ARTICLE IV

ARCHITECTURAL AND LANDSCAPING RESTRICTIONS AND CONTROL

4.1 *Control By Declarant of All Architectural and Landscaping Matters*

Reserved Rights of Declarant

Each and every Owner, and all other Persons, by accepting a deed or otherwise having ownership, possession or control over any Lot agrees that Declarant, as the initial entity planning for the development of the Covered Property, and as an initial Owner of all or portions of the Covered Property, has a vital and legitimate interest in seeing the Covered Property developed in a manner consistent with Declarant's wishes and plans, as those plans may from time to time change.

Approval Required

In accordance with the foregoing, and as more specifically set forth below, no development, construction, grading, Improvement, landscaping or other work or alteration of any land shall be commenced unless and until Declarant has given its prior written approval of same, which approval may be granted or denied in the sole and absolute discretion of Declarant. Declarant intends to and shall in writing, as more specifically set forth below, delegate certain or all of its rights of review and approval to the ARC, which shall be a committee of the Board, though Declarant may retain certain rights of review and approval and may also delegate certain of its rights of review and approval to others. Declarant shall have full rights and authority to cause the Association to take such action and to expend Association funds and resources in pursuit thereof, it being acknowledged that the Association and Members are or shall be benefited by such enforcement or other action.

ARC and ARC Guidelines

Declarant, the ARC, and any other committee or designee shall be guided in their review and approval functions by the Architectural and Landscape Review Guidelines (the "ARC Guidelines"), if any, as the same may from time to time be adopted or amended.

continued

4.2 *Architectural and Landscape Review Guidelines*

Content of Guidelines

The initial ARC Guidelines, to the extent adopted, may be adopted by Declarant or by the ARC with the written approval of Declarant and the Board. Subject to the written approval of the contents thereof by Declarant for so long as Declarant owns any portion of the Covered Property, and thereafter subject to the written approval of the Board, the ARC may adopt, amend, and supplement the ARC Guidelines, which may be different for various portions of the Covered Property. Neither Declarant nor Developer shall be required to adhere to any style or design of architecture, nor any particular appearance or building façade, and may from time to time change the styles and designs it adopts. The right of Declarant to approve the ARC Guidelines is paramount to the right of the Board or of the ARC, and no amendment may be made without Declarant's consent as long as Declarant owns any portion of the Covered Property. The ARC Guidelines shall interpret, implement and supplement this Declaration, and shall set forth procedures for review and the standards for development within all or various portions of the Covered Property. The ARC Guidelines may include, without limitation, provisions regarding:

(a) the size or maximum Lot coverage for Single Family Dwelling Units;

(b) architectural design of Improvements and Dwelling Units, with particular regard to the harmony of the design with surrounding structures and topography;

(c) placement of buildings;

(d) landscaping design, content and conformity with the natural desert character of the Covered Property;

(e) requirements concerning exterior color schemes, exterior finishes, and materials, and requirements concerning those yard and building ornaments, recreational equipment, exterior lighting and exterior furniture, and other items or improvements that are Visible From Neighboring Property;

continued

(f) signage and mailboxes; and

(g) perimeter and screen wall design and appearance.

(h) accessibility to the community, including whether the community is gated or unrestricted

Adoption and Force and Effect of Rules and ARC Guidelines

The ARC Guidelines shall have the same force and effect as the Association Rules.

Broad Discretion

In reviewing plans for alterations, modifications, additions or other changes to a Dwelling Unit, improvement or structure upon a Lot, the Declarant or ARC (herein, generically, the "ARC") shall exercise its discretion in deciding whether or not an alteration or modification is in harmony with the overall scheme of subdivision development. The ARC shall have the right to deny alterations or modifications for purely aesthetic reasons if the ARC considers the alteration or modification to be unattractive in relation to the overall scheme of development, or if the ARC considers the alteration or modification to be a nuisance or upset of design, or if the ARC considers the alterations or modifications to be in contrast to or out of harmony with the style of existing structures, or if the physical views of the Covered Property will be disrupted by the alteration or modification. The ARC may elicit the opinion of other Owners, including the neighbors of the Owner submitting the plan for alteration or modification, as to the conformity and harmony of the proposed plan with the overall scheme of development, and the effect that the proposed plan might have on the physical views of other Owners. After eliciting these opinions, the ARC may, but need not, take them into account in making its final decision of approval or disapproval of an alteration or modification to an existing structure. While the opinion of no single Lot Owner will control a decision of the ARC, the ARC may, within its own discretion, but need not, attach whatever significance it deems sufficient to the statements of residents or neighbors of the Owner submitting the proposed alteration or modifications to an existing structure.

The ARC shall have the right, but not the duty, to adopt ARC Guidelines, with the approval of Declarant during the Declarant Control Period, or the Board thereafter, and to perform any other duties delegated to it,

continue

and to carry out all other duties imposed upon it by this Declaration. The ARC Guidelines may be informal rules, standards and guidelines, and in the absence of separate written guidelines, the ARC Guidelines shall be deemed to be those standards, styles, materials, and plans adopted by Declarant in the construction of Dwelling Units in the Covered Property, subject to change at Declarant's discretion. The goal of the ARC is to assure that Improvements harmonize with the existing surroundings and structures, except to the extent that the ARC Guidelines may change over time, including at Declarant's initiative should styles and designs of Improvements change, or be changed by Declarant, from those initially enforced. In the absence of revised ARC Guidelines approved by Declarant during the Declarant Control Period, no Owner other than Declarant may implement revised color schemes or changes to the original building structure of a Dwelling Unit, nor to composition or products, unless approved in writing by Declarant.

