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**SECOND AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DESERT SKY CLUB**

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**SECOND AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTONS FOR
DESERT SKY CLUB**

WHEREAS, that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Desert Sky Club Homeowner's Association recorded on January 19, 2005 at Sequence No. 20050120964 in the official records of Pima County, Arizona ("Original Declaration") provides, in Article XIII, Section 3, that it may be amended by not less than seventy-five percent (75%) of the Lot Owners;

NOW THEREFORE, pursuant to A.R.S. §33-1817 and the Original Declaration, at least seventy-five percent (75%) of the Lot Owners, by their written consent, have approved the following Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Desert Sky Club which shall replace and supersede the Original Declaration in its entirety, and shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and inure to the benefit of each Owner.

**ARTICLE 1
DEFINITIONS**

Section 1.1 "Assessment" shall mean the annual and special assessments as set forth in Article 3.

Section 1.2 "Association" shall mean and refer to Desert Sky Club Homeowners' Association, a nonprofit corporation, its successors and assigns.

Section 1.3 "Board" shall mean and refer to the board of directors of the Association.

Section 1.4 "Common Area" shall mean all real property, and the improvements thereon, owned by the Association for the common use and enjoyment of the Owners.

Section 1.5 "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Desert Sky Club.

Section 1.6 "Lot" shall mean and refer to any numbered plot of land shown on the recorded subdivision map of the Property.

Section 1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.8 "Property" shall mean and refer to that certain real property legally described as Lots 1 through 26 and Common Areas A and B of Desert Sky Club, according to the plat recorded in Book 39 of Maps at page 20 in the official records of Pima County, Arizona.

Section 1.9 "Rules" shall mean and refer to the rules and regulations adopted by the Board pursuant to Article 2, Section 2.3.

ARTICLE 2 ASSOCIATION

Section 2.1 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to ownership of the Lot and shall not be transferred, pledged, or alienated in any way except upon the transfer of ownership of the Lot, and then only to the transferee. Any attempt to make a prohibited transfer is void. Any transfer of ownership of a Lot automatically operates to transfer membership to the new Owner.

Section 2.2 Voting Rights. Each Owner is entitled to one (1) vote per Lot and fractional votes shall not be allowed. In the event that a Lot is owned by more than one (1) individual and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he/she was acting with the authority and consent of all other Owners of the same Lot. In the event that more than one (1) vote is cast by an Owner for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

Section 2.3 Rules. The Board may adopt, amend, and repeal rules and regulations ("Rules") governing the Common Area and the conduct of Owners and their guests thereon, and, consistent with this Declaration, defining, clarifying, and/or providing procedures related to any provision of this Declaration. The Rules are deemed incorporated herein by this reference and shall have the same force and effect as if set forth herein.

ARTICLE 3 ASSESSMENTS

Section 3.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner, for each Lot owned within the Property, by acceptance of a deed therefore, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association: (1) annual assessments; and (2) special assessments. Assessments, together with late fees, costs and reasonable attorney's fees incurred in collecting same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

Section 3.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the expenses of operation and management of the Association and the discharge of the Association's duties under this Declaration.

Section 3.3 Annual Assessment. The amount of the annual assessment shall be determined by the Board and based upon the total amount of funds which the Board believes will be required during the ensuing fiscal year to pay all of the Association expenses, including such amounts in order to provide for adequate reserves for contingencies and replacements. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and provide written notice thereof to every Owner subject thereto. The Association shall not impose an annual assessment that is more than five percent (5%) greater than the immediately preceding fiscal year's annual assessment without the approval of at least two-thirds (2/3) of Owners voting on the matter.

Section 3.4 Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or any unanticipated expense provided that any such special assessment shall have the assent of two-thirds (2/3) of Owners voting on the matter.

Section 3.5 Uniform Rate of Assessment; Collection of Assessments. Both annual and special assessments must be fixed at a uniform rate for all Lots. The Board may determine that the annual assessment is payable in installments on a quarterly or semi-annual basis.

