for his actual expenses incurred in the performance of his duties. An officer may receive compensation for services rendered to the Association which are outside his duties as an officer if the payment of such compensation is approved by a unanimous vote of the Board. Any director with a "conflict of interest" as determined by the most strict interpretation of the "director conflict of interest provisions" of the Arizona Nonprofit Corporation Act and the Condominium Act, as amended from time to time, may not vote on any proposal to provide officer compensation and shall recuse himself from participating in any such discussions.

4.9 Officers Authorized to Execute Amendments to Declaration. Any amendments to the Declaration, including the Plat, which are required by the Condominium Act or the Declaration to be executed by the Association, may be executed by either the President or Vice-President of the Association.

ARTICLE 5 MONETARY AND OTHER PENALTIES

5.1 Power of Board of Directors to Impose Monetary Penalties. In accordance with the procedures set forth in this Article 5, the Board of Directors shall have the right to impose reasonable monetary penalties or fines against any Unit Owner who violates any provisions of the Condominium Documents relating to matters other than failure to timely pay Assessments. The Association may impose late charges, charge delinquent interest and undertake the remedies specified in the Declaration for failure to timely pay Assessments without regard to any of the mandatory hearing provisions of this Article 5. Any monetary penalty or fine imposed by the Board of Directors in accordance with this Article 5 shall be

imposed only after the procedures set forth in this Article 5 have been substantially complied with.

5.2 Notice of Violation. If the Board of Directors becomes aware of a violation of the Condominium Documents and desires to impose a monetary penalty against the Unit Owner who violated the Condominium Documents, the Board of Directors shall serve the Unit Owner with written notice of the violation. The notice shall contain the following:

- (i) The nature of the alleged violation;
- (ii) The time and place of the hearing to be held by the Board of Directors on the violation, which time shall not be less than ten (10) days from the giving of the notice;
- (iii) An invitation to the Unit Owner to attend the hearing and produce statements, evidence and witnesses on his behalf and advising the Unit Owner that he may be represented at the hearing by an attorney;
- (iv) The proposed monetary penalty to be imposed by the Board of Directors.

5.3 Hearing. The hearing on any alleged violation of the Condominium Documents shall be held at the time and at the place designated in the notice served pursuant to Section 1.9 and Section 5.2 of these Bylaws. Proof of service of the notice as required by Section 5.2 of these Bylaws shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who served the notice. The notice requirement shall also be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the monetary or other penalty, if any, imposed by the Board of Directors. Any fine which is imposed by the Board following a hearing pursuant to this Section 5.3 shall be paid by the offending Unit Owner within ten (10) days after a notice of the action of the Board is served upon the Unit Owner as provided in Section 1.9 of these Bylaws. After such ten (10) days, if such monetary penalty or fine is unpaid by the Owner, the Board, among other remedies, may seek to obtain and Record a civil judgment against the Unit of the offending Unit Owner in the amount of such monetary penalty or fine. Any fines imposed pursuant to this Article V shall be the joint and several liability of all of the joint Owners of the Unit, including co-tenants and Persons holding title in community property.

5.4 Suspension of Rights to Use Recreational Common Elements. In addition to the right of the Board to suspend a Unit Owner's voting rights in accordance with Section 2.11 of these Bylaws and the Declaration, if any Unit Owner is in arrears in the payment of any Assessment, late charges, monetary penalties or other fees or charges due under the terms of the Condominium Documents, including Collection Costs, for a period of fifteen (15) days, the Unit Owner's right to use, or to delegate the use of, the recreational Common Element amenities to his family members and Lessees or their respective Invitees, shall be automatically suspended and shall remain suspended until all payments are brought current and for a period not to exceed sixty (60) days for any single infraction of the Condominium Documents. Such suspension shall

also apply to any Resident or any other Person occupying the Unit Owner's Unit irrespective of whether the occupancy is temporary or long term.

5.5 No Limitation on Other Rights and Remedies. Nothing contained in this Article V of these Bylaws shall be construed as limiting the rights and remedies of the Board or any other Owner to enforce the Condominium Documents provided therein or available at law or in equity, it being understood that this Article V relates to the imposition of certain fines and other penalties and is not intended as a recitation of the entire scope of the rights and remedies of the Board or any Member of the Association.

ARTICLE 6 ARCHITECTURAL CONTROL AND ARCHITECTURAL COMMITTEE

6.1 Duties Pursuant to Section 4.3 of Declaration. The Board shall meet from time to time as necessary to perform its duties pursuant to Section 4.3 of the Declaration. The vote or written consent of a majority of the members of the Board, at a meeting or otherwise, shall constitute the act of the Board unless the unanimous decision of the Board is required by any other provision of the Declaration. The Board shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. The Board may, at the expense of the Association, employ one or more consultants to assist the Board with its duties pursuant to said Section 4.3.

6.2 Architectural Rules. The Board may adopt, amend, and repeal, by unanimous vote or written consent, architectural rules and regulations as part of the Association Rules which set standards and procedures for Board review and the guidelines for architectural design, placement of Improvements, color schemes, finishes and materials, and similar features which are required or permitted to be used within the Condominium. Without limitation, if the Board elects to delegate its duties under Section 4.3 to an Architectural Committee, the Architectural Rules shall allow for an appeal of any decisions of the Architectural Committee to the Board. The vote or written consent of a majority of the members of the Board, at a meeting or otherwise, shall constitute the act of the Board unless the unanimous decision of the Board is required by any other provision of the Declaration.