Any ARC Guidelines to be adopted must, so long as Declarant owns any Lot, be approved by Declarant. Subject to the written approval of the contents thereof by the Declarant during the Declarant Control Period, and thereafter subject to the written approval of the Board, the ARC may adopt, amend, and supplement the ARC Guidelines.

4.3 *Power and Duties Upon Assignment to ARC*

Declarant or its agents or representatives may act as the ARC and perform all of its functions until Declarant determines to relinquish such authority and to appoint a formal committee. Whether by Declarant or by an appointed committee, it shall be the duty of the ARC to consider and act upon all proposals or plans submitted pursuant to the provisions hereof. An act of Declarant or its agents or representatives shall be deemed the act of the ARC if acting in such capacity.

continue

4.4 *Obligation to Obtain Approval*

Mandatory Submittal

Except as otherwise expressly provided in this Declaration, without the prior written approval of Declarant or the ARC, as applicable, of plans and specifications prepared and submitted to such committee in accordance with the provisions of this Declaration and the ARC Guidelines:

(a) No improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or improvements thereon from their natural or improved state; and

(b) No building, fence, exterior wall, pool, roadway, driveway or other structure, improvement or grading shall at any time be commenced, erected, maintained, altered, changed or made on any Lot.

Landscaping

No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Covered Property except in compliance with plans and specifications therefor which have been submitted to and approved by Declarant or the ARC in accordance with the ARC Guidelines, and except for replacements of plants previously approved and which remain acceptable in accordance with the then current ARC Guidelines.

Changes and Deviations

No material changes or deviations in or from the plans and specifications for any work to be done on the Covered Property, once approved by Declarant or the ARC, shall be permitted without approval of the change or deviation by Declarant or by the ARC, as applicable.

Verbal Statements

In no event shall Declarant or the ARC be bound by any verbal statements, no single member thereof having the right to bind the committee.

continue

4.5 *Organization of Architectural and Landscape Review Committee*

The ARC shall be deemed a committee of the Board. All members of the ARC, and all persons acting on its behalf shall be appointed and removed solely by Declarant so long as Declarant owns a single Lot in the Covered Property, unless such rights are in writing waived by Declarant. Thereafter, the right of appointment shall rest with the Board. A member shall not be required to satisfy any particular qualification for membership and may be a member of the Board, an officer of the Association, or an officer, agent or employee of Declarant.

4.6 *Waiver and Variance*

The ARC may grant variances and waivers from the requirements of the ARC Guidelines if it believes it is in the best interests of the Covered Property to do so, or if hardship justifies the variance. In addition, Declarant may at any time grant a variance or waiver. The approval by Declarant or the ARC of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval, 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. So long as Declarant owns any portion of the Covered Property, any waiver shall require the written approval of Declarant.

No application or approval shall be required for any Improvement to be made within the Covered Property by Declarant or its authorized agents, affiliates or representatives, or by Developer.

4.7 *Liability*

Neither Declarant nor the ARC (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of:

(a) the approval or disapproval of any plans, drawings or specifications, whether or not defective;

(b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;

continue

(c) the development of any Lot; or

(d) the execution and filing of any estoppel certificate or statement, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member of the ARC, such member has acted in good faith on the basis of such information as may be possessed by him.

Without in any way limiting the generality of any of the foregoing provisions of this Section, Declarant or the ARC, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner (other than the Owner applying for consent or approval, whose views Declarant or the ARC shall be required to hear) with respect to any plans, drawings, specifications, or any other proposal submitted for review.

4.8 *Appeal to Board* Any Owner who initially made application to the ARC, and who is aggrieved by a decision of the ARC, may appeal the decision to the Board in accordance with procedures to be established in the ARC Guidelines. In the event the decision of the ARC is overruled by the Board on any issue or question, the prior decision of the ARC shall be deemed modified to the extent specified by the Board. There shall be no appeal from a decision of Declarant, and no appeal from a decision of the ARC may be taken so long as Declarant has the right to appoint the members of the ARC pursuant to the Bylaws or this Declaration.

4.9 *Fees*

Power to Assess Declarant, the ARC, or whomever else may be vested with authority to review plans, applications and submittals in accordance herewith, may establish a reasonable processing fee to defer the costs of considering any requests for approvals submitted, or for appeals to the Board, which fee shall be paid at the time the request for approval or review is properly submitted.

continue

Refundable and Non-Refundable Fees and Deposits

In addition, to the extent permitted by law, Declarant or the ARC may implement: (i) refundable and non-refundable fees and deposits for revegetation and restoration of any site, with a portion of a fee being non-refundable should an Owner default in its obligations to restore or revegetate a site when required hereunder, or should the Association or the ARC incur cost as a result thereof; (ii) refundable and non-refundable fees to assure that all damage or degradation to Common Area, streets and roads caused or to be caused by construction traffic is promptly repaired or otherwise addressed by the Owner responsible therefor, or to enable the Association to accomplish such work, itself, or to establish a fund for future restoration of such areas; and (iii) such deposits as may be appropriate to assure completion of components of any work that may interrupt or interfere with the use of Common Area or operations of the Association.

4.10 ***Inspection***

Declarant and any member or authorized consultant of the ARC, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot after reasonable notice to the Owner of such Lot in order to inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with the ARC Guidelines or this Declaration.