Section 3.6 Capital Reserve Fee. Each Owner of a Lot, upon becoming the Owner thereof, shall pay to the Association a sum equal to one-half (1/2) of the then-current annual assessment applicable to such Lot; provided, however, that an Owner shall not be required to pay such fee if any of the following apply: (i) the Lot was conveyed to such Owner by an individual related to him by blood, marriage or adoption or with whom such Owner shared a common household at the time of the conveyance; (ii) the conveyance was solely for estate planning or other similar purposes with no or nominal consideration; or (iii) the conveyance was pursuant to a trustee's sale or foreclosure of a first deed of trust. All funds received by the Association from capital reserve fees shall be deposited in the Association's reserve account. Nonpayment of the capital reserve fee shall be treated in the same manner as nonpayment of an Assessment.

Section 3.7 Effect of Nonpayment of Assessments. Any Assessment, or installment thereof, which is not paid within thirty (30) days after the due date shall become delinquent and be subject to a late fee of \$15 or 10% of the amount of the unpaid Assessment (whichever is greater). No late fee may be imposed unless the Owner was provided with written notice of the date that the Assessment will be considered overdue or written notice that the Assessment is overdue. The Association may bring an action at law against the Owner personally obligated to

pay the same, or foreclose the lien against the Property in conformance with A.R.S. §33-1807. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his/her Lot.

Section 3.8 Subordination of the Lien to Mortgages. The Association's lien for Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien therefor.

ARTICLE 4 ARCHITECTURAL CONTROL

Section 4.1 Architectural Compliance Committee. The Board may designate an Architectural Compliance Committee ("ACC") comprised of at least three (3) Owners, one of whom shall be a director serving as its chairperson. In the event a conflict of interest arises wherein a member of the ACC wishes to alter, remodel, and/or add to his/her existing structure, a substitute member shall be appointed by the Board to the ACC to, in conjunction with the remaining two (2) members of the ACC, approve or disapprove said plans and specifications. If no ACC is established, the Board shall exercise the architectural control granted under this Article 4.

Section 4.2 Architectural Compliance Guidelines. The ACC shall have the right, exercisable in its sole discretion, to promulgate and amend written rules and regulations concerning construction, building specifications, and exterior improvements on Lots subject to Board approval.

Section 4.3 Approval Required. No building, wall, fence or other structure, nor any improvement, alteration, or other work which in any way alters the exterior appearance of a Lot or the improvements thereon, including, without limitation, excavation, grading, installation or removal of landscaping, or change in exterior paint color, shall be commenced, erected, altered, placed or done without the prior written approval of the ACC.

Section 4.4 Submission Requirements. The Owner shall submit to the ACC two (2) complete sets of plans for the proposed improvements, specifications (including exterior color schemes) and plot plans which shall include the location of structures. Approval of the plans shall be evidenced by the written endorsement of the ACC made thereon and a copy shall be provided to the Owner. One (1) set of plans shall be retained by the ACC. No changes or deviations in or from the approved plans, insofar as the exterior of the proposed improvements are concerned, shall be made without the prior written approval of the ACC. After construction is completed, no changes shall be made, including no change of exterior color, without the prior written approval of the ACC.

Section 4.5 Time for Review. The ACC shall approve or disapprove plans within thirty (30) days from receipt thereof; provided, however, that if the ACC retains a consultant (architect, engineer or otherwise) to review the plans prior to the expiration of such time, it shall have a total of sixty (60) days to make its determination to approve or disapprove such plans. Should the ACC fail to approve or disapprove plans within the time frame set forth herein, such plans shall be deemed approved.

Section 4.6 Review Fee. The Association may charge an applicant for architectural approval a fee as part of the submission of plans to reimburse the Association for any consulting fees (architectural, engineering or otherwise) incurred in reviewing the submission.

Section 4.7 Discretion of ACC. The ACC shall have the right to disapprove any plans or specifications submitted to it which, in its sole discretion, are not in harmony with the general surroundings or this Declaration or are incomplete. The decision of the ACC shall be final.