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

6.4 Liability. So long as a member of the Board has acted in good faith on the basis of information actually possessed, neither the Board nor such member thereof, shall be liable to the Association, any Owner, or to any other party, for any damage, loss, or prejudice suffered or claimed on account of: *(i)* the approval or disapproval or any plans, drawings, or specifications, whether or not defective; *(ii)* the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; *(iii)* the development of any portion of

the Condominium; or (iv) the execution and filing of any estoppel certificate, whether or not the facts in the estoppel certificate are correct.

6.5 Approval Requirements. In the event the Board fails to approve or disapprove any application for approval within forty-five (45) days after its receipt of the application, together with complete and legible copies of the supporting plans and specifications, the application shall be deemed disapproved. In the case of a denial of an application, the Board shall make a good faith effort to detail in writing any objectionable materials in an Owner's application for a Modification pursuant to Section 4.3 of the Declaration; provided, further, however, that at no time may any Owner, Resident, or their agents or contractors, proceed with a Modification without the express prior written approval of the Board, and then only in exact conformity with the Modification so approved.

6.6 Architectural Committee. Pursuant to Section 4.3(I) of the Declaration, the Board may appoint an Architectural Committee to perform the duties of the Board under Section 4.3 and any other provisions of the Declaration so delegated and, if so appointed, all references to the "Board" under this Article 6 shall also mean and refer to the Architectural Committee as the context so requires to the extent of any duties delegated by the Board to the Architectural Committee.

(A) Number/Composition. The Architectural Committee shall consist of three (3) persons. None shall be required to be an architect or to meet any other particular qualifications. Such persons need not be, but may be, a member of the Board or an officer of the Association. The Board may increase the number of persons on the Architectural Committee, but the number of persons must always be an odd number.

(B) Terms of Office. The term of office for members of the Architectural Committee shall be for a period of one (1) year, or until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Any members who have resigned, been removed, or whose terms have expired may be reappointed.

(C) Appointment and Removal. Except as may be otherwise provided in the Declaration, the right to appoint and remove all members of the Architectural Committee at any time, shall be and is hereby vested solely in the Board; provided, however, that no member may be removed from the Architectural Committee by the Board except by the vote or written consent of more than fifty percent (50%) of the entire Board.

(D) Resignations. Any member of the Architectural Committee may resign at any time upon written notice to the Board.

(E) Vacancies. Vacancies on the Architectural Committee however caused, shall be filled by the Board. A vacancy or vacancies on the Architectural Committee shall be deemed to exist in case of the death, resignation, or removal of any member thereof.

(F) **Duties.** Subject to the further provisions of Section 4.3 of the Declaration, it shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms of the Declaration, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by the Declaration.

(G) **Meetings and Compensation.** The Architectural Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members of the Architectural Committee, at a meeting or otherwise, shall constitute the act of the Architectural Committee unless the unanimous decision of the Architectural Committee is required by any other provision of the Declaration. The Architectural Committee shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services. However, the Architectural Committee may, at the expense of the Association, employ one or more consultants to assist the Architectural Committee.

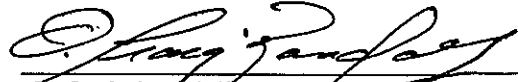
ARTICLE 7 OTHER COMMITTEES

7.1 Board Committees. The Board may create one or more committees (other than the Architectural Committee described in Section 4.3 of the Declaration and Article 6 above) and appoint members of the Board to serve on them. Each committee shall have one or more members and each member of a committee shall serve at the pleasure of the entire Board. The creation of a committee and appointment of members of the Board to the committee must be approved by the greater of: (a) a majority of all the directors in office when the action is taken; or (b) the number of directors required by Section 3.9 above to take action. The provisions of these Bylaws governing meetings, action without meetings and notice, waiver of notice, quorum and voting requirements of the Board shall also apply to committees of the Board and their members. Each committee of the Board may exercise the authority of the Board to the extent specified by the Board, except that a committee shall not take any of the following actions: (a) authorize distributions; (b) fill vacancies on the Board or any of its committees; (c) adopt, amend or repeal these Bylaws; and (d) fix the compensation of directors for serving on the Board or any committee or fix the compensation of any officer serving the Board. The Board may designate one or more directors as alternate members of any committee who may replace any absent member at any meeting of the committee.

7.2 Advisory Committees. The Board may appoint committees consisting of members and/or non-members of the Board to advise the Board and to perform such tasks as the Board deems necessary or desirable. Such advisory committee shall not have the power to exercise any authority of the Board. Except for any Architectural Committee as may be formed pursuant to Section 4.3 of the Declaration and Article 6 of these Bylaws, any Board committee that includes persons in its membership that are not also members of the Board shall automatically be deemed advisory in nature.

CERTIFICATION

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association on the 9th day of July, 2004.


O. Craig Randall, Secretary