NORTHPOINTE AT VISTANCIA

COMMUNITY DOCUMENTS 2021

NORTHPOINTE
AT VISTANCIA

Documents and References

Declaration (Recorded)	Creates obligations that are binding upon the Association and all present and future owners of Annexable Land made subject to the Declaration by the filing of a Notice of Applicability.
Notice of Applicability (Recorded)	Describes the portion of the Annexable Land being made subject to the terms and provisions of the Declaration and any applicable Tract Declaration.
Tract Declaration (Recorded)	Includes additional covenants, conditions and restrictions governing portions of the Subject Property.
Articles of Incorporation (Filed with Arizona Corporate Commission and Recorded)	Establishes the Association as a not-for-profit corporation under Arizona law.
Bylaws	Governs the Association's internal affairs, such as elections, meetings, etc.
Community Manual	Establishes rules and policies governing the Association.
Design Guidelines	Governs the design and architectural standards for the construction of Improvements and modifications thereto. Neither the Declarant nor the Design Review Committee shall have any obligation to adopt Design Guidelines.
Rules	Rules regarding the use of property, activities, and conduct within the Subject Property.
Board Resolutions (adopted by the Board of the Association)	Establishes rules, policies, and procedures for the Association.

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
STEPHEN RICHER
20210489682 04/30/2021 04:42
ELECTRONIC RECORDING

FIRST AMERICAN TITLE

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leonardil

When recorded, return to:

IHP Capital Partners
100 Bayview Circle, Suite 2000
Newport Beach, CA 92660
Attention: Legal Department
NCS: 1038357

ASSIGNMENT AND ASSUMPTION
OF
DECLARANT RIGHTS
(VISTANCIA NORTH)

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS ("**Assignment**") is entered into as of the 30 day of April, 2021 ("**Effective Date**"), by and between **VISTANCIA RESIDENTIAL LLC,** an Arizona limited liability company ("**Assignor**") and **VISTANCIA DEVELOPMENT LLC,** a Delaware limited liability company ("**Assignee**").

RECITALS

A. Assignor is the "Declarant" under certain declarations described in **Exhibit A** attached hereto (collectively, the "**Declaration**").

B. This Assignment is delivered pursuant to that certain Purchase and Sale Contract with Joint Escrow Instructions dated January 25, 2021, between Assignor and its affiliate, as Seller, and Assignee, as Buyer (the "**Purchase Contract**"), pursuant to which certain Property (as defined and described in the Purchase Contract) is being conveyed to Assignee, which conveyance has occurred or will occur substantially concurrently with the execution and delivery of this Assignment.

C. In connection with the foregoing conveyance of the Property and pursuant to the Purchase Contract, Assignor now desires to transfer and assign to Assignee all of Assignor's right, title and interest as Declarant under the Declaration, and Assignee desires to accept such assignment and assume such right, title and interest of the Declarant under the Declaration, all subject to and in accordance with the terms, conditions and limitations set forth in this Assignment.

AGREEMENT AND ASSIGNMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation.** The recitals set forth above are hereby incorporated herein and made a part hereof.

2. **Effectiveness.** This Assignment shall become effective only upon the conveyance of the Property to Assignee pursuant to the Purchase Contract, and the date on which such conveyance occurs shall be inserted as the Effective Date of this Assignment as set forth above.

3. **Agreements of Assignor.** Assignor (a) hereby sells, transfers, assigns and delivers to Assignee all of Assignor's right, title and interest as Declarant or otherwise in, to and under the Declaration and under any tract declaration, supplemental declaration, or other similar instrument recorded pursuant to the provisions of the Declaration (which tract declaration(s), supplemental declaration(s) and other similar instrument(s) are included in the term "Declaration" as used in this Assignment), and (b) shall indemnify, defend, and hold Assignee harmless for, from and against any and all losses, damages, liabilities, actions, proceedings, demands, claims, costs and expenses including, but not limited to, reasonable attorneys' fees (collectively, "**Claims**") that are suffered or incurred by or asserted against Assignee, which arise out of or in connection with Assignor's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues prior to the Effective Date.

4. Agreements of Assignee. Assignee (a) hereby accepts the foregoing assignment and assumes and agrees to observe, perform and be bound by all of the covenants, agreements and obligations of the Declarant under the Declaration that first arise or first accrue on or after the Effective Date, and (b) shall indemnify, defend and hold Assignor harmless for, from and against any and all Claims that are suffered or incurred by or asserted against Assignor, which arise out of or in connection with Assignee's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues on or after the Effective Date.

5. Cooperation re Lot Sales. It is acknowledged that Assignor does not own the Parcel H-19 Phase 2 Lots (as defined in the Purchase Contract) and the Parcel H-23 Lots (as defined in the Purchase Contract), such ownership having been retained by Assignor's seller, Vistancia Village H (as defined in the Purchase Contract), which Vistancia Village H intends to sell to a homebuilder in separate sale transactions, and that at the closing of each such sale it will be necessary to record certain documents related to the Declaration as hereinafter described. Assignee hereby agrees, in its capacity as Declarant under the Declaration, to reasonably cooperate with Assignor and Vistancia Village H (including, but not limited to, by timely executing and delivering the documents in the forms described below) in connection with (A) the recordation at the closing of the sale of the Parcel H-19 Phase 2 Lots of a Notice of Applicability, a Notice of Reduction of Assessments, and a Partial Assignment of Declarant Rights, each of which shall be in substantially the same form as the same documents recorded as Instrument Nos. 2019-0578926, 2019-0578928, and 2019-0578929 of the official records of Maricopa County, Arizona ("**Official Records**"), respectively, and (B) the dedication and acceptance by the Northpointe HOA (as defined in the Purchase Contract) of the Rec Center Land, the Parcel H-19 Tracts, the Parcel H-20, H-21 and H-22 Tracts (as those terms are defined in the Purchase Contract).

6. Attorneys' Fees. In the event of any dispute arising out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

7. Inurement. This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

9. Cooperation. Assignor and Assignee agree to reasonably cooperate with one another (which reasonable cooperation shall include, without limitation, executing such documents or instruments, and/or attempting to obtain applicable third party consents) as may be necessary or appropriate to complete the assignment hereunder and/or to assign other applicable contracts and documents in order to effectuate the overall intent of the Purchase Contract.

10. Subject to Purchase Contract. This Assignment is being delivered pursuant to the Purchase Contract and is subject to the terms thereof including, but not limited to, the limitations set forth in Sections 10.4 and 12 thereof.

[NO FURTHER TEXT ON THIS PAGE - SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date set forth above.

ASSIGNOR:

VISTANCIA RESIDENTIAL LLC,
an Arizona limited liability company

By: Vistancia Master Holdings LLC,
an Arizona limited liability company,
sole member

By:____________________________
Andrew Klein, Manager

STATE OF COLORADO)
) ss.
County of Arapahoe)

The foregoing Assignment of Declarant Rights was acknowledged before me this 28 day of April, 2021, by Andrew Klein, the Manager of Vistancia Master Holdings LLC, an Arizona limited liability company, a Member in **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company, for and on behalf thereof.

____
Notary Public

My Commission Expires: 8/12/24

BLAKE AMEN
Notary Public
State of Colorado
Notary ID # 20204027915
My Commission Expires 08-12-2024

ASSIGNEE:

VISTANCIA DEVELOPMENT LLC,
a Delaware limited liability company

By: Vistancia Investors LLC,
a Delaware limited liability company,
manager

By: [signature]
Richard S. Whiteley
Executive Vice President

By: Barry S. Vee
Barry S. Villines
Chief Financial Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss.
County of Orange)

On April 28, 2021, before me, Sharon L. Pozos, Notary Public, personally appeared Richard S. Whiteley and Barry S. Villines, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SHARON L. POZOS
Notary Public - California
Orange County
Commission # 2288913
My Comm. Expires Jun 14, 2023

Signature Sharon L. Pozos (Seal)

EXHIBIT A

Declaration

1. Vistancia North Declaration recorded in the Official Records of Maricopa County, Arizona ("**Official Records**") on April 23, 2019 as Instrument No. 2019-0284676

2. Vistancia North Tract Declaration (Residential) recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285592

3. Vistancia North Adoption of Working Capital Assessment and Waiver Notice recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285727

4. Notice of Reduction of Assessments for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578928

5. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578929

6. Notice of Applicability for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578926

7. Notice of Reduction of Assessments for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578937

8. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578938

9. Notice of Applicability for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578935

10. Notice of Reduction of Assessments for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578919

11. Notice of Applicability for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578915

12. Notice of Reduction of Assessments for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578920

13. Notice of Applicability for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578916

14. Assignment and Assumption of Declarant Rights for Vistancia North recorded in the Official Records on April 10, 2020 as Instrument No. 2020-0640407 and re-recorded on July 21, 2020 as Instrument No. 2020-0654213

15. Notice of Reduction of Assessments for Vistancia Village H Parcel H-23 recorded in the Official Records on June 9, 2020 as Instrument No. 2020-0497609

16. Notice of Applicability for Vistancia Village H Parcel H-23 recorded in the Official Records on June 9, 2020 as Instrument No. 2020-0497609

17. Notice of Applicability for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366969

18. Notice of Reduction of Assessments for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366971

19. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366972

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190284676 04/23/2019 09:08
ELECTRONIC RECORDING

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sarabiam

After Recording Return To:

Robert D. Burton, Esq.
WINSTEAD, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

VISTANCIA NORTH
DECLARATION

City of Peoria, Maricopa County, Arizona

NOTE: NO PORTION OF THE ANNEXABLE LAND DESCRIBED ON EXHIBIT "A" IS SUBJECT TO THE TERMS OF THIS DECLARATION UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PORTION OF THE ANNEXABLE LAND IS FILED IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, IN ACCORDANCE WITH SECTION 9.05 BELOW.

THE ANNEXABLE LAND IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VISTANCIA, RECORDED UNDER DOCUMENT NO. 20180931102 IN THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AS THE SAME MAY BE AMENDED FROM TIME TO TIME.

Declarant: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

VISTANCIA NORTH
DECLARATION

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VISTANCIA NORTH
DECLARATION

This Vistancia North Declaration (the "**Declaration**") is made by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company (the "**Declarant**"), and is as follows:

R E C I T A L S:

A. Declarant, Vistancia North, LLC, a Delaware limited liability company (**"Vistancia North LLC"**), Vistancia Clementine, LLC, a Delaware limited liability company (**"Vistancia Clementine LLC"**), and Vistancia Mystic, LLC, a Delaware limited liability company (**"Vistancia Mystic LLC"**) are collectively the present owners of certain real property located in Maricopa County, Arizona, as more particularly described on Exhibit "A" attached hereto (all real property described in Exhibit "A" shall be referred to collectively herein as the **"Annexable Land"**).

B. As further defined and described herein, Declarant (with the consent of Vistancia North LLC, Vistancia Clementine LLC and Vistancia Mystic LLC as evidenced herein) desires to create "Vistancia North" pursuant to a uniform plan for the development, improvement and sale of the Annexable Land as a portion of the master-planned development known as "Vistancia" with Declarant to act as the "Declarant" for all purposes under this Declaration.

C. Along with Declarant, Vistancia North LLC, Vistancia Clementine LLC and Vistancia Mystic LLC each execute this Declaration for the purpose of evidencing their consent to the terms and provisions hereof.

D. Portions of the Annexable Land may be made subject to this Declaration upon the filing of one or more Notices of Applicability pursuant to *Section 9.05* below, and once such Notices of Applicability have been filed, the portions of the Annexable Land described therein will constitute the Subject Property (as defined below) and will be governed by and fully subject to this Declaration, and the Subject Property in turn will be comprised of separate Tracts (as defined below) which will be governed by and subject to separate Tract Declarations (as defined below) in addition to this Declaration.

No portion of the Annexable Land is subject to the terms and provisions of this Declaration until a Notice of Applicability is Recorded. A Notice of Applicability may only be filed by the Declarant.

Annexable Land versus Subject Property versus Tract

"Annexable Land"	**Described on Exhibit "A". This is the land that may be made subject to this Declaration, from time to time, by the filing of one or more Notices of Applicability. Declarant has no obligation to add all or any portion of the Annexable Land to this Declaration.**
"Subject Property"	**This is the portion of the land described on Exhibit "A" that has been made subject to this Declaration through the filing of a Notice of Applicability.**
"Tract"	**This is a portion of the Subject Property. Each Tract may be made subject to a Tract Declaration.**

E. This Declaration serves notice that upon the further filing of one or more Notices of Applicability, portions of the Annexable Land identified in such notice or notices will be subject to the terms and provisions of this Declaration.

F. Upon recordation, this Declaration shall constitute a "Village Declaration" as such term is defined under that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vistancia, recorded under Document No. 20180931102 in the Official Records of Maricopa County, Arizona, as the same may be amended from time to time (the **"Vistancia Declaration"**), and is subject to such covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth in the Vistancia Declaration, as further set forth herein.

G. Vistancia South, LLC, a Delaware limited liability company, is the 'Declarant' under the Vistancia Declaration and executes this Declaration for the purpose of evidencing its consent to the terms and provisions hereof.

NOW, THEREFORE, it is hereby declared that: (i) those portions of the Annexable Land as and when made subject to this Declaration by the filing of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Annexable Land and will be binding upon all parties having right, title, or interest in or to such portions of the Annexable Land or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; and (ii) each contract or deed conveying those portions of the Annexable Land which are made subject to this Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

This Declaration uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Declaration, the text will control.

ARTICLE 1
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration will have the meanings hereinafter specified:

"**Annexable Land**" means all of that certain real property described on Exhibit "A", attached hereto, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 9.03* and *Section 9.04* of this Declaration.

"**Applicable Law**" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the Document, and are not intended to apply to the Subject Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

"**Articles of Incorporation**" means the Articles of Incorporation of the Association, filed with the Arizona Corporation Commission, as the same may be amended from time to time.

"**Assessment**" or "**Assessments**" means assessments imposed by the Association under this Declaration.

"**Assessment Unit**" has the meaning set forth in *Section 5.09*.

"**Association**" means Vistancia North Master Community, Inc., a Arizona non-profit corporation, which will be created by the Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Declaration. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Articles of Incorporation, the Bylaws, and Applicable Law. The Association shall constitute a "Village Association" as such term is defined under the Vistancia Declaration.

"**Benefited Common Area**" means any interest in real property or improvements which is designated by Declarant in a Notice of Applicability filed pursuant to *Section 9.05*, in a Tract Declaration or in any written instrument Recorded by Declarant (which designation will be made in the sole and absolute discretion of Declarant) as Benefited Common Area which is assigned for the purpose of exclusive use and/or the obligation to pay Benefited Common Area Assessments attributable thereto, to one or more, but less than all of the Lots, Condominium Units, Owners or Tracts, and is or will be conveyed to the Association or as to which the Association will be granted rights or obligations, or otherwise held by the Declarant for the benefit of the Association. The Notice of Applicability, Tract Declaration, or other written notice will identify the Lots, Condominium Units, Owners or Tracts assigned to such Benefited Common Area and further indicate whether the Benefited Common Area is assigned to such parties for the purpose of exclusive use and the payment of Benefited Common Area Assessments, or only for the purpose of paying Benefited Common Area Assessments attributable thereto. By way of illustration and not limitation, Benefited Common Area might include such things as private drives and roads, entrance facilities and features, monumentation or signage, walkways or landscaping.

"**Benefited Common Area Expenses**" means the estimated and actual expenses which the Association incurs or expects to incur to operate, maintain, repair and replace Benefited Common Area, which may include a reasonable reserve for capital repairs and replacements.

"**Benefited Common Area Assessments**" means assessments levied against the Lots and/or Condominium Units as described in *Section 5.05*.

"**Board**" means the Board of Directors of the Association.

"**Bulk Rate Contract**" **or** "**Bulk Rate Contracts**" means one or more contracts which are entered into by the Declarant for the benefit of the Subject Property, or the Association for the provision of utility services or other services of any kind or nature to the Lots and/or Condominium Units. The services provided under Bulk Rate Contracts may include, without limitation, security services, trash pick-up services, propane service, natural gas service, landscape maintenance services, cable television services, telecommunications services, internet access services, "broadband services," wastewater services and any other services of any kind or nature which are considered by the Board to be beneficial. During the Development Period, Declarant must approve each Bulk Rate Contract entered into by the Association.

"**Bylaws**" means the bylaws of the Association, which may be initially adopted by Declarant or the Board of the Association as part of the initial project documentation for the benefit of the Association. The Bylaws may be amended, from time to time, by the Declarant until expiration or termination of the Development Period. During the Development Period, any proposed amendment to the Bylaws by the Board must be approved in advance by Declarant.

"**City**" means the City of Peoria in Maricopa County, Arizona.

"**Commercial Lot**" means a Lot within the Subject Property, other than Common Area or Benefited Common Area that is intended and designated for business or commercial use. Business or commercial use shall include, but not be limited to, all office, retail, wholesale, manufacturing, and service activities, and shall also be deemed to include multi-family, duplex and apartment housing of various densities. A Commercial Lot, for the purpose of this Declaration, may also include a Lot on which Residential Lots will be platted or a residential condominium will be impressed.

"**Common Area**" means any property and facilities that the Association owns or in which it otherwise holds rights or obligations, including any property or facilities held by the Declarant or any Declarant Affiliate for the benefit of the Association or its Members. If requested by the Declarant, the Association will execute any instrument or document required by any applicable governmental authority to evidence the Association's acceptance of all or any portion of the Subject Property or the Annexable Land for maintenance. Declarant reserves the right, from time to time and at any time, to designate by written and Recorded instrument portions of the Annexable Land being held by the Declarant or any Declarant Affiliate for the benefit of the Association (which instrument shall also require the consent of the applicable Declarant Affiliate, as to any land owned by it that is described in such instrument). Upon the filing of such designation, the portion of the Annexable Land identified therein will be considered Common Area for the purpose of this Declaration. Common Area also includes any property that the Association holds under a lease, license, or any easement in favor of the Association. Some Common Area will be solely for the common use and enjoyment of the Owners, while other portions of the Common Area may be for the use and enjoyment of the Owners and members of the public.

"**Community Manual**" means the community manual, which the Declarant may initially adopt as part of the initial project documentation for the Subject Property. The Community Manual may include the Bylaws, Rules and other policies governing the Association. A Majority of the Board may amend or modify the Community Manual from time to time in accordance with the terms of this Declaration. During the Development Period, the Declarant must approve any amendment or modification to the Community Manual.

"**Condominium Unit**" means an individual unit, including any common element assigned thereto, within a condominium regime, if any, established within Subject Property. A Condominium Unit may be designated by the Declarant in a Recorded instrument for residential, commercial or live/work purposes.

"**Declarant**" means **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company, its successors and permitted assigns. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or non-exclusively, any of its privileges, exemptions, rights, reservations and duties under this Declaration to any person. Declarant may also, by Recorded written instrument, permit any other person to participate in whole, in part, exclusively or non-exclusively, in any of Declarant's privileges, exemptions, rights and duties under this Declaration.

"**Declarant Affiliate**" means any person or entity directly or indirectly controlling, controlled by, or under the common control with Declarant and shall include without limitation, any general or limited partnership, limited liability company, limited liability partnership, corporation or other entity in which Declarant (or another Declarant Affiliate) is a general partner, member, manager, or controlling shareholder. For the avoidance of doubt, it is hereby confirmed that the following entities, without limitation, shall each constitute a

Declarant Affiliate for purposes of the foregoing definition: Vistancia North LLC, Vistancia Clementine LLC, Vistancia Mystic LLC, Vistancia South LLC, a Delaware limited liability company, and Vistancia Land Holdings, LLC, a Delaware limited liability company.

Declarant enjoys special privileges to facilitate the development, construction, and marketing of the Annexable Land and the Subject Property, and to direct the size, shape and composition of the Annexable Land and the Subject Property. These special rights are described in this Declaration. Many of these rights do not terminate until expiration of the Development Period, unless earlier terminated by the Declarant by a Recorded written instrument. Declarant may also assign, in whole or in part, all or any of the Declarant's rights established under the terms and provisions of this Declaration to one or more third-parties.

"**Design Guidelines**" means the instrument setting forth the standards for design, construction of Improvements, landscaping, and exterior items placed on any Lot or Condominium Unit, which may be adopted pursuant to *Section 6.04(b)*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Subject Property. The Design Review Committee may adopt, and amend from time to time, the Design Guidelines applicable to the Subject Property or any Tract, or any portion thereof. The Design Guidelines may be Recorded as a separate written instrument or may be incorporated into a Tract Declaration by exhibit or otherwise. Notwithstanding anything in this Declaration to the contrary, the Design Review Committee will have no obligation to establish Design Guidelines for the Subject Property or any portion thereof.

"**Design Review Committee**" means Declarant or Declarant's designee(s) or appointee(s) until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the rights of the Design Review Committee will automatically be transferred to a design review committee created by and appointed by the Board, as set forth in *Section 6.02* below.

"**Development Period**" means the period of time beginning on the date when this Declaration has been Recorded, and ending seventy-five (75) years thereafter, unless earlier terminated by Declarant. Declarant may terminate the Development Period by a Recorded written instrument executed by the Declarant. The Development Period is the period of time in which Declarant reserves the right to facilitate the development, construction, and marketing of the Annexable Land and the Subject Property, and the right to direct the size, shape and composition of the Annexable Land and the Subject Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Annexable Land or the Subject Property. Declarant may extend or shorten the Development Period at any time prior to expiration of the Development Period by Recording an amendment to this Declaration.

"**Documents**" means, singularly or collectively, as the case may be, this Declaration, the Articles of Incorporation, Bylaws, the Community Manual, the Design Guidelines (if adopted), any applicable Tract Declaration, any applicable Notice of Applicability as each may be amended from time to time, and any Rules promulgated by the Association pursuant to this Declaration or any Tract Declaration, as adopted and amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is part of such Document. *See Table 1* for a summary of the Documents.

"**Homebuilder**" refers to any Owner (other than Declarant) who is in the business of constructing single-family residences for resale to third parties and acquires all or a portion of the Subject Property to construct single-family residences for resale to third parties.

"**Improvement**" means any and all physical enhancements and alterations to the Subject Property, including, but not limited to, grading, clearing, removal of trees, site work, utilities, landscaping, irrigation, trails, hardscape, exterior lighting, alteration of drainage flow, drainage facilities, detention/retention ponds, water features, fences, walls, signage, and every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

"**Lot**" means any portion of the Subject Property designated as such by Declarant in a Recorded written instrument or as shown as a subdivided lot or parcel on a Plat other than Common Area, Benefited Common Area, or a Lot on which a condominium regime has been established, and shall include both Commercial Lots and Residential Lots.

"**Majority**" means more than half.

"**Manager**" has the meaning set forth in *Section 3.05(h)*.

"**Members**" means every person or entity that holds membership privileges in the Association.

"**Mortgage**" or "**Mortgages**" means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot or Condominium Unit.

"**Mortgagee**" or "**Mortgagees**" means the holder(s) of any Mortgage(s).

"**Notice of Applicability**" means the Recorded notice executed by the Declarant for the purpose of adding all or any portion of the Annexable Land to the terms and provisions of this Declaration. In accordance with *Section 9.05*, a Notice of Applicability may also subject a portion of the Annexable Land to a previously Recorded Tract Declaration.

"**Occupant**" means an occupant or tenant of a Lot or Condominium Unit, regardless of whether the person owns the Lot or Condominium Unit.

"**Owner**" means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot or Condominium Unit, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot pursuant to foreclosure of the lien of its Mortgage. Mortgagees who acquire title to a Lot or Condominium Unit through a deed in lieu of foreclosure or through foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

"**Plat**" means a Recorded subdivision plat of any portion of the Subject Property, and any amendments thereto or re-plats thereof.

"**Record, Recording, Recordation and Recorded**" means recorded in the Official Records of Maricopa County, Arizona.

"**Resident**" means an occupant or tenant of a Lot, regardless of whether the person owns the Lot.

"**Residential Developer**" means any Owner, other than Declarant, who acquires a Lot or Condominium Unit for the purpose of development and/or resale to a Homebuilder.

"**Residential Lot**" means a portion of the Subject Property shown as a subdivided lot on a Plat, other than Common Area and Benefited Common Area, which is intended and designated solely for single-family residential use.

"**Restrictions**" means the restrictions, covenants, and conditions contained in this Declaration, the Tract Declaration, the Design Guidelines, if any, the Articles, the Bylaws, the Community Manual, the Rules, or in any rules and regulations promulgated by the Association pursuant to this Declaration, as adopted and amended from time to time. *See Table 1* for a summary of the Restrictions.

"**Rules**" means any instrument, however denominated, which the Declarant may adopt as part of the Community Manual, or the Board may subsequently adopt for the regulation and management of the Subject Property, including any amendments thereto. Until expiration or termination of the Development Period, the Declarant must approve any amendment to the Rules and any Rules adopted by the Board.

"**Service Area**" means a group of Lots and/or Condominium Units designated as a separate Service Area pursuant to this Declaration for purpose of receiving benefits or services from the Association which are not provided to all Lots and Condominium Units. A Service Area may be comprised of more than one type of use or structure and may include noncontiguous Lots. A Lot or Condominium Unit may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in *Section 2.04*.

"**Service Area Assessments**" means assessments levied against the Lots and/or Condominium Units in a particular Service Area to fund Service Area Expenses, as described in *Section 5.06*.

"**Service Area Expenses**" means the estimated and actual expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements.

"**Subject Property**" refers to all or any portion of the Annexable Land made subject to this Declaration by the filing of a Notice of Applicability.

"**Tract**" means any part of the Subject Property (less than the whole), which Tract may be subject to a Tract Declaration in addition to being subject to this Declaration.

"**Tract Declaration**" means, with respect to any Tract, the separate instruments containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Tract is subjected.

"**Vistancia Assessments**" means, without limitation, Annual Assessments, Special Assessments (as defined in the Vistancia Declaration), and any other charges and assessments levied by the Vistancia Maintenance Corporation in accordance with the Vistancia Declaration.

"**Vistancia Declarant**" means Vistancia South, LLC, a Delaware limited liability company, its successors and permitted assigns.

"**Vistancia Declarant Affiliate**" means any person or entity directly or indirectly controlling, controlled by, or under the common control with Declarant and shall include without limitation, any general or limited partnership, limited liability company, limited liability partnership, corporation or other entity in which Vistancia Declarant (or another Vistancia Declarant Affiliate) is a general partner, member, manager, or controlling shareholder. For the avoidance of doubt, it is hereby confirmed that the following entities, without limitation, shall each constitute a Declarant Affiliate for purposes of the foregoing definition: Vistancia North LLC, Vistancia Clementine LLC, Vistancia Mystic LLC, and Declarant.

"**Vistancia Declaration**" means that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vistancia, recorded under Document No. 20180931102 in the Official Records of Maricopa County, Arizona, as may be amended from time to time. This Declaration is subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth in the Vistancia Declaration, as further set forth herein.

"**Vistancia Development Period**" means the period of time in which Vistancia Declarant or any Vistancia Declarant Affiliate owns any portion of the Covered Property (as defined in the Vistancia Declaration) or holds an option to purchase any portion of the Annexable Property (as defined in the Vistancia Declaration).

"**Vistancia Maintenance Corporation**" means the Arizona non-profit corporation formed to administer and enforce the Vistancia Declaration and to exercise the rights, powers and duties set forth in the Vistancia Declaration, its successors or assigns, including the right to levy and collect assessments from the Owners of Lots within the Subject Property which are subject to the terms and conditions of this Declaration.

"**Vistancia Subsidy**" has the same meaning as such term is defined in the Vistancia Declaration (the shortfall between the cost of operating and administering the Vistancia Maintenance Corporation (including the funding of reserves) and the income from Vistancia Assessments paid by members of the Vistancia Maintenance Corporation). The obligation for payment of the Vistancia Subsidy is further described in *Section 5.16* below and the Vistancia Declaration.

TABLE 1: DOCUMENTS	
Declaration (Recorded)	Creates obligations that are binding upon the Association and all present and future owners of Annexable Land made subject to the Declaration by the filing of a Notice of Applicability.
Notice of Applicability (Recorded)	Describes the portion of the Annexable Land being made subject to the terms and provisions of the Declaration and any applicable Tract Declaration.
Tract Declaration (Recorded)	Includes additional covenants, conditions and restrictions governing portions of the Subject Property.
Articles of Incorporation (Filed with Arizona Corporate Commission and Recorded)	Establishes the Association as a not-for-profit corporation under Arizona law.
Bylaws	Governs the Association's internal affairs, such as elections, meetings, etc.
Community Manual	Establishes rules and policies governing the Association.
Design Guidelines	Governs the design and architectural standards for the construction of Improvements and modifications thereto. Neither the Declarant nor the Design Review Committee shall have any obligation to adopt Design Guidelines.
Rules	Rules regarding the use of property, activities, and conduct within the Subject Property.
Board Resolutions (adopted by the Board of the Association)	Establishes rules, policies, and procedures for the Association.

ARTICLE 2
GENERAL RESTRICTIONS

2.01 General.

(a) Conditions and Restrictions. All Lots and Condominium Units within the Subject Property to which a Notice of Applicability has been Recorded in accordance with *Section 9.05*, will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the Documents and Applicable Law. **NO PORTION OF THE ANNEXABLE LAND WILL BE SUBJECT TO THE TERMS AND PROVISIONS OF THIS DECLARATION UNTIL A NOTICE OF APPLICABILITY HAS BEEN RECORDED.**

(b) Vistancia Declaration. This Declaration and the other Documents are subject to and subordinate in all respects to the Vistancia Declaration, and the articles and bylaws of the Vistancia Maintenance Corporation irrespective of whether specific reference thereto is made in any provision of this Declaration or the other Documents. In the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Vistancia Declaration, the terms and provisions of the Vistancia Declaration shall control. The Vistancia Declaration and the articles and bylaws of the Vistancia Maintenance Corporation contain provisions which affect the right of the Association and the Owners of Lots and Condominium Units within the Subject Property.

(c) Applicable Law. All Lots and Condominium Units are subject to Applicable Law. Compliance with the Documents is not a substitute for compliance with Applicable Law. Please be advised that the Documents do not purport to list or describe each restriction which may be applicable to a Lot or Condominium Unit located within the Subject Property. Each Owner is advised to review all encumbrances affecting the use and improvement of their Lot or Condominium Unit. Furthermore, an approval by the Design Review Committee should not be construed by the Owner that any Improvement complies with the terms and provisions of all encumbrances which may affect the Owner's Lot or Condominium Unit.

(d) Approval of Regulatory Submission Items. Each Owner is further advised that prior to submitting any application, zoning change, variance or special use permit, plat, drainage plans, building or site plan, expressly including any amendments to the preliminary plan and any development plan required to be submitted by an Owner pursuant to any zoning ordinance applicable to the Subject Property (the "**Regulatory Submission Items**"), to a regulatory authority for approval or issuance of a permit, as applicable, the Owner must first obtain approval from the Design Review Committee of the Regulatory Submission Items (the "**Preliminary Regulatory Approval**"). Any Preliminary Regulatory Approval granted by the Design Review Committee is conditional and no Improvements may be constructed in accordance with the Regulatory Submission Items until the Owner has submitted to the Design Review Committee a copy of the Regulatory Submission Items approved by the regulatory authority and the Design Review Committee has issued to the Owner a "Notice to Proceed". In the event of a conflict between the Regulatory Submission Items approved by the Design Review Committee and the Regulatory Submission Items approved by the regulatory authority, the Owner will be required to resubmit the Regulatory Submission Items to the Design Review Committee for approval. Each Owner acknowledges that no regulatory authority has the authority to modify the terms and provisions of the Documents applicable to all or any portion of the Subject Property.

(e) Project Names. Each Owner is advised that the name used to identify the Tract or any portion thereof for marketing or identification purposes must be approved in advance and in writing by the Design Review Committee.

(f) Development Amenities. A Tract may include common area, open space, water quality facilities, parkland, trails, landscape areas, roadways, driveways or easements which benefit the Subject Property in addition to the Tract, as reasonably determined by the Declarant during the Development Period, and a Majority of the Board after termination or expiration of the Development Period (the "**Development Amenities**"). Declarant, during the Development Period, and a Majority of the Board after termination or expiration of the Development Period, may require all or a portion of such Development Amenities be conveyed, transferred, or dedicated (by deed easement, or license) to: (i) the Association; or (ii) another entity designated by the Declarant or a Majority of the Board, as applicable. Alternatively, the Declarant, during the Development Period, and a Majority of the Board after termination or expiration of the Development Period, may require that all or a portion of such Development Amenities be owned and maintained by the Owner of all or a portion of a particular Tract, subject to an easement in favor of other Owner(s) and Occupants, as designated by the Declarant or a Majority of the Board, as applicable (*e.g.*, ingress and egress over and across the driveways constructed within the Tract).

The Development Amenities may not be conveyed or otherwise transferred unless the conveyance and transfer is approved in advance and in writing by the Declarant during the Development Period, and a Majority of the Board after expiration or termination of the Development Period.

2.02 Incorporation of Tract Declarations. Upon Recordation of a Tract Declaration, such Tract Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Declaration, to the extent not in conflict with this Declaration, but will apply only to portions of the Annexable Land made subject to the Tract upon the Recordation of one or more Notices of Applicability. To the extent of any conflict between the terms and provisions of a Tract Declaration and this Declaration, the terms and provisions of the Declaration will apply.

2.03 Conceptual Plans. All master plans, site plans, brochures, illustrations, information and marketing materials related to the Annexable Land or Subject Property (collectively, the **"Conceptual Plans"**) are conceptual in nature and are intended to be used for illustrative purposes only. The land uses and Improvements reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Annexable Land or Subject Property may include uses which are not shown on the Conceptual Plans. Neither Declarant, a Residential Developer, nor any Homebuilder or other developer of any portion of the Annexable Land or Subject Property makes any representation or warranty concerning such land uses and Improvements shown on the Conceptual Plans or otherwise planned for the Annexable Land or Subject Property and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans or any statement made by the Declarant or any of Declarant's representatives regarding proposed land uses, or proposed or planned Improvements, in making the decision to purchase any land or Improvements within the Annexable Land or Subject Property. Each Owner who acquires a Lot or Condominium Unit within the Subject Property acknowledges development will extend over many years, and agrees that the Association shall not engage in, or use Association funds to support, protest, challenge, or make any other form of objection to development of the Annexable Land or changes in the Conceptual Plans as they may be amended or modified from time to time.

2.04 Provision of Benefits and Services to Service Areas.

(a) Declarant, in a Notice of Applicability Recorded pursuant to *Section 9.05* or in any written Recorded notice, may assign Lots and/or Condominium Units to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Lots and/or Condominium Units in addition to those which the Association generally provides to the Subject Property. Declarant may unilaterally amend any Notice of Applicability or any written Recorded notice to re-designate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area will be assessed against the Lots and/or Condominium Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots and/or Condominium Units as a Service Area for the purpose of receiving from the Association: (i) special benefits or services which are not provided to all Lots and/or Condominium Units; or (ii) a higher level of service than the Association otherwise provides. Upon receipt of a petition signed by Owners of a Majority of the Lots and/or Condominium Units within the proposed Service Area, the Board will investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and associated expenses, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge will apply at a uniform rate per Lot and/or Condominium Units among all Service Areas receiving the same service). If approved by the Board, the Declarant during the Development Period, and the Owners of at least sixty-seven percent (67%) of the total number of votes held by all Lots and/or Condominium Units within the proposed Service Area, the Association will provide the requested benefits or services on the terms set forth in the proposal or in a manner otherwise acceptable to the Board. The cost and administrative charges associated with such benefits or services will be assessed against the Lots and/or Condominium Units within such Service Area as a Service Area Assessment. After expiration or termination of the Development Period, the Board may discontinue or modify benefits or services provided to a Service Area.

ARTICLE 3
VISTANCIA NORTH MASTER COMMUNITY, INC.

3.01 Organization. The Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Arizona non-profit corporation. Neither the Articles of Incorporation nor the Bylaws will, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.02 Membership.

(a) Mandatory Membership. Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with the ownership of the Lot or Condominium Unit that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot or Condominium Unit, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot or Condominium Unit.

(b) Easement of Enjoyment – Common Area. Every Member will have a right and easement of enjoyment in and to all of the Common Area for its intended purposes and an access easement, if applicable, by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot or Condominium Unit, subject to the following restrictions and reservations:

(i) The right of the Declarant, or the Declarant's designee, or with the advance written approval of the Declarant during the Development Period, the right of the Board, to cause such Improvements and features to be constructed upon the Common Area;

(ii) The right of the Association to suspend the Member's right to use the Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Declaration;

(iii) The right of the Declarant, during the Development Period, and the Board thereafter, to dedicate or transfer all or any part of the Common Area (or any interest therein) to any public agency, authority or utility for any purpose;

(iv) The right of the Declarant, during the Development Period, and the Board thereafter to grant easements or licenses over and across the Common Area;

(v) With the advance written approval of the Declarant during the Development Period, the right of the Board to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area;

(vi) The right of the Declarant, during the Development Period, and the Board, with the advance written approval of the Declarant during the Development Period, to promulgate Rules regarding the use of the Common Area and any Improvements thereon; and

(vii) The right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant.

(c) Easement of Enjoyment – Benefited Common Area. Each Owner of a Lot or Condominium Unit which has been assigned use of Benefited Common Area in a Notice of Applicability, or other Recorded instrument, will have a right and easement of enjoyment in and to all of such Benefited Common Area, and an access easement, if applicable, by and through such Benefited Common Area, which easement will be appurtenant to and will pass with title to such Owner's Lot or Condominium Unit, subject to the following restrictions and reservations:

(i) The right of the Declarant, or the Declarant's designee, or with the advance written approval of the Declarant during the Development Period, the right of the Board, to cause such Improvements and features to be constructed upon the Benefited Common Area;

(ii) The right of Declarant, during the Development Period, to grant additional Lots or Condominium Units use rights in and to Benefited Common Area in a subsequently filed Notice of Applicability or other Recorded instrument;

(iii) The right of the Association to suspend the Member's rights to use the Benefited Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Declaration;

(iv) The right of the Declarant, during the Development Period, and the Board thereafter to grant easements or licenses over and across the Benefited Common Area;

(v) The right of the Declarant, during the Development Period, and the Board thereafter, to dedicate or transfer all or any part of the Benefited Common Area to any public agency, authority or utility for any purpose;

(vi) With the advance written approval of the Declarant during the Development Period, the right of the Board to borrow money for the purpose of improving the Benefited Common Area and, in furtherance thereof, mortgage the Benefited Common Area;

(vii) The right of the Declarant, during the Development Period, and the Board, with the advance written approval of the Declarant during the Development Period, to promulgate Rules regarding the use of the Benefited Common Area and any Improvements thereon; and

(viii) The right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant.

3.03 **Governance**. As more specifically described in the Bylaws, the Board will consist of at least three (3) individuals elected at the annual meeting of the Association, or at a special meeting called for such purpose. Notwithstanding the foregoing provision or any provision in this Declaration to the contrary, until the expiration or termination of the Development Period, Declarant will be entitled to appoint and remove all members of the Board and officers of the Association. Declarant may terminate its right as to the appointment and removal of one or more or all the Board members by the Recordation of a termination notice executed by the Declarant. In the event Declarant terminates its right to appoint and remove less than all of the Board members, the Board positions to which the termination applies will be elected by the Members. Each Board member elected by the Members in accordance with the foregoing sentence will be elected for a term of one (1) year and shall serve until his or her successor is elected or he or she is replaced in accordance with the Bylaws. At such time as Declarant no longer has the right to appoint and remove all members of the Board, the President of the Association will call a meeting of the Members of the Association where the Members, including Declarant, will elect five (5) new Directors, two (2) Directors for a three (3) year term, two (2) Directors for a two (2) year term, and one (1) Director for a one (1) year term (with the two individuals receiving the highest number of votes serving the three (3) year terms, the two individuals receiving the third and fourth highest number of votes serving the two (2) year terms, and the individual receiving the fifth highest number of votes serving the one (1) year term). Upon expiration of the term of a Director elected by the Members as provided herein, his or her successor will be elected by the Members for a term of two (2) years. A Director takes office upon the adjournment of the meeting of balloting at which he or she is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his or her successor is elected or appointed.

3.04 **Voting Allocation**. The number of votes which may be cast for election of members to the Board (except as provided by *Section 3.03*) and on all other matters to be voted on by the Members will be calculated as set forth below.

(a) Residential Lot. Each Owner of Residential Lot will be allocated one (1) vote for each Residential Lot so owned. In the event of the re-subdivision of any Residential Lot into two or more Residential Lots: (i) the number of votes to which such Residential Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Residential Lot resulting from such re-subdivision, e.g., each Residential Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Residential Lot resulting from the re-subdivision will be allocated one (1) Assessment Unit. In the event of the consolidation of two (2) or more Residential Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Residential Lots contained in such consolidated Residential Lot. Nothing in this Declaration will be construed as authorization for any re-subdivision or consolidation of Residential Lots, such actions being subject to the advance written approval of the Design Review Committee.

(b) Commercial Lot or Condominium Unit. Each Owner of a Commercial Lot or Condominium Unit will be allocated the number of votes for such Commercial Lot or Condominium Unit as determined by Declarant, which determination will be set forth in the Notice of Applicability attributable to the Commercial Lot or Condominium Unit(s). Declarant will determine such votes in its sole and absolute discretion. Declarant's determination regarding the number of votes to which such Owners will be entitled will be final, binding and conclusive. The Notice of Applicability may include a provision with an alternative voting allocation in the event all or a portion of a Commercial Lot is submitted to the condominium form of ownership or is otherwise subdivided and platted or replatted. Unless otherwise provided in a Notice of Applicability, in the event a Commercial Lot is subdivided and platted or replatted and the lots created therefrom are designated solely for single-family residential use, each lot shall be allocated (1) vote in accordance with *Section 3.04(a)* above. Declarant, in its sole and absolute discretion, may modify and amend (which modification and amendment may be effected after Declarant's conveyance of any Commercial Lot or Condominium Unit to any person not affiliated with Declarant) the number of votes previously assigned to a Commercial Lot or Condominium Unit if the actual use of the Commercial Lot or Condominium Unit or the Improvements actually constructed on the Commercial Lot or Condominium Unit differ from the anticipated use of the Commercial Lot or Condominium Unit or Improvements contemplated to be constructed thereon at the time a notice allocating votes thereto was originally filed. In the event of a modification to the votes allocated to a Commercial Lot or Condominium Unit, Declarant will Record an amended Notice of Applicability setting forth the revised allocation of votes attributable to such Commercial Lot or Condominium Unit.

(c) Declarant. In addition to the votes to which Declarant is entitled by reason of *Section 3.04(a)* and *Section 3.04(b)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period. Declarant may cast votes allocated to the Declarant pursuant to this *Section 3.04* and shall be considered a Member for the purpose of casting such vote. Declarant need not own any portion of the Subject Property as a pre-condition to exercising such votes.

(d) Co-Owners. If there is more than one Owner of a Lot or Condominium Unit, the vote for such Lot or Condominium Unit shall be exercised as the co-Owners holding a Majority of the ownership interest in the Lot or Condominium Unit determine among themselves and advise the Secretary of the Association in writing prior to the close of balloting. Any co-Owner may cast the vote for the Lot or Condominium Unit, and majority agreement shall be conclusively presumed unless another co-Owner of the Lot or Condominium Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of a majority agreement, the Lot's or Condominium Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently. In no event will the vote for such Lot or Condominium Unit exceed the total votes to which such Lot or Condominium Unit is otherwise entitled pursuant to this *Section 3.04*.

3.05 Powers. The Association will have the powers of a Arizona non-profit corporation. Except as otherwise limited by *Section 3.12* of this Declaration and the Documents, it will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by the laws of Arizona, this Declaration, or the Vistancia Declaration. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, will have the following powers at all times:

(a) Rules. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, Rules, policies, the Bylaws and the Community Manual, as applicable, which are not in conflict with this Declaration, as the Board deems proper, covering any and all aspects of the Subject Property (including the operation, maintenance and preservation thereof) or the Association. During the Development Period, the Declarant must approve Rules or policies the Board proposes, as well as the Bylaws and the Community Manual, and any modifications thereto.

(b) Insurance. To obtain and maintain in effect, policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.

(c) Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Documents available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours in accordance with Applicable Law.

(d) Assessments. To levy and collect Assessments and to determine Assessment Units, as provided in *Article 5* below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon or into any Condominium Unit for the purpose of enforcing the Documents or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Documents. The expense incurred by the Association in connection with the entry upon any Lot or into any Condominium Unit and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot or the Condominium Unit so entered, will be deemed an Individual Assessment against such Lot or Condominium Unit, will be secured by a lien upon such Lot or Condominium Unit, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Documents. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Documents; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant or any Declarant Affiliate, or their respective successors or assigns. The Association may not alter or demolish any Improvements on any Lot or Condominium Unit, other than Common Area or Benefited Common Area, in enforcing this Declaration before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) or Condominium Unit(s) has been obtained. **EACH OWNER AND OCCUPANT HEREBY RELEASES AND HOLDS HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS *SECTION 3.05(e)* (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association, including an annual financial audit, review or compilation of the Association to be completed no later than one hundred and eighty (180) days after the end of the Association's fiscal year to be made available upon request to the Members within thirty (30) days after completion.

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area or Benefited Common Area for the purpose of constructing, erecting, operating or maintaining the following:

(i) Parks, parkways or other recreational facilities or structures;

(ii) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;

(iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;

(iv) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or

(v) Any similar improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Documents or Applicable Law. Until expiration or termination of the Development Period, any grant or conveyance under this *Section 3.05(g)* must be approved in advance and in writing by the Declarant. In addition, the Association (with the advance written approval of the Declarant during the Development Period) and the Declarant are expressly authorized and permitted to convey easements over and across Common Area or Benefited Common Area for the benefit of property not otherwise subject to the terms and provision of this Declaration.

(h) Manager. To retain and pay for the services of a person or firm (the "**Manager**"), which may include Declarant, a Declarant Affiliate, or any other affiliate of Declarant, to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by Applicable Law, the Board may delegate any other duties, powers and functions to the Manager. In addition, the Board may adopt transfer fees (subject to *Section 5.12* below), resale certificate fees required under Arizona Revised Statutes § 33-1806 subject to the limitations set forth in such section, fees for Recording the Association notice required under Arizona Revised Statutes § 33-1807(I), or any other fees associated with the provision of management services to the Association or its Members. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening, private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, canals, and lakes and all other utilities, services, repair and maintenance for any portion of the Annexable Land or Common Area.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments, including without limitation, Vistancia Assessments, and any other amounts, that the Association or the Board is required or permitted to secure or to pay for pursuant to Applicable Law, the Vistancia Declaration, the terms of the Documents, or as determined by the Board.

(k) Construction on Common Area and Benefited Common Area. To construct new Improvements or additions to Common Area and Benefited Common Area, subject to the advance written approval of the Declarant until expiration or termination of the Development Period.

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain the Subject Property, any Common Area, Benefited Common Area, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members. During the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant.

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise. During the Development Period, all acquisitions and dispositions of the Association hereunder must be approved in advance and in writing by the Declarant.

(n) Authority with Respect to the Documents. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce the Documents. Any decision by the Board to delay or defer the exercise of the power and authority granted by this *Section 3.05(n)* will not subsequently in any way limit, impair or affect ability of the Board to exercise such power and authority.

(o) Membership Privileges. To establish Rules governing and limiting the use of the Common Area, Benefited Common Area, and any Improvements thereon as well as the use, maintenance, and enjoyment of the Lots and Condominium Units. All Rules governing and limiting the use of the Common Area, Benefited Common Area, and any Improvements thereon must be approved in advance and in writing by the Declarant during the Development Period.

3.06 **Conveyance of Common Area and Benefited Common Area**. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant and its assignees reserve the right, from time to time and at any time, to designate, convey, assign, or transfer by written and Recorded instrument portions of the property being held by the Declarant or any Declarant Affiliate for the benefit of the Association. Any such designation with respect to property owned by a Declarant Affiliate shall require the consent of the Declarant Affiliate. Upon the Recording of a designation, the portion of the property identified therein will be considered Common Area or Benefited Common Area for the purpose of this Declaration and the Association shall have an easement over and across the Common Area or Benefited Common Area necessary or required to discharge the Association's obligations under this Declaration, subject to any terms and limitations to such easement set forth in the designation. Declarant, any Declarant Affiliate, and their respective assignees may also assign, transfer or convey to the Association interests in real or personal property within or for the benefit of the Subject Property, or the Subject Property and the general public, or otherwise, as determined in the sole and absolute discretion of the Declarant. Any such assignment, transfer or conveyance with respect to an interest in real or personal property owned or held by a Declarant Affiliate shall require the consent of the Declarant Affiliate. All or any real or personal property assigned, transferred and/or conveyed by the Declarant or any Declarant Affiliate to the Association shall be deemed accepted by the Association upon Recordation, and without further action by the Association, and shall be considered Common Area or Benefited Common Area without regard to whether such real or personal property is designated by the Declarant as Common Area or Benefited Common Area. If requested by the Declarant, the Association will execute a written instrument, in a form requested by the Declarant, evidencing acceptance of such real or personal property; provided, however, execution of a written consent by the Association shall in no event be a precondition to acceptance by the Association. The assignment, transfer, and/or conveyance of real or personal property to the Association may be by deed without warranty, may reserve easements in favor of the Declarant, a Declarant Affiliate, or a third party designated by Declarant over and across such property, and may include such other provisions, including restrictions on use, determined by the Declarant, in the Declarant's sole and absolute discretion. Property assigned, transferred, and/or conveyed to the Association may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Upon Declarant's written request, the Association will re-convey to Declarant (or Declarant Affiliate, as applicable) any unimproved real property that Declarant (or the Declarant Affiliate, as applicable) originally conveyed to the Association for no payment. Declarant, the Declarant Affiliates, and/or their respective assignees may construct and maintain upon portions of the Common Area and/or Benefited Common Area such facilities and may conduct such activities which, in Declarant's sole opinion, may be required, convenient, or incidental to the construction or sale of Improvements on the Subject Property, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant, the Declarant Affiliates, and their respective assignees shall have an easement over and across the Common Area and Benefited Common Area for access and shall have the right to use such facilities and to conduct such activities at no charge.

3.07 Indemnification. To the fullest extent permitted by Applicable Law but without duplication (and subject to) any rights or benefits arising under the Articles of Incorporation or Bylaws of the Association, the Association will 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 by reason of the fact that such person is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court of competent jurisdiction that he or she: (a) acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association; or (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

3.08 Insurance. The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against such person or incurred by such person in their capacity as an director, officer, committee member, employee, servant or agent of the Association, or arising out of the person's status as such, whether or not the Association would have the power to indemnify the person against such liability or otherwise.

3.09 Bulk Rate Contracts. Without limitation on the generality of the Association powers set out in *Section 3.05* above, the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time; provided however, that during the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant. The Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, any Declarant Affiliate, and/or any entities in which Declarant, any Declarant Affiliate, or the owners, members, or partners of Declarant or any Declarant Affiliate are the owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion; provided, however, no such Bulk Rate Contract for communication services shall require the exclusive use of a particular service provider or grant exclusive marketing rights to a particular service provider. The Association may, at its option and election add the charges payable by such Owner under such Bulk Rate Contract to the Assessments (Regular, Special, Service Area, Benefited Common Area, or Individual, as the case may be) against such Owner's Lot or Condominium Unit. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot or Condominium Unit which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12-day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or Occupant of such Owner's Lot or Condominium Unit) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or Occupant of such Owner's Lot or Condominium Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

3.10 **Community Services and Systems**. The Declarant, or a designee of the Declarant, is specifically authorized, but not required, to install, provide, maintain or furnish, or to enter into contracts with other persons to install, provide, maintain or furnish, central telecommunication receiving and distribution systems (*e.g.* cable television, high speed data/Internet/intranet services, and security monitoring) and utility services (*e.g.*, electricity, solar, gas, water), and related components, including associated infrastructure, equipment, hardware, and software to serve all or any portion of the Subject Property ("**Community Services and Systems**"). The Community Services and Systems may be located on Common Area or Benefited Common Area, and on or in any Improvements constructed upon the Common Area or Benefited Common Area, and an easement is herein reserved in favor of Declarant or its designee for the purpose of installing, operating, managing, maintaining, upgrading and modifying the Community Services and Systems. In the event the Declarant, or a designee of the Declarant, elects to provide any of the Community Services and Systems to all or any portion of the Subject Property, the Declarant or designee of the Declarant, may enter into an agreement with the Association with respect to such services. In the event Declarant, or any designee of the Declarant, enters into a contract with a third party for the provision any Community Services and Systems to serve all or any portion of the Subject Property, the Declarant or the designee of the Declarant may assign any or all of the rights or obligations of the Declarant or the designee of the Declarant under the contract to the Association or any individual or entity. Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Services and Systems as the

Declarant or its designee determines appropriate, and no such contract shall require the exclusive use of a particular communications service provider or grant exclusive marketing rights to a particular service provider. Each Owner acknowledges that interruptions in Community Services and Systems will occur from time to time. The Declarant and the Association, or any of their respective affiliates, directors, officers, employees and agents, or any of their successors or assigns shall not be liable for, and no Community Services and Systems user shall be entitled to refund, rebate, discount, or offset in applicable fees for, any interruption in Community Services and Systems, regardless of whether or not such interruption is caused by reasons within the service provider's control.

3.11 Protection of Declarant's and Declarant Affiliates' Interests. Despite any assumption of control of the Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Board is prohibited from taking any action which would discriminate against Declarant or any Declarant Affiliate, or which would be detrimental to the sale of Lots, Condominium Units or any portion of the Annexable Land owned by Declarant or any Declarant Affiliate. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant or any Declarant Affiliate. Unless otherwise agreed to in advance and in writing by the Declarant, the Board will be required to continue the same level and quality of maintenance, operations and services as that provided immediately prior to assumption of control of the Board by Owners other than Declarant until the expiration or termination of the Development Period.

3.12 Right of Action by Association. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings: (i) in the name of or on behalf of any Owner (whether one or more); or (ii) pertaining to a Claim, as such term is defined in *Section 11.01(a)* below, relating to the design or construction of Improvements on a Lot or Condominium Unit (whether one or more). This *Section 3.12* may not be amended or modified without the written and acknowledged consent of the Declarant and Members entitled to cast at least one hundred percent (100%) of the total number of votes of the Association, which must be part of a Recorded amendment instrument.

3.13 Prohibition on Sub-Associations. For purposes of this *Section 3.13*, "Sub-Association" means a separate non-profit corporation (i.e., excluding the Association and the Vistancia Association) formed pursuant to a Tract Declaration, or other instrument in which all or any Owners are members by way of owning a Lot, Condominium Unit, or any other portion of the Subject Property or Annexable Property. Creation of a Sub-Association is expressly prohibited without the advance written consent of: (i) the Vistancia Declarant during the Vistancia Development Period, and a Majority of the Vistancia Maintenance Corporation board thereafter; and (ii) the Declarant during the Development Period, and a Majority of the Board thereafter.

ARTICLE 4
INSURANCE AND RESTORATION

4.01 Insurance. Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot or Condominium Unit. The Association will not maintain insurance on the Improvements constructed upon any Lot or Condominium Unit. The Association may, however, obtain such other insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance premiums for such policies will be a common expense to be included in the Assessments levied by the Association. The acquisition of insurance by the Association will be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

ARE YOU COVERED?

The Association will not provide insurance which covers an Owner's Lot, a Condominium Unit, or any Improvements or personal property located on a Lot or within a Condominium Unit.

4.02 Restoration Requirements. In the event of any fire or other casualty, the Owner will either: (i) unless otherwise approved by the Design Review Committee, promptly commence the repair, restoration and replacement of any damaged or destroyed Improvements to their same exterior condition existing prior to the damage or destruction thereof within one hundred and eighty (180) days after the occurrence of such damage or destruction, and thereafter prosecute the same to completion; or (ii) in the case of substantial or total damage or destruction of any Improvement, remove all such damaged Improvements and debris from the Subject Property within sixty (60) days after the occurrence of such damage. Unless otherwise approved by the Design Review Committee, any repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the Improvements damaged or destroyed. To the extent that the Owner fails to commence repair, restoration, replacement, or the removal of debris, within the time period required in this *Section 4.02*, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and the costs incurred by the Association will be levied as an Individual Assessment against such Owner's Lot or Condominium Unit; provided, however, that if the Owner is prohibited or delayed by Applicable Law from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1½%) per month) will be levied as an Individual Assessment chargeable to the Owner's Lot or Condominium Unit. EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE SUBJECT PROPERTY, HEREBY RELEASES AND HOLDS HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY,

CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

4.03 **Restoration - Mechanic's and Materialmen's Lien**. Each Owner whose structure is repaired, restored, replaced or cleaned-up by the Association pursuant to the rights granted under this *Article 4*, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, replacement or clean-up of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration, replacement, or clean-up exceeds any insurance proceeds allocable to such repair, restoration, replacement, or clean-up which are delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration, replacement, or clean-up such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

ARTICLE 5
COVENANT FOR ASSESSMENTS

5.01 **Assessments**.

(a) Assessments established by the Board pursuant to the provisions of this *Article 5* will be levied against each Lot and Condominium Unit in amounts determined pursuant to *Section 5.07* below. The total amount of Assessments will be determined by the Board in accordance with the terms of this *Article 5*.

(b) Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot or Condominium Unit against which the Assessment is levied and upon recordation of this Declaration will be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and/or Condominium Unit and all Improvements, unless otherwise set forth in *Section 5.12* below (such lien, with respect to any Lot or Condominium Unit not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot or Condominium Unit is created). The Association may enforce payment of such Assessments in accordance with the provisions of this Article. Unless the Association elects otherwise (which election may be made at any time), each residential condominium association established by a condominium regime imposed upon all or a portion of the Tract will collect all Assessments levied pursuant to this Declaration from Condominium Unit Owners within such condominium regime. The condominium association will promptly remit all Assessments collected from Condominium Unit Owners to the Association. If the condominium association fails to timely collect any portion of the Assessments due from the Owner of the Condominium Unit, then the Association may collect such Assessments allocated to the Condominium Unit on its own behalf and enforce its lien against the Condominium Unit without joinder of the condominium association. The condominium association's right to collect Assessments on behalf of the Association is a license from the Association which may be revoked by written instrument at any time, and from time to time, at the sole and absolute discretion of the Board.

(c) The Association, in accordance with the Vistancia Declaration and at the discretion of the Vistancia Maintenance Corporation, shall collect all Vistancia Assessments. The Association shall promptly remit all Vistancia Assessments collected from Owners to the Vistancia Maintenance Corporation. If the Association fails to timely collect any portion of the Vistancia Assessments due from the Owners, then, as further set forth in Section 6.8 of the Vistancia Declaration, the Vistancia Maintenance Corporation may collect such Vistancia Assessments, including any Vistancia Subsidy allocated to a Lot or Condominium Unit in accordance with this Declaration on its own behalf and enforce its lien against the Lot or Condominium Unit without joinder of the Association. The Association's right to collect Vistancia Assessments on behalf of the Vistancia Maintenance Corporation, is a license from the Vistancia Maintenance Corporation which may be revoked by written instrument at any time, and from time to time, at the sole and absolute discretion of the Vistancia Maintenance Corporation.

5.02 **Operating Fund**. The Board will establish an operating fund into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under this Declaration. The funds of the Association may be used for any purpose authorized by the Documents and Applicable Law.

5.03 **Regular Assessments**. Prior to the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Declaration, including, but not limited to, the cost of all Common Area management, repair and maintenance, the cost of providing street and other lighting, the cost of administering and enforcing the Documents, and the amount to levy and collect for the Vistancia Assessments payable to the Vistancia Maintenance Corporation under the Vistancia Declaration, and the Board will also estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund in order to determine the amounts to be levied against the Members to pay such expenses as regular annual assessments (the "**Regular Assessments**"). The budget prepared by the Association for the purpose of determining Regular Assessments will exclude the operation, maintenance, repair and management costs and expenses associated with any Service Area and Benefited Common Area. Regular Assessments sufficient to pay such estimated net expenses will then be levied at the level set by the Board in its sole and absolute discretion, and the Board's determination will be final, binding and conclusive so long as such determination is made in good faith. If the sums collected prove inadequate for any reason, including the non-payment of any Individual Assessment by any Member as further set forth below, the Association may at any time, and from time to time, levy further Regular Assessments in the same manner. All such Regular Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. Notwithstanding the foregoing to the contrary, in no event shall such regular Assessments increase by more than twenty percent (20%) over the amount of the immediately preceding fiscal year's Assessments without the approval of the Majority of the Members of the Association; provided, however, the amount of Assessments attributable to Vistancia Assessments shall be excluded from such calculation.

5.04 **Special Assessments**. In addition to the Regular Assessments provided for above, the Board may levy special assessments (the "**Special Assessments**") whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration, including without limitation, payment of Vistancia Assessments levied by the Vistancia Maintenance Corporation that are not included in the Association's budget. The amount of any Special Assessments will be at the reasonable discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, levy a Special Assessment 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 or Benefited Common Area. Any Special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area will be levied against all Owners based on Assessment Units. Any Special Assessments levied by the Association for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Benefited Common Area will be levied against all Owners who have been assigned the obligation to pay Benefited Common Area Assessments and will be allocated among such Owners based on Assessment Units. All Special Assessments will be due and payable to the Association at the beginning of the fiscal year or in such other manner as the Board may designate in its sole and absolute discretion.

5.05 **Benefited Common Area Assessments**. Prior to the beginning of each fiscal year, the Board will prepare a separate budget covering the estimated expenses to be incurred by the Association to operate, maintain, repair, or manage any Benefited Common Area. The budget will be an estimate of the amount needed to operate, maintain, repair and manage such Benefited Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and surplus from the prior year's fund. The level of assessments levied to pay for expenses associated with a Benefited Common Area (the "**Benefited Common Area Assessments**") will be set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, the Association may at any time, and from time to time, levy further Benefited Common

Area Assessments in the same manner as aforesaid. All such Benefited Common Area Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.06 **Service Area Assessments**. Prior to the beginning of each fiscal year, the Board will prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses to be incurred by the Association in the coming year. The total amount of estimated Service Area Expenses for each Service Area will be allocated either: (i) equally; (ii) based on Assessment Units; or (iii) based on the benefit received among all Lots and Condominium Units in the benefited Service Area and will be levied as a Service Area Assessment. All amounts that the Association collects as Service Area Assessments will be expended solely for the benefit of the Service Area for which they were collected and will be accounted for separately from the Association's general funds.

5.07 **Individual Assessments**. In addition to any other Assessments, the Board may levy an individual assessment (the "**Individual Assessment**") against an Owner and the Owner's Lot or Condominium Unit. Individual Assessments may include, but are not limited to, the following: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Lot or Condominium Unit into compliance with the Documents; (iii) fines for violations of the Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and project documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Occupants of the Owner's Lot or Condominium Unit; (viii) common expenses that benefit fewer than all of the Lots or Condominium Units, which may be assessed according to benefit received as determined by the Board; (ix) fees or charges levied against the Association on a per-Lot or per-Condominium Unit basis; and (x) "pass through" expenses for services to Lots or Condominium Units provided through the Association and which are paid by each Lot or Condominium Unit according to the benefit received as determined by the Board.

5.08 **Working Capital Assessment**. Each Owner (other than Declarant and any Declarant Affiliate) will pay a one-time working capital assessment to the Association in such amount as may be determined by the Declarant, until expiration or termination of the Development Period, and the Board thereafter. The working capital assessment hereunder will be due and payable to the Association by the transferee immediately upon each transfer of title to the Lot or Condominium Unit, including upon transfer of title from one Owner of such Lot or Condominium Unit to any subsequent purchaser or transferee thereof. Such working capital assessment need not be uniform among all Lots or Condominium Units, and the Declarant or the Board, as applicable, is expressly authorized to establish working capital assessments of varying amounts depending on the size, use and general character of the Lots or Condominium Units. The working capital assessment shall be used by the Association to pay the Working Capital Fund Payment (as defined in the Vistancia Declaration) to the Vistancia Maintenance Corporation as set forth in Section 6.13 of the Vistancia Declaration and may also be used to discharge operating expenses or capital expenses of the Association, as determined from time to time by the Board. The levy of any working capital assessment will be effective only upon the execution of a written instrument, signed by the Declarant or a duly authorized officer of the Association, setting forth the amount of the working capital assessment and the Lots or Condominium Units to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's Assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; and (iv) any party who is exempted though a waiver of the payment of the working capital assessment by Declarant or the Board as more fully set forth below. In the event of any dispute regarding the application of the working capital assessment to a particular Owner, Declarant's determination regarding application of the exemption will be binding and conclusive without regard to any contrary interpretation of this *Section 5.08.* The working capital assessment will be in addition to, not in lieu of, any other Assessments levied in accordance with this *Article 5* and will not be considered an advance payment of such Assessments. The working capital assessment hereunder will be due and payable to the Association immediately upon each transfer of title to the Lot or Condominium Unit, including upon transfer of title from one Owner of such Lot or Condominium Unit to any subsequent purchaser or transferee thereof. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any working capital assessment attributable to a Lot or Condominium Unit (or all Lots and Condominium Units) by the execution of a waiver notice or in the Notice of Applicability, which waiver may be temporary or permanent.

5.09 Amount of Assessment.

(a) Assessments to be Levied. The Board will levy Assessments against each "**Assessment Unit**" (as defined in *Section 5.09(b)* below). Unless otherwise provided in this Declaration, Assessments levied pursuant to *Section 5.03* and *Section 5.04* will be levied uniformly against each Assessment Unit. Benefited Common Area Assessments levied pursuant to *Section 5.05* will be levied uniformly against each Assessment Unit allocated to a Lot or Condominium Unit that has been assigned the obligation to pay Benefited Common Area Assessments for specified Benefited Common Area. Service Area Assessments levied pursuant to *Section 5.06* will be levied: (i) equally; (ii) based on Assessment Units; or (iii) based on the benefit received among all Lots and Condominium Units in the benefited Service Area that has been included in the Service Area to which such Service Area Assessment relates.

(b) Assessment Unit. Each Residential Lot will constitute one "**Assessment Unit**" unless otherwise provided in *Section 5.09(c).* Each Commercial Lot and Condominium Unit will be allocated the number of "**Assessment Units**" set forth in the Notice of Applicability attributable to such Commercial Lot or Condominium Unit. Declarant will determine such Assessment Units in its sole and absolute discretion.

Declarant's determination regarding the number of Assessment Units applicable to each Commercial Lot or Condominium Unit will be final, binding and conclusive. The Notice of Applicability may include a provision with an alternative Assessment Unit allocation in the event all or a portion of a Commercial Lot is submitted to the condominium form of ownership or is otherwise subdivided and platted or replatted, as applicable. Unless otherwise provided in a Notice of Applicability, in the event a Commercial Lot is subdivided and platted or replatted and the lots created therefrom are designated solely for single-family residential use, each lot shall constitute one (1) Assessment Unit. Declarant, in its sole and absolute discretion, may modify and amend (which modification and amendment may be effected after Declarant's conveyance of any Commercial Lot or Condominium Unit to any person not affiliated with Declarant) the number of Assessment Units previously assigned to a Commercial Lot or Condominium Unit if the actual use of the Commercial Lot or Condominium Unit or Improvements actually constructed on the Commercial Lot or Condominium Unit differ from the anticipated use of the Commercial Lot or Condominium Unit or Improvements contemplated to be constructed thereon at the time the notice allocating Assessment Units thereto was originally filed. In the event of a modification to the Assessment Units allocated to a Commercial Lot or Condominium Unit, Declarant will Record an amended Notice of Applicability setting forth the revised allocation of Assessment Units attributable to the Commercial Lot or Condominium Unit.

(c) Residential Assessment Allocation. Declarant, in Declarant's sole and absolute discretion, may elect to allocate more than one Assessment Unit to a Residential Lot. An allocation of more than one Assessment Unit to a Residential Lot must be made in a Notice of Applicability or in a Tract Declaration for the Subject Property in which the Residential Lot is located. Declarant's determination regarding the number of Assessment Units applicable to a Residential Lot pursuant to this *Section 5.09(c)* will be final, binding and conclusive.

(d) Declarant and Declarant Affiliate Exemption. Notwithstanding anything in this Declaration to the contrary, no Assessments will be levied upon Lots or Condominium Units owned by Declarant or any Declarant Affiliate.

(e) Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Subject Property, Lot or Condominium Unit from Assessments; (ii) delay the levy of Assessments against any un-platted, unimproved or improved portion of the Subject Property, Lot or Condominium Unit; or (iii) reduce the levy of Assessments against any unplatted, unimproved or improved portion of the Subject Property, Lot or Condominium Unit. In the event Declarant elects to delay or reduce Assessments pursuant to this Section, the duration of the delay or the amount of the reduction and the obligation to pay a portion of any Vistancia Subsidy and/or Declarant Subsidy (both as further set forth in *Section 5.16* below) will be set forth in a Recorded written instrument. Declarant may terminate, extend, or modify any delay or reduction and the obligation to pay a portion of any

Vistancia Subsidy and/or Declarant Subsidy set forth in a previously Recorded instrument by the Recordation of a replacement instrument. Declarant or the Board may also exempt any portion of the Annexable Land which is dedicated and accepted by public authority from Assessments.

(f) Proportionate Share under the Vistancia Declaration. Determination of each Owner's Proportionate Share (as defined in the Vistancia Declaration) is calculated based on Assessment Units allocated in accordance with this Declaration without attention to any delayed, reduced, or exempted Lots, Condominium Units, or Owners set forth herein.

5.10 Late Charges. If any Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot or Condominium Unit owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot or Condominium Unit; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law. Notwithstanding the foregoing to the contrary, the amount of any late charge imposed is limited to the greater of fifteen and no/100 dollars ($15.00) or ten percent (10%) of the amount of the unpaid Assessment.

5.11 Owner's Personal Obligation for Payment of Assessments. Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot or Condominium Unit against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot or Condominium Unit will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of one and one-half percent (1.5%) per month, together with all costs and expenses of collection, including reasonable attorney's fees.

5.12 Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this *Article 5* is, together with late charges as provided in *Section 5.10* and interest as provided in *Section 5.11* and all costs of collection, including attorney's fees, are secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01(b)* above and as further set forth below, and will bind each Lot and Condominium Unit in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot or Condominium Unit, except only for: (i) liens and encumbrances Recorded before Recordation of this Declaration; (ii) all sums secured by a Recorded first lien or Recorded first deed of trust lien; (iii) liens for real estate taxes and other governmental assessments or charges against the unit; and (iv) the seller's interest in a first contract for sale pursuant to Arizona Revised Statutes § 33-741, *et seq.* The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an authorized Board member or an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot or Condominium Unit covered by such lien and a description of the Lot or Condominium Unit. Such notice may be signed by an officer of the Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot or Condominium Unit subject to this Declaration will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder, so long as the amounts to be foreclosed exclude fees, charges, late charges (other than charges for the late payment of Assessments), monetary penalties and interest charged pursuant to Arizona Revised Statutes § 33-1803 (the "**Excluded Amounts**"). The Association may assert a lien for any Excluded Amounts upon the entry of a judgment in a civil suit from a court of competent jurisdiction and the recording of such judgment in the Official Records of Maricopa County as otherwise provided by Applicable Law. Such lien asserted for Excluded Amounts may not be foreclosed upon and such lien is effective only upon conveyance of the Owner's Lot. The Assessment lien and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have pursuant to Applicable Law and under this Declaration, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien; provided however, that any foreclosure proceeding shall not be initiated by the Association until such time as an Owner has been delinquent in the payment of the Assessment amounts secured by the lien, excluding reasonable collection fees, reasonable attorney's fees and charges for late payment of and costs incurred with respect to such unpaid Assessments, for a period of one (1) year or in the amount of one thousand two hundred and no/100 dollars ($1,200.00) or more, whichever occurs first. In any foreclosure proceeding, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee within ten (10) days of such request any unpaid Assessments. The lien hereunder will not be affected by the sale or transfer of any Lot or Condominium Unit; except, however, that in the event of foreclosure of any lien superior to the Assessment lien, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.12*, the Association will upon the request of the Owner, and at such Owner's cost, execute a release of lien relating to any lien for which written notice has been Recorded as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release may be signed by an officer of the Association and Recorded. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot or Condominium Unit will not relieve the Owner of such Lot or Condominium Unit or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot or Condominium Unit and on the date of such conveyance Assessments against the Lot or Condominium Unit remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot or Condominium Unit, and such sums will be paid in preference to any other charges against the Lot or Condominium Unit other than liens superior to the Assessment liens and charges in favor of the State of Arizona or a political subdivision thereof for taxes on the Lot or Condominium Unit which are due and unpaid. The Owner conveying such Lot or Condominium Unit will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot or Condominium Unit also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot or Condominium Unit to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot or Condominium Unit from Declarant to a third party, including without limitation a Residential Developer or Homebuilder.

5.13 Exempt Property. The following area within the Subject Property will be exempt from the Assessments provided for in this Article:

(a) All area dedicated and accepted by a public authority;

(b) The Common Area and the Benefited Common Area; and

(c) Any portion of the Annexable Land or Subject Property owned by Declarant or any Declarant Affiliate.

Notwithstanding the foregoing, although the areas described in (a)—(c) above are exempt from Assessments in accordance with this Declaration, such areas may be Assessable Property (as defined in Section 6.2(a) of the Vistancia Declaration). No portion of the Annexable Land will be subject to the terms and provisions of this Declaration, and no portion of the Annexable Land (or any owner thereof) will be obligated to pay Assessments hereunder unless and until such Annexable Land has been made subject to the terms of this Declaration by the Recording of a Notice of Applicability in accordance with *Section 9.05* below.

5.14 Fines and Damages Assessment. The Board may assess fines against an Owner for any violation of the Documents which have been committed by an Owner, an Occupant, or their family, guests, employees, contractors, agents or invitees pursuant to the procedure set forth below. Any fine and/or charge for damage levied in accordance with this *Section 5.14* will be considered an Individual Assessment pursuant to the Declaration. Notwithstanding the foregoing to the contrary, the amount of any charge imposed for the late payment of a fine is limited to the greater of fifteen and no/100 dollars ($15.00) or ten percent (10%) of the amount of the unpaid fine. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or Benefited Common Area or any facilities caused by an Owner, an Occupant, or their family, guests, employees, contractors, agents, or invitees. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage Assessments. The Board may from time to time adopt a schedule of fines. The payment of each fine and/or damage charge levied by the Association against the Owner of a Lot is, together with interest as provided in *Section 5.11* above and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 5.12* and this Declaration.

5.15 **Suspension of Voting Rights**. In addition to any and all remedies set forth in this *Article 5*, if any Owner fails to pay any Assessment or other amounts due under the restrictions set out in the Documents within thirty (30) days after such payment is due or if the Owner violates any other provision of the restrictions set out in the Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of such violation, the Board shall have the right to suspend such Owner's right to vote until such time as all Assessments and payments, including interest, late charges, fines and attorney's fees, are paid in full or until all violations are cured or the Owner is otherwise deemed in compliance of the restrictions set out in the Documents in the sole discretion of the Board or the Design Review Committee, as applicable.

5.16 **Declarant and Vistancia Subsidy**.

(a) Declarant Subsidy. Declarant may, but is not obligated, to reduce Assessments which would otherwise be levied against Lots and Condominium Units for any fiscal year by paying the difference between the total amount of Assessments levied or collected by the Association and the operational expenses of the Association, including without limitation funding of reserves and Vistancia Assessments (the "**Association Shortfall**"). In the event the Declarant elects, in its sole and absolute discretion, to pay any Association Shortfall (the "**Declarant Subsidy**"), such payment will not obligate Declarant to continue payment of a subsidy to the Association in future years.

(b) Vistancia Subsidy. To the extent necessary and required, and in accordance with the Vistancia Declaration, Declarant covenants and agrees to pay its allocated share of the Vistancia Subsidy to the Vistancia Maintenance Corporation. In accordance with the Vistancia Declaration, at such time as Declarant relinquishes its membership in the Association, the obligation to pay the Vistancia Subsidy shall automatically become the obligation of the Association and shall be included in the Vistancia Assessments as set forth in the Vistancia Declaration.

In the event a Developer is obligated pay a share of the Vistancia Subsidy (as set forth below), such obligation shall terminate when the Declarant's liability for payment of the Vistancia Subsidy terminates under the Vistancia Declaration; provided, however: (i) the Developer shall not be released from liability for any outstanding and unpaid Vistancia Subsidy levied prior to termination; and (ii) the Developer may be liable for a portion of any future Vistancia Subsidy which is included in Vistancia Assessments in accordance with the Vistancia Declaration.

(c) Developer Obligation for Subsidy. In the event Declarant Records a written instrument exempting, delaying, or reducing the levy of Assessments in accordance with *Section 5.09(e)* above against any portion of the Subject Property, Lot or Condominium Unit owned by a Homebuilder or Residential Developer (each Residential Developer and Homebuilder being referred to herein as a "**Developer**"), the instrument may require that the Developer pay a share of the Vistancia Subsidy and/or Declarant Subsidy (the Vistancia Subsidy and the Declarant Subsidy are each referred to herein as the "**Subsidy**"). In the event a Developer is obligated to pay a portion of the Subsidy, Declarant shall deliver written notice (the "**Subsidy Payment Notice**") to the Developer of the amount of the Developer's share of the Subsidy and the due date for payment thereof to the Vistancia Maintenance Corporation or Association, as applicable.

(d) Developer's Share: Calculation. Any portion of the Subsidy allocated to a Developer shall be based on the total number of Assessment Units allocated to the Lot(s) and Condominium Unit(s) owned by the Developer divided by the total number of Assessment Units allocated to all Lots and Condominium Units owned by all Developers obligated to pay a portion of the Subsidy on the date Declarant provides the Subsidy Payment Notice.

Notwithstanding any provision in this Declaration to the contrary, for Subject Property, a Lot, or a Condominium Unit which is subject, on the date Declarant provides the Subsidy Payment Notice, to an exemption, delay, or reduction in Assessments in accordance with *Section 5.09(e)* of this Declaration, the Subsidy allocated to the Subject Property, Lot and/or Condominium Unit is limited to the full amount of the Assessments attributable to the Subject Property, Lot and/or Condominium Unit. For example, if the Assessment reduction attributable to a Lot is equal to 75% of Regular Assessments, then the Developer would be required to pay a Subsidy attributable to the Lot in the amount of 75% of the Regular Assessment.

(e) Remedies. In the event a Developer fails to pay any portion of its share of a Subsidy, the Declarant shall have the same remedies as those set forth for non-payment of Assessments in this Declaration (remedies afforded to the Association and any discretionary authority assigned to the Board or Association pursuant to this Declaration shall benefit or be exercised, as applicable, by the Declarant). In addition, and not by way of limitation, the Declarant shall further have the right to cause a notice of the lien to be Recorded against the Lot(s) and/or Condominium Unit(s) owned by the

Developer, which lien may be enforced in the same method as is provided for the enforcement of Assessment liens in this Article.

ARTICLE 6
ARCHITECTURAL CONTROL

6.01 Architectural Control By Declarant.

PURSUANT TO THE VISTANCIA DECLARATION, NO OWNER MAY COMMENCE CONSTRUCTION ON ANY PORTION OF THE ANNEXABLE PROPERTY UNTIL SUCH PORTION OF THE ANNEXABLE PROPERTY IS SUBJECTED TO THE TERMS AND PROVISIONS OF THIS DECLARATION IN ACCORDANCE WITH SECTION 9.05 BELOW.

(a) Declarant as Design Review Committee. During the Development Period, neither the Association, the Board, nor a committee created by or appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of any Improvements, without the written approval of Declarant. Each Owner, by accepting an interest in or title to a Lot or Condominium Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that during the Development Period, no Improvements will be started or progressed without the prior written approval of the Design Review Committee. **Until expiration or termination of the Development Period, the Design Review Committee means Declarant or Declarant's appointee(s) and in no event is the Design Review Committee a committee created by or appointed by Board or the Association.** All references in the Documents to the Design Review Committee will be construed to mean Declarant. Declarant may designate one or more persons from time to time to act as or on behalf of the Design Review Committee in reviewing and responding to applications.

(b) Limits on Liability. In reviewing and acting on an application for approval, the Design Review Committee may act solely in the Declarant's self-interest and owes no duty to any other person or any organization, and approval may be granted or withheld at Declarant's sole discretion. Declarant is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the Declarant; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws. No Improvements constructed or caused to be constructed by Declarant or any Declarant Affiliate will be subject to the terms and provisions of this *Article 6* and need not be approved in accordance herewith.

(c) Transfer of Declarant's Rights. Upon expiration or termination of the Development Period, the rights of Declarant as the Design Review Committee will automatically be transferred to the Design Review Committee (the **"DRC"**) created by and appointed by the Board, as set forth in *Section 6.02* below.

6.02 **Architectural Control by Association**. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Board, as further set forth below, or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the DRC as created by the Board and the members thereof appointed as set forth below, will assume jurisdiction over and exercise the rights of architectural control for the Subject Property.

(a) Delegation by Declarant during the Development Period. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this *Article 6* to the DRC created by the Board. The DRC may include members of the Board, members of the Association or consultants or professionals, such as architects, engineers, or other persons who may or may not be members of the Association; provided however, that the DRC will consist of at least one Board member who shall serve as chairperson of the DRC. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant to: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

(b) Composition of the DRC. The DRC will consist of at least three (3) but not more than seven (7) persons appointed by the Board. At least one member of the Association shall be a Board member who shall serve as chairperson of the DRC. Members of the DRC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the DRC, in which case all references in the Documents to the DRC will be construed to mean the Board. The DRC may include members of the Board, members of the Association or may include consultants or professionals, such as architects, engineers, or other persons, who may or may not be members of the Association, whose compensation, if any, may be established from time to time by the Board.

NO IMPROVEMENT MAY BE CONSTRUCTED, ALTERED, OR MODIFIED WITHOUT THE ADVANCE WRITTEN APPROVAL OF THE DESIGN REVIEW COMMITTEE OR THE DRC.

(c) Limits on Liability. The DRC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the DRC shall have no liability for the DRC's decisions which are made in good faith, and which are not arbitrary or capricious. The DRC is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the DRC; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

6.03 Prohibition of Construction, Alteration and Improvement. No Improvement, or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction thereof may occur unless approved in advance by the Design Review Committee. The Design Review Committee has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Subject Property. Notwithstanding the foregoing, each Owner will have the right to modify, alter, repair, decorate, redecorate, or improve the interior of an Improvement, provided that such action is not visible from any other portion of the Subject Property or Annexable Land.

6.04 Architectural Approval.

(a) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to plat, re-subdivide or consolidate Lots or Condominium Units, a proposal for such plat, re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines or any additional rules adopted by the Design Review Committee together with any review fee which is imposed by the Design Review Committee in accordance with *Section 6.04(b)*. No plat, re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot or Condominium Unit, until the plans and specifications and the contractor which the Owner intends to use to construct the proposed Improvement have been approved in writing by the Design Review Committee. The Design Review Committee may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Design Review Committee or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Design Review Committee may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the Design Review Committee, in its sole discretion, may require. Site plans must be approved by the Design Review Committee prior to the clearing of any Lot or Condominium Unit, or the construction of any Improvements. The Design Review Committee may refuse to approve plans and specifications for proposed Improvements, or for the plat, re-subdivision or consolidation of any Lot or Condominium Unit on any grounds that, in the sole and absolute discretion of the Design Review Committee, are deemed sufficient, including, but not limited to, purely aesthetic grounds. Notwithstanding any provision to the contrary in this Declaration, the Design Review Committee may issue an approval to Homebuilders or a Residential Developer for the construction of Improvements based on the review and approval of plan types and adopt a procedure which differs from the procedures for review and approval otherwise set forth in this Declaration.

(b) Design Guidelines. The Design Review Committee will have the power, from time to time, to adopt, amend, modify, or supplement the Design Guidelines which apply to all or any portion of the Subject Property. In the event of any conflict between the terms and provisions of the Design Guidelines and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the Design Review Committee will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted. Such charges will be held by the Design Review Committee and used to defray the administrative expenses and any other costs incurred by the Design Review Committee in performing its duties hereunder and are not considered a security deposit by Owner to secure Owner's compliance with the terms and provisions of this Declaration. Excess review fees held by the Design Review Committee will be distributed to the Association at the end of each calendar year. The Design Review Committee will not be required to review any plans until a complete submittal package, as required by this Declaration and the Design Guidelines, is assembled and submitted to the Design Review Committee. The Design Review Committee will have the authority to adopt such additional or alternate procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for a compliance deposit, certificates of compliance or completion relating to any Improvement, and the right to approve in advance any contractor selected for the construction of Improvements), as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(c) Failure to Act. In the event that any plans and specifications are submitted to the Design Review Committee as provided herein, and the Design Review Committee fails to either approve or reject such plans and specifications for a period of thirty (30) days following such submission, the plans and specifications will be deemed disapproved.

(d) Variances. The Design Review Committee may grant variances from compliance with any of the provisions of the Documents, when, in the opinion of the Design Review Committee, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and, if Declarant has assigned its rights to the DRC, must be approved by the Declarant until expiration or termination of the Development Period, a Majority of the Board, and a Majority of the members of the DRC. Each variance must also be Recorded; provided, however, that failure to Record a variance will not affect the validity thereof or give rise to any claim or cause of action against the Design Review Committee, Declarant, the Board or the DRC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in the Documents will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of the Documents for any purpose, except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of the Documents.

(e) Duration of Approval. The approval of the Design Review Committee of any final plans and specifications, and any variances granted by the Design Review Committee will be valid for a period of one hundred and eighty (180) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred and eighty (180) day period and diligently prosecuted to completion thereafter, the Owner will be required to resubmit such final plans and specifications or request for a variance to the Design Review Committee, and the Design Review Committee will have the authority to re-evaluate such plans and specifications in accordance with this *Section 6.04(e)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(f) No Waiver of Future Approvals. The approval of the Design Review Committee of any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Design Review Committee will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the Design Review Committee.

(g) Release. **EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE SUBJECT PROPERTY, HEREBY RELEASES AND HOLDS HARMLESS THE DECLARANT, THE DESIGN REVIEW COMMITTEE, THE ASSOCIATION AND THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE DESIGN REVIEW COMMITTEE'S ACTS OR ACTIVITIES UNDER THIS DECLARATION.**

ARTICLE 7
MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots or Condominium Units within the Subject Property. The provisions of this *Article 7* apply to the Declaration and the Bylaws of the Association.

7.01 Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot or Condominium Unit to which its Mortgage relates (thereby becoming an "**Eligible Mortgage Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Subject Property or which affects any Lot or Condominium Unit on which there is a Mortgage held, insured, or guaranteed by an Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Lot or Condominium Unit subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Documents relating to such Lot or Condominium Unit or the Owner or occupant which is not cured within sixty (60) days after notice by the Association to the Owner of such violation; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

7.02 Examination of Books. The Association will permit a Mortgagee, as designated representative of a Member, to examine the books and records of the Association during normal business hours pursuant to the requirements for examination of financial and other records of the Association set forth in A.R.S. § 33-1805.

ARTICLE 8
EASEMENTS

8.01 Right of Ingress and Egress. Declarant, its agents, employees and designees will have a right of ingress and egress over and the right of access to the Common Area or Benefited Common Area to the extent necessary to use the Common Area or Benefited Common Area and the right to such other temporary uses of the Common Area or Benefited Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with construction and development of the Annexable Land or the Subject Property. The Subject Property shall be subject to a perpetual non-exclusive easement for the installation and maintenance, including the right to read meters, service or repair lines and equipment, and to do everything and anything necessary to properly maintain and furnish the Community Services and Systems and the facilities pertinent and necessary to the same, which easement shall run in favor of Declarant. Declarant shall have the right, but not the obligation, to install and provide the Community Services and Systems and to provide the services available through the Community Services and Systems to any and all Lots or Condominium Units within the Subject Property. Neither the Association nor any Owner shall have any interest therein. Any or all of such services may be provided either directly through the Association and paid for as part of the Assessments or directly to Declarant, any affiliate of Declarant, or a third party, by the Owner who receives the services. The Community Services and Systems, including any fees or royalties paid or revenue generated therefrom, shall be the property of Declarant unless transferred by Declarant, whereupon any proceeds of such transfer shall belong to Declarant. Declarant shall have the right but not the obligation to convey, transfer, sell or assign all or any portion of the Community Services and Systems or all or any portion of the rights, duties or obligations with respect thereto, to the Association or to any Person. The rights of Declarant with respect to the Community Services and Systems installed by Declarant and the services provided through such Community Services and Systems are exclusive, and no other person may provide such services through the Community Services and Systems installed by Declarant without the prior written consent of Declarant. In recognition of the fact that interruptions in the Community Services and Systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in Community Services and Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider of such services.

8.02 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant or any third-party prior to any portion of the Annexable Land becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of developing the Annexable Land and the Subject Property.

8.03 Roadway and Utility Easements. Declarant hereby reserves for itself and its assigns a perpetual non-exclusive easement over and across the Subject Property for: (i) the installation, operation and maintenance of utilities and associated infrastructure to serve the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate; (ii) the installation, operation and maintenance of cable lines and associated infrastructure for sending and receiving data and/or other electronic signals, security and similar services to serve the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate; (iii) the installation, operation and maintenance of, walkways, pathways and trails, drainage systems, street lights and signage to serve the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate, and (iv) the installation, location, relocation, construction, erection and maintenance of any streets, roadways, or other areas to serve the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate. Declarant may unilaterally assign the easements reserved hereunder to any third party who owns, operates, manages or maintains the facilities and Improvements described in (i) through (iv) of this *Section 8.03*. In addition, Declarant may designate all or any portion of the easements or facilities constructed therein as Common Area, Benefited Common Area, or a Service Area.

8.04 Subdivision Entry and Fencing Easement. Declarant reserves for itself and the Association, an easement over and across the Subject Property for the installation, maintenance, repair or replacement of certain subdivision entry facilities and fencing which serves the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate. Declarant will have the right, from time to time, to Record a written notice which identifies the subdivision entry facilities and fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities and/or fencing as Common Area, Benefited Common Area, or a Service Area.

8.05 **Landscape, Monumentation and Signage Easement**. Declarant hereby reserves an easement over and across the Subject Property for the installation, maintenance, repair or replacement of landscaping, monumentation and signage which serves the Subject Property, the Annexable Land, and any other property owned by Declarant or any Declarant Affiliate. Declarant will have the right, from time to time, to Record a written notice which identifies the landscaping, monumentation, or signage to which the easement reserved hereunder applies. Declarant may designate all or any portion of the landscaping, monumentation, or signage as Common Area, Benefited Common Area, or a Service Area.

8.06 **Easement to Construct and Maintain Drainage Facilities**. Declarant hereby reserves, for the benefit of the Annexable Land, a perpetual, non-exclusive easement, over, upon, under and across any open space within the Subject Property (the "**Easement Property**") for the following purposes:

(a) The construction, installation, placement, operation, maintenance, replacement, upgrade, and repair of drainage and stormwater facilities and related appurtenances in, upon, under and across the Easement Property, including but not limited to irrigation facilities, storm water detention ponds and water quality ponds, and;

(b) The construction, installation, placement, operation, maintenance, replacement, upgrade, and repair of water and wastewater lines and related appurtenances, or making connections thereto, in, upon, under, over, and across the Easement Property.

Declarant may unilaterally assign the easements reserved hereunder to any third-party who owns , operates, manages or maintains the facilities and Improvements described in this *Section 8.06.* The assignment may be made: (i) unilaterally and without the consent or any further approval of any other party, (ii) exclusively or non-exclusively; and (iii) in whole or in part.

8.07 **Declarant as Attorney in Fact**. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of the Documents, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of the Documents. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party.

8.08 **Easement for Special Events**. The Declarant reserves for itself and the Association, and their successors, assigns, and designees, a perpetual, nonexclusive easement over the Common Area, for the purpose of conducting educational, cultural, artistic, musical and entertainment activities; and other activities of general community interest at such locations and times as the Declarant or the Association, in their reasonable discretion, deem appropriate. Members of the public may have access to such events. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot or Condominium Unit subject to this Declaration acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Occupants to take no action, legal or otherwise, which would interfere with the exercise of such easement.

8.09 **Cellular Tower and Telecommunications Easement**. Declarant hereby grants and reserves for itself and its assigns, an exclusive, perpetual and irrevocable easement, license and right to use any portion of the Common Area, Benefited Common Area, or any other portion of the Annexable Land or the Subject Property which Declarant intends to designate as Common Area or Benefited Common Area (the "**CTT Easement Area**") for the construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of CTT Equipment. Declarant or its assignee will have the right, from time to time, but no obligation, to Record a written notice which identifies the portion of the Common Area or Benefited Common Area to which the CTT Easement Area pertains, and Declarant, or its assignee, may fence, install landscaping, or otherwise install improvements restricting access to the CTT Easement Area identified in such Recorded instrument. Neither the Association, nor any Owner other than the Declarant or its assignee hereunder, may use the CTT Easement Area in any manner which interferes with operation of the CTT Equipment. Declarant hereby reserves for itself and its assigns the right to use, sell, lease or assign all or any portion of the CTT Easement Area, for the construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of the CTT Equipment. In addition, Declarant hereby reserves for itself and its assigns a non-exclusive, perpetual and irrevocable easement over the Annexable Land and the Subject Property for access to and from the CTT Easement Area and to construct, install, use, maintain, repair, replace, improve, remove, and operate, or allow others to do the same, any utility lines servicing the CTT Equipment. Declarant also reserves for itself and its assigns the right to select and contract with any third-party for the construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of the CTT Equipment and to provide any telecommunication, cellular, video or digital service associated therewith. Declarant shall have and hereby reserves for itself and its assigns the sole and exclusive right to collect and retain any and all income and/or proceeds received from or in connection with use or services provided by the CTT Equipment and the rights described in this

Section 8.09. The rights reserved to Declarant under this *Section 8.09* shall benefit only Declarant and its assigns, and no other Owner or successor-in-title to any portion of the Annexable Land or the Subject Property shall have any rights to income derived from or in connection with the rights and easements granted in this *Section 8.09*, except as expressly approved in writing by Declarant. EACH OWNER AND OCCUPANT HEREBY RELEASES AND HOLDS HARMLESS THE DECLARANT AND ITS ASSIGNS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF ANY ACTS, ACTIONS OR ACTIVITIES PERMITTED BY DECLARANT ITS ASSIGNS UNDER THIS *SECTION 8.09* (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE. The provisions of this *Section 8.09* shall not be amended without the written and acknowledged consent of Declarant or the assignee of all or any portion of Declarant's rights hereunder.

8.10 Easement to Inspect and Right to Correct. For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself and for the Declarant's architect, engineer, other design professionals, builder and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct and relocate any structure, Improvement or condition that may exist on any portion of the Subject Property, including the Lots and Condominium Units, and a perpetual nonexclusive easement of access throughout the Subject Property to the extent reasonably necessary to exercise this right. The party exercising such rights will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of mechanical or electrical facilities may be warranted by a change of circumstance, imprecise siting of the original facilities, or the desire or necessity to comply more fully with Applicable Law. This *Section 8.10* may not be construed to create a duty for Declarant, the Association, or any architect, engineer, other design professionals, builder or general contractor, and may not be amended without Declarant's advanced written consent. In support of this reservation, each Owner, by accepting an interest in or title to a Lot or Condominium Unit, hereby grants to Declarant an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Areas, Benefited Common Areas, and the Owner's Lot or Condominium Unit, and all Improvements thereon for the purposes contained in this *Section 8.10*.

ARTICLE 9
DEVELOPMENT RIGHTS

9.01 Development. It is contemplated that the Subject Property will be developed pursuant to a plan, which may, from time to time, be amended or modified by the Declarant in its sole and absolute discretion. Declarant reserves the right, but will not be obligated, to designate Tracts, and to create and/or designate Lots, Condominium Units, Common Area, Benefited Common Area, and Service Areas and to subdivide all or any portion of the Subject

Property and Annexable Land. As each area is conveyed, developed or dedicated, Declarant may Record one or more Tract Declarations and designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area. Any Tract Declaration may provide its own procedure for the amendment thereof.

9.02 **Special Declarant Rights**. Notwithstanding any provision of this Declaration to the contrary, at all times, Declarant will have the right and privilege: (a) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots and Condominium Units in the Subject Property; (b) to maintain Improvements upon Lots, including the Common Area and Benefited Common Area, as sales, model, management, business and construction offices at no charge; and (c) to maintain and locate construction trailers and construction tools and equipment within the Subject Property. The Declarant may, at any time and from time to time, grant in writing all or any of the rights reserved by Declarant under this Section to any Homebuilder or a Residential Developer. The construction, placement or maintenance of Improvements by Declarant, or a Homebuilder or Residential Developer who has been assigned any of the rights under this Section, will not be considered a nuisance.

9.03 **Addition of Land**. Declarant may, at any time and from time to time, add additional lands to the Annexable Land and, upon the Recording of a notice of addition of land, such land will be considered part of the Annexable Land for purposes of this Declaration, and upon the further Recording of a Notice of Applicability meeting the requirements of *Section 9.05* below, such added lands will be considered part of the Subject Property subject to this Declaration and the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. Such added land need not be contiguous to the Annexable Land. To add lands to the Annexable Land, Declarant will be required only to Record, a notice of addition of land (which notice may be contained within any Tract Declaration affecting such land) executed by Declarant and the owner of the added land (if different than Declarant) containing the following provisions:

(a) A reference to this Declaration, which reference will state the document number or volume and page wherein this Declaration is Recorded;

(b) A statement that such land will be considered Annexable Land for purposes of this Declaration, and that upon the further filing of a Notice of Applicability meeting the requirements of *Section 9.05* of this Declaration, all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and

(c) A legal description of the added land.

9.04 **Withdrawal of Land**. Declarant may, at any time and from time to time, reduce or withdraw from the Annexable Land, including the Subject Property, and remove and exclude from the burden of this Declaration and the jurisdiction of the Association any portion of the Subject Property. Upon any such withdrawal and removal, this Declaration and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Subject Property withdrawn. To withdraw lands from the Annexable Land or Subject Property hereunder, Declarant will be required only to Record a notice of withdrawal of land executed by Declarant and the owner of the withdrawn land (if different than Declarant) containing the following provisions:

(a) A reference to this Declaration, which reference will state the document number or volume and page number wherein this Declaration is Recorded;

(b) A statement that the provisions of this Declaration will no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land.

9.05 **Notice of Applicability**. Upon Recording, this Declaration serves to provide notice that at any time, and from time to time, Declarant, and Declarant only, may subject all or any portion of the Annexable Land to the terms, covenants, conditions, restrictions and obligations of this Declaration and/or a Tract Declaration. Declarant may file a Notice of Applicability subjecting a portion of the Annexable Land to the Declaration, a Tract Declaration, or both and the property included in the Notice of Applicability need not be owned by the Declarant if included within the Annexable Land (but the consent of the owner of such property will be required). If a Notice of Applicability is Recorded subjecting a portion or portions of the Annexable Land to this Declaration, such Annexable Land will be considered a part of the Subject Property and will be subject to the terms, covenants conditions, restrictions and obligations of this Declaration. If a Notice of Applicability is Recorded subjecting a portion or portions of the Annexable Land to this Declaration and a Tract Declaration, such Annexable Land will be considered a part of the Subject Property and will be subject to the terms, covenants conditions, restrictions and obligations of this Declaration and the Tract Declaration identified in the Notice of Applicability. Declarant may also cause a Notice of Applicability to be Recorded for a portion of the Subject Property to make such portion of the Subject Property subject to the terms and provisions of a Recorded Tract Declaration. A Notice of Applicability subjecting a portion of the Annexable Land or Subject Property to a Recorded Tract Declaration may include language that amends, modifies or supplements the provisions set forth in the Tract Declaration which are applicable to such Annexable Land or portion of the Subject Property. A Notice of Applicability will include:

(a) A reference to this Declaration and/or a Tract Declaration, if applicable, which reference will state the Recording information thereof;

(b) A statement that all of the provisions of this Declaration and/or Tract Declaration, if applicable, will apply to such portion of the Annexable Land;

(c) A legal description of such portion of the Annexable Land;

(d) If applicable, a description of any Benefited Common Area which benefits the Annexable Land or Subject Property, as applicable, and the beneficiaries of such Benefited Common Area; and

(e) If applicable, a description of a description of any Service Area which benefits the Annexable Land or Subject Property, as applicable, and the beneficiaries of such Service Area.