Section 4.8 No Liability. Neither the Association nor the ACC shall be responsible in any way for any defects in any plans or specifications submitted in accordance with the foregoing, or for any structural defects in any buildings or structures erected according to such plans or specifications.

ARTICLE 5 USE RESTRICTIONS

Section 5.1 Residential Purposes. All Lots shall be used for private residential purposes; provided, however, that a home occupation or trade shall be allowed under the following conditions: (i) it is contained wholly within a residence; (ii) it does not involve frequent or annoying traffic (cars or pedestrian) on the Property; and (iii) it does not create noise, inconvenience, or disturbance to other residents of the Property. Estate sales may be conducted on a Lot subject to any Rules established by the Board.

Section 5.2 Permitted Structures. All buildings or structures erected upon the Property shall be new construction and no buildings or structures shall be moved from any other location onto the Property. No vehicle, trailer, camper, basement, tent, shack, garage, carport or outbuilding or any structure of a temporary character shall be used on any portion of the Property at any time as a residence whether temporarily or permanently.

Section 5.3 Animals. No animals, including but not limited to horses, livestock, poultry, or bees, shall be kept or maintained on any Lot; provided, however, that a reasonable number of dogs, cats, and other ordinary household pets may be kept on a Lot so long as such pets are not kept for commercial purposes, do not make objectionable noises and are not kept in such number or manner as to otherwise cause a nuisance or inconvenience to any residents within the Property and are kept in compliance with all existing applicable local ordinances. The Board shall have the right to determine, in its sole discretion, whether certain household pets, their number,

or the manner in which they are kept constitute a nuisance on any Lot and may require the owner thereof to remove such pets from the Lot.

Section 5.4 Signs. No signs shall be erected, placed or permitted to remain on any Lot except: (i) a commercially produced "For Lease" or "For Sale" sign of industry standard size and a sign rider of industry standard size; (ii) political signs as set forth in A.R.S. §33-1808; (iii) signs required by legal proceedings; and (iv) such other signs as may be approved by the Board.

Section 5.5 Equipment; Storage. Garbage cans, service yards, wood piles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view from neighboring Lots and streets. Clotheslines shall be of a retractable type concealed from view of neighboring Lots and streets.

Section 5.6 Trash. All rubbish, trash, or garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and sanitary condition and shall not be kept in view of any Lot or street except for a reasonable amount of time (not more than twenty-four (24) hours) for the purpose of collection. The Association shall have the authority to contract with a single trash collection vendor for all of the Lots, the cost of which shall be made part of the annual assessment levied against each Lot, or require Owners to contract with a single trash collection vendor as set forth in the Rules.

Section 5.7 Nuisances. No rubbish or debris of any kind shall be allowed to accumulate or be placed on any Lot so as to render the Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to other residents within the Property, and no noise, condition, or activity shall exist on any Lot which is or may be unsightly, offensive or detrimental to other residents within the Property. The Board shall have the right to determine, in its sole discretion, whether any act or condition on a Lot constitutes a nuisance, including an Owner's failure to maintain his/her Lot and the improvements thereon in a neat and attractive condition. Any violation of a federal, state or municipal law shall be deemed a nuisance.

Section 5.8 Vehicles and Parking.

A. Parking on Lots. No vehicle may be parked on a Lot other than in an enclosed garage without the prior written approval of the Board; provided, however, that guest vehicles may be parked on a driveway on a temporary basis (not more than seven (7) consecutive days) or as otherwise approved by the Board in writing.

B. Street Parking. Overnight street parking is not permitted; provided, however, that guest vehicles may park on the street overnight when there is insufficient space on a resident's driveway.

C. Commercial and Recreational Vehicles. No commercial vehicle may be parked on a Lot except for such vehicles as are exempt under A.R.S. §33-1809, or are parked on

a temporary basis in connection with work being performed on a Lot. No recreational vehicles (including, but not limited to, motorhomes, campers, trailers, and boats) shall be parked on any portion of the Property except within the confines of a garage or on a temporary basis with the prior written approval of the Board.

D. Repairs; Inoperable Vehicles. There shall be no automobile repairs (other than minor repairs (changing oil or tires)) on any portion of the Property except in an enclosed garage. No dead, junk, wrecked, inoperable or abandoned vehicle may be parked on any portion of the Property other than in a fully enclosed garage on a Lot.

E. Garages. Garage doors shall be kept closed except for the purposes of ingress and egress or when the garage is otherwise in use.

F. Rules. The Rules may provide additional vehicle and parking regulations for the Common Area. The Association shall have the right to tow any vehicle from the Common Area parked in violation of this Declaration or the Rules.

Section 5.9 Antennas; Satellite Dishes. No exterior antenna or other device for the transmission or reception of television, radio or other signals (except television antennae and fixed wireless devices that are one (1) meter or less in diameter) shall be erected or maintained on any Lot without the Association's prior written approval. Television antennae and fixed wireless devices that are one (1) meter or less in diameter should be installed so as not to be visible from neighboring Lots or Common Area so long as an acceptable signal can be obtained, and should be painted to match the improvements on the Lot if such painting does not void the device's warranty.

Section 5.10 Leasing.

A. No portion of a Lot may be leased other than the entire Lot, and then only to a single family (any number of people related by blood, marriage or adoption, or no more than four (4) unrelated persons customarily living together as a single household).

B. No Lot may be leased for an initial term of less than ninety (90) days.

C. At least ten (10) days prior to any lease term of a Lot, the Owner thereof shall provide the Association with the following information: (i) the commencement and end dates of the lease term; (ii) the names and contact information of any adults occupying the Lot during the lease term; (iii) a description and the license plate numbers of the tenants' vehicles; and (iv) the address and telephone number at which the Owner (or Owner's agent) can be contacted by the Association during the lease term.

D. Any agreement for the lease of a Lot shall provide that the terms of such lease shall be subject in all respects to the provisions of the Rules and the Declaration and that any failure by the tenant to comply with the terms thereof shall be a default under the lease. Owners

who lease their Lots must provide tenants with copies of the Rules and Declaration and shall be held liable for any violation of same by his/her tenants or other persons residing in the Lot, their guests or invitees. In the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct the violation.

Section 5.11 Exterior Lighting. All exterior lights shall be located and maintained so as not to be directed toward or interfere with surrounding Lots. Each Owner is responsible for ensuring that the two (2) front courtyard pillar light fixtures on his/her Lot are in working order and are illuminated from dusk to dawn.

Section 5.12 Play Equipment. Sports and play equipment (including, but not limited to, basketball hoops, volleyball nets, jungle gyms, whether permanent or temporary) shall not be installed or placed on a Lot without the prior written approval of the ACC.

ARTICLE 6 MAINTENANCE; COMMON WALLS

Section 6.1 Common Area Maintenance. The Association, or its duly delegated representative, shall maintain and otherwise manage all of the Common Area and the improvements thereon, including, but not limited to roadways and main sewer lines. The Association shall be responsible for the maintenance and repair of the perimeter wall of the Property and no change or modification to such wall may be made without the prior written approval of the ACC.

Section 6.2 Maintenance of Lots. The maintenance, repair, upkeep of a Lot and all the improvements and landscaping thereon shall be the sole responsibility of each Owner. Each Owner shall be responsible for all exterior maintenance or repairs for buildings, fences, walls (other than the perimeter wall of the Property), trees, shrubs, grass, walks and other exterior items on the Owner's Lot. If a roof must be repaired or replaced, it shall conform to the same architectural design and style as the original roof. Each Owner shall also be responsible for installation and maintenance of utility service lines from the main utility lines to the house on the Owner's Lot.

Section 6.3 Owner's Failure to Maintain. In the event that any portion of a Lot (or the improvements thereon) is not maintained in a well-kept condition, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and give notice thereof to the Owner that unless corrective action is taken within a reasonable time (not less than thirty (30) days), the Board may cause such action to be taken at said Owner's expense. If, at the expiration of such period of time, the requisite corrective action has not been undertaken by the Owner, the Board shall be authorized and empowered to cause such action to be taken, without being deemed guilty of any trespass, and the costs thereof shall be collectible in the same manner as an Assessment.

Section 6.4 Common Walls. The rights and duties of Owners and the Association ("Co-owners") with respect to any fence or wall placed upon the dividing line between two (2) Lots or a Lot and the Common Area ("Common Wall") are as follows:

A. Each Co-owner shall assume the burden and be entitled to the benefits recited in this Section and, to the extent it is consistent with this Section, the general rules of law regarding party walls shall be applied.

B. Each Co-owner shall have reciprocal easements for support and an equal right to use such Common Wall provided that the use by one Co-owner does not interfere with the use and enjoyment of the Common Wall by the other Co-owner.

C. Unless other provisions of this Section are applicable, the costs of reasonable repair and maintenance of a Common Wall shall be shared equally by the Co-owners sharing the Common Wall. In the event any Common Wall is damaged or destroyed through the act of one adjoining Co-owner, or any of the Co-owners' family, guests, tenants, (whether or not such act is negligent or otherwise culpable) so as to deprive the other Co-owner of the full use and enjoyment of such Common Wall, then the first of such Co-owners shall rebuild and repair the Common Wall to its former condition without cost to the other Co-owner.

D. In the event any Common Wall is damaged or destroyed by some cause other than the act of one of the adjoining Co-owners, his/her agents, guests or family, including ordinary wear and tear and deterioration from lapse of time, then in such event, both Co-owners shall promptly rebuild or repair the Common Wall to its former condition the cost of which shall be equally shared by the Co-owners.

E. Any Co-owner proposing to modify, make additions to or rebuild his/her Lot or any improvement thereon in any manner which requires the extension or other alteration of any Common Wall shall first obtain the written consent of the ACC which consent shall not be granted unless the ACC has received the written consent of the Co-owner sharing such Common Wall.

F. In the event of any dispute concerning a Common Wall, or under the provisions of this Article, the parties shall, at their mutual expense, either: (i) enter into mediation; or (ii) submit the matter to binding arbitration as follows: each party shall choose one (1) arbitrator; the two (2) arbitrators shall choose a third arbitrator; and the matter shall be decided by a majority of the arbitrators.

ARTICLE 7 EASEMENTS

Section 7.1 Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area, and all portions of the improvements on the Common Area, for ingress and egress to, and installation, replacement, location, repair and maintenance

of, all utilities, including but not limited to, water, sewer, gas, telephone, electricity and television reception cable systems. By virtue of this easement, it shall be expressly permissible for the providing utility company or the Association to erect, locate and maintain electrical wires, telephone wires, circuits, conduits, gas lines, water lines, and telephone reception cables on, above, across and under the roofs and exterior walls of the buildings on the Property.

Section 7.2 Easement for Encroachments. Each Lot and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs as designed or constructed by the original builders, and an easement for ingress and egress to allow the maintenance and repair of all such encroaching structures.

Section 7.3 Blanket Easement. Each Lot shall be further subject to a blanket easement over and across all portions of such Lot in favor of the Association and/or its duly delegated representative to enable it to exercise its maintenance obligations and rights as set forth in Article 6, Section 6.1.

Section 7.4 Easement of Enjoyment to Common Area. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

A. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two thirds (2/3) of the Owners has been recorded.

B. The provisions of this Declaration and the Rules.

C. The right of the Association to suspend the right of such Owner to use recreational facilities in the Common Area during such time that the Owner is delinquent in the payment of Assessments, or for a period not to exceed sixty (60) days for any infraction of this Declaration or Rules after providing notice of the breach to the Owner and an opportunity to be heard by the Board.

Any Owner may delegate his/her right of enjoyment to the Common Area to the members of the Owner's family, tenants, or contract purchasers who reside on his/her Lot.

ARTICLE 8 INSURANCE

Section 8.1 Insurance by Association. The Association shall purchase and maintain certain insurance, including, but not limited to, the following:

A. Multi-Peril. A multi-peril type policy covering the Common Area and the improvements thereon, providing, at a minimum, fire and extended coverage and all other coverage in the kind and amounts customarily acquired or required for projects similar in constructions, location and use.

B. Liability. A comprehensive policy of public liability insurance covering the Common Area in the kind and amounts customarily acquired or required for projects similar in construction, location and use, but in no event in an amount less than \$1,000,000.00 per occurrence for personal injury, death or property damage.

C. Directors and Officers. Liability insurance covering all directors and officers of the Association in such limits as the Board may determine from time to time.

D. Additional Association Insurance. The Association may purchase such other insurance as it may deem necessary, including without limitation, workmen's compensation and fidelity coverage against dishonest acts by directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association.

Section 8.2 No Liability. Neither the Association nor any Board member shall be liable to any Owner or other person if any risks or hazards are not covered by the Association's insurance policies or if the amount of any Association insurance policy is not adequate.

Section 8.3 Insurance by Owner. It shall be the responsibility of each Owner to provide as the Owner sees fit, at his/her own expense, insurance for his/her Lot against loss or damage by fire or other hazards, liability, theft and other insurance covering personal property damage and loss.

Section 8.4 Damage or Destruction of Lots. In the event of damage or destruction to any Lot or the improvements thereon due to fire or other adversity or disaster, the Owner thereof shall promptly repair and restore the Lot to substantially the same condition as existed prior to such damage or destruction as soon as reasonably practicable.

Section 8.5 Damage or Destruction of Common Area.

A. By Casualty. In the event of damage or destruction of any Common Area due to fire or other adversity or disaster, the Association shall promptly repair, replace and rehabilitate all structures and things damaged or destroyed to a condition substantially similar to their prior condition to the extent practicable, and any insurance proceeds payable from policies procured by the Association on account of any loss or damage to Common Area shall be used to defray the cost of such loss or damage. Should insurance proceeds be insufficient or fail to cover the loss, a special assessment may be levied by the Board, without the approval of Owners, against all Lots to restore or rebuild said improvements.

B. By Owner. In the event of damage or destruction of any Common Area due to the negligence of willful conduct of an Owner, his/her lessees, guests or invitees, the Association shall promptly repair, replace and rehabilitate all structures and things damaged or destroyed to a condition substantially similar to their prior condition to the extent practicable and the cost thereof, including any attorney's fees incurred in connection therewith, shall be the personal obligation of such Owner and collectible in the same manner as an Assessment.

ARTICLE 9 GENERAL PROVISIONS

Section 9.1 Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, or charges now or hereafter imposed by the provisions of this Declaration. In the event of such litigation, the prevailing party shall be entitled to recover its attorney's fees and costs.

Section 9.2 Attorney's Fees. In the event the Association employs an attorney to enforce an Owner's compliance with or specific performance of the terms and conditions of this Declaration or the Rules, or for any other purpose in connection with an Owner's breach of this Declaration or the Rules, such Owner agrees to pay reasonable attorneys' fees and costs thereby incurred by the Association in addition to any other amounts due or any other relief or remedy obtained against said Owner. Such attorneys' fees and costs shall be collectible in the same manner as an Assessment.

Section 9.3 No Waiver. No delay or omission on the part of the Association or any Owner in exercising the right of enforcement hereunder shall be construed as a waiver of any breach of any of the restrictions and covenants herein contained or acquiescence of any breach hereof and no right of action shall accrue against the Association or any Owner for their neglect or refusal to exercise such right of enforcement.

Section 9.4 Amendments. The covenants, conditions and restrictions contained in this Declaration may be repealed, altered, or amended, or substitute covenants, conditions and restrictions adopted at any time by the vote or written consent of Owners representing at least seventy-five percent (75%) of the Lots. Any such amendment, executed by the President or Vice President of the Association and certifying that the amendment was made in accordance with this Section, shall be recorded with the County Recorder for Pima County, Arizona within thirty (30) days of its adoption.

Section 9.5 Interpretation. Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the provisions of this Declaration shall be final, conclusive, and binding as to all persons and property benefited or bound hereby.