NOTICE TO TITLE COMPANY

NO PORTION OF THE ANNEXABLE LAND IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS DECLARATION AND THIS DECLARATION DOES NOT APPLY TO ANY PORTION OF THE ANNEXABLE LAND UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH ANNEXABLE LAND AND REFERENCING THIS DECLARATION HAS BEEN RECORDED.

9.06 Assignment of Declarant's Rights. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by a Recorded, written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, reservations and duties under this Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, reservations and duties hereunder.

ARTICLE 10
GENERAL PROVISIONS

10.01 Term. Upon the filing of a notice pursuant to *Section 9.05*, the terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the portion of the Annexable Land described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is Recorded, and continuing through and including January 1, 2088, after which time this Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. Notwithstanding any provision in this *Section 10.01* to the contrary, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

10.02 **Eminent Domain**. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Benefited Common Area for any public purpose during the period this Declaration is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on the respective Lot or Condominium Unit. In the event any proceeds attributable to acquisition of Benefited Common Area are paid to Owners who have been assigned the obligation to pay Benefited Common Area Assessments attributable to such Benefited Common Area, such payment will be allocated on the basis of Assessment Units and paid jointly to such Owners and the holders of first Mortgages or deeds of trust on the respective Lot or Condominium Unit.

10.03 **Amendment**. This Declaration may be amended or terminated by the Recording of an instrument executed and acknowledged by (i) Declarant acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. During the Development Period, no amendment will be effective unless it is a unilateral amendment by Declarant or otherwise evidences the written consent of Declarant.

Notwithstanding any term or provision herein to the contrary, in accordance with Section 14.2 of the Vistancia Declaration, any amendment affecting any portion of the Covered Property or the Annexable Property (both as defined in the Vistancia Declaration) shall be approved in advance and in writing by the Vistancia Declarant during the Vistancia Development Period.

10.04 **Enforcement**. The Vistancia Maintenance Corporation, the Association, and the Declarant will have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, charges and other terms now or hereafter imposed by the provisions of this Declaration. Failure to enforce any right, provision, covenant, or condition granted by this Declaration will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future. Failure of the Vistancia Maintenance Corporation, the Association, or the Declarant to enforce the terms and provisions of the Documents shall in no event give rise to any claim or liability against the Vistancia Maintenance Corporation, Declarant, the Association, or any of their partners, directors, officers, or agents.

EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE SUBJECT PROPERTY, HEREBY RELEASES AND SHALL HOLD HARMLESS EACH OF THE VISTANCIA MAINTENANCE CORPORATION, DECLARANT, THE ASSOCIATION, AND THEIR PARTNERS, DIRECTORS, OFFICERS, OR AGENTS FROM AND AGAINST ANY DAMAGES, CLAIMS, OR LIABILITY ASSOCIATED WITH THE FAILURE OF THE VISTANCIA MAINTENANCE CORPORATION, DECLARANT OR THE ASSOCIATION TO ENFORCE THE TERMS AND PROVISIONS OF THE DOCUMENTS.

10.05 **Higher Authority**. The terms and provisions of this Declaration are subordinate to Applicable Law. Generally, the terms and provisions of this Declaration are enforceable to the extent they do not violate or conflict with Applicable Law.

10.06 **Severability**. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Declaration, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

10.07 **Conflicts**. If there is any conflict between the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or any Rules adopted pursuant to the terms of such documents, or any Tract Declaration, the provisions of this Declaration will govern.

10.08 **Gender**. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

10.09 **Acceptance by Grantees**. Each grantee of a Lot, Condominium Unit, or other real property interest in the Subject Property, by the acceptance of a deed of conveyance, and each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each grantee agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Subject Property, and will bind any person having at any time any interest or estate in the Subject Property, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

10.10 **Damage and Destruction**.

(a) Claims. Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or Benefited Common Area covered by insurance, the Board, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the damage. Repair, as used in this *Section 10.10(a)*, means repairing or restoring the Common Area or Benefited Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) Repair Obligations. Any damage to or destruction of the Common Area or Benefited Common Area will be repaired unless a Majority of the Board decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association within said period, then the period will be extended until such information will be made available.

(c) Restoration. In the event that it should be determined by the Board that the damage or destruction of the Common Area or Benefited Common Area will not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or Benefited Common Area will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(d) Special Assessment for Common Area. If insurance proceeds are paid to restore or repair any damaged or destroyed Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board may levy a Special Assessment, as provided in *Article 5*, against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) Special Assessment for Benefited Common Area. If insurance proceeds are paid to restore or repair any damaged or destroyed Benefited Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board may levy a Special Assessment, as provided in *Article 5*, against all Owners who have been assigned the obligation to pay Benefited Common Area Assessments attributable to such Benefited Common Area. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(f) Proceeds Payable to Owners. In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to any Common Area, such payments will be allocated based on Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(g) Proceeds Payable to Owners Responsible for Benefited Common Area. In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to Benefited Common Area, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners who have been assigned the obligation to pay Benefited Common Area Assessments attributable to such Benefited Common Area and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

10.11 **No Partition**. Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area or Benefited Common Area or any part thereof will be permitted, nor will any person acquiring any interest in the Subject Property or any part thereof seek any such judicial partition unless all or the portion of the Subject Property in question has been removed from the provisions of this Declaration pursuant to *Section 9.04* above. This *Section 10.11* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Declaration, nor will this provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Arizona Condominium Act, Arizona Revised Statutes § 33-1201, *et seq.*

10.12 **View Impairment**. Neither the Declarant, the Design Review Committee, nor the Association guarantee or represent that any view over and across the Lots, Condominium Units, or any open space within the Subject Property will be preserved without impairment. The Declarant, the Design Review Committee, and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Area or Benefited Common Area) will have the right to add trees and other landscaping from time to time, subject to Applicable Law. There shall be no express or implied easements for view purposes or for the passage of light and air.

10.13 **Safety and Security**. Each Owner and Occupant of a Lot or Condominium Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Subject Property. The Association may, but shall not be obligated to, maintain or support certain activities within the Subject Property designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Association nor the Declarant shall in any way be considered insurers or guarantors of safety or security within the Subject Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Subject Property, cannot be compromised or circumvented; or that any such system or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Occupants of such Owner's Lot or Condominium Unit that the Association, its Board and committees, and the Declarant are not insurers or guarantors of security or safety and that each Person within the Subject Property assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot or Condominium Unit and the contents thereof, resulting from acts of third parties.

10.14 Mountain Preserve Lands and Other Facilities Open to the Public. Pursuant to that certain Amended and Restated Development Agreement for Vistancia in Peoria, Arizona between the City and Declarant and Recorded under Document No. 20120395094 in the Official Records of Maricopa County, Arizona, as amended from time to time, Declarant will donate and dedicate to the City no less than 900 acres of the Subject Property for the purpose of preserving meaningful open space (the "**Preserve Areas**"). The Preserve Areas shall be open for the use and enjoyment of the public; however, the Preserve Areas shall primarily consist of steeply sloped areas north of the C.A.P. Canal, and public access to the Preserve Areas shall be made available upon completion of a trail system, including greenbelt areas, paths and other open space areas. Each Owner and Occupant of a Lot or Condominium Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Preserve Areas.

10.15 Notices. Any notice permitted or required to be given to any person by this Declaration will be in writing and may be delivered either personally or by mail, or as otherwise provided in this Declaration or required by Applicable Law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

10.16 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in the Declaration. Any Owner acquiring a Lot or Condominium Unit in reliance on one or more of such restrictive covenants, terms, or provisions will assume all risks of the validity and enforceability thereof and, by acquiring the Lot or Condominium Unit, agrees to hold Declarant harmless therefrom.

ARTICLE 11
DISPUTE RESOLUTION

This Article 11 is intended to encourage the resolution of disputes involving the Subject Property. A dispute regarding the Lots, Condominium Units, Common Area, Benefited Common Area, and/or Improvements can create significant financial exposure for the Association and its Members, interfere with the resale and refinancing of Lots and Condominium Units, and increase strife and tension among the Owners, the Board and the Association's management. Since disputes may have a direct effect on each Owner's use and enjoyment of their Lot or Condominium Unit, the Common Area, and the Benefited Common Area, this Article 11 requires Owner transparency and participation in certain circumstances. Transparency means that the Owners are informed in advance about a dispute, the proposed arrangement between the Association and a law firm or attorney who will represent the Association in the dispute, and that each Owner will have an opportunity to participate in the decision-making process prior to initiating the dispute resolution process.

11.01 **<u>Introduction and Definitions</u>**. The Association, the Owners, Declarant, all persons subject to this Declaration, and each person not otherwise subject to this Declaration who agrees to submit to this *Article 11* by written instrument delivered to the Claimant, which may include, but is not limited to, a Residential Developer, Homebuilder, a general contractor, sub-contractor, design professional, or other person who participated in the design or construction of Lots or Condominium Units, Common Area, Benefited Common Area, or any Improvement within, serving or forming a part of the Subject Property (individually, a "**Party**" and collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Subject Property and the Common Area or Benefited Common Area to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby declares and agrees that this Article applies to all Claims as hereafter defined. This *Article 11* may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association. As used in this Article only, the following words, when capitalized, have the following specified meanings.

(a) "**Claim**" means:

(i) Claims relating to the rights and/or duties of Declarant, the Association, or the Design Review Committee, under the Documents;

(ii) Claims relating to the acts or omissions of the Declarant, the Association or a Board member or officer of the Association during Declarant's control and administration of the Association, and any claim asserted against the Design Review Committee; or

(iii) Claims relating to the design or construction of Improvements located on the Common Area, Benefited Common Area, Lots or Condominium Units.

(b) "**Claimant**" means any Party having a Claim against any other Party.

(c) "**Respondent**" means any Party against which a Claim has been asserted by a Claimant.

11.02 **<u>Mandatory Procedures</u>**. Claimant may not initiate any proceeding before any judge, jury, arbitrator or any judicial or administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the procedures of this Article. As provided below, a Claim must be resolved by binding arbitration.

11.03 **<u>Claim by the Association – Common Area and Benefited Common Area</u>**. In accordance with *Section 3.12* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation, arbitration or other proceedings: (i) in the name of or on behalf of any Owner (whether one or more); or

(ii) pertaining to a Claim, as defined in *Section 11.01(a)* above, relating to the design, construction, condition, or sale of Improvements on a Lot or Condominium Unit (whether one or more). Additionally, no Owner shall have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design, construction, condition, or sale of the Common Area or Benefited Common Area or any Improvements thereon (a "**Construction Claim**"). Each Owner, by accepting an interest in or title to a Lot or Condominium Unit, hereby grants to the Association the exclusive right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to a Construction Claim. In the event the Association asserts a Construction Claim as a precondition to providing the Notice defined in *Section 11.05* initiating the mandatory dispute resolution procedures set forth in this *Article 11*, or taking any other action to prosecute a Claim, and in addition to the requirements of the Association pursuant to A.R.S. § 33-2002, as applicable, the Association must:

(a) Obtain Owner Approval of Engagement. The requirements related to Owner approval set forth in this *Section 11.03(a)* are intended to ensure that the Association and the Owners approve and are fully informed of the financial arrangements between the Association and a law firm or attorney engaged by the Association to prosecute a Construction Claim. The engagement agreement between the Association and the law firm or attorney may include requirements that the Association pay costs, fees, and expenses to the law firm or attorney which will be paid through Assessments levied against Owners. The financial agreement between the Association and the law firm or attorney may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Association and the law firm or attorney is terminated or if the Association agrees to settle the Claim. In addition, the financial arrangement between the Association and the law firm or attorney may include additional costs, expenses, and interest charges. This financial obligation can be significant. The Board may not engage a law firm or attorney to prosecute a Construction Claim or execute a written agreement between the Association and a law firm or attorney for the purpose of prosecuting a Construction Claim unless the law firm or attorney and the financial arrangements between the Association and the law firm or attorney are approved by the Owners in accordance with this *Section 11.03(a)*.

Unless otherwise approved by Members holding sixty-seven percent (67%) of the votes in the Association, the Association, acting through its Board, shall in no event have the authority to engage a law firm or attorney to prosecute a Construction Claim if the agreement between the Association and law firm or attorney includes any provision or requirement that would obligate the Association to pay any costs, expenses, fees, or other charges to the law firm or attorney, including but not limited to, costs, expenses, fees, or other charges payable by the Association: (i) if the Association terminates the engagement with the law firm or attorney or engages another firm or third-party to assist with the Construction Claim; (ii) if the Association agrees to settle the

Construction Claim for a cash payment or in exchange for repairs or remediation performed by the Respondent or any other third-party; (iii) if the Association agrees to pay interest on any costs or expenses incurred by the law firm or attorney; and/or (iv) for consultants, expert witnesses, and/or general contractors hired by the law firm or attorney. For avoidance of doubt, it is intended that Members holding sixty-seven percent (67%) of the votes in the Association must approve the law firm and attorney who will prosecute the Construction Claim and the written agreement between the Association and the law firm and/or attorney.

The approval of the Members required under this *Section 11.03(a)* must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of Member meeting will be provided pursuant to the Bylaws but the notice must also include: (a) the name of the law firm and attorney; (b) a copy of the proposed written agreement between the Association and the law firm and/or attorney; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Association; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Association; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Association if the conditions for payment occur, which estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the law firm and/or attorney will use to evaluate the Construction Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Common Area, Benefited Common Area, Lots, Condominium Units, and/or Improvements thereon or therein). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Lot, Condominium Unit, the Common Area, or the Benefited Common Area will be affected by such testing, and if the destructive testing occurs the means or method the Association will use to repair the Common Area, Benefited Common Area, or Improvements affected by such testing and the estimated costs thereof. The notice required by this paragraph must be prepared and signed by a person other than the law firm or attorney who is a party to the proposed agreement being approved by the Members. In the event Members holding sixty-seven percent (67%) of the votes in the Association approve the law firm and/or attorney who will prosecute the Construction Claim and the written agreement between the Association and the law firm and/or attorney, the Board shall have the authority to engage the law firm and/or attorney and enter into the written agreement approved by the Members.

(b) Provide Notice of the Inspection. As provided in *Section 11.03(c)* below, a Common Area Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Common Area Report, the Association must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common

Area Report, the specific Common Areas and/or Benefited Common Areas to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(c) Obtain a Common Area Report. The requirements related to the Common Area Report set forth in this *Section 11.03(c)* are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Area Report and recommendations are not affected by influences that may compromise the professional judgement of the party preparing the Common Area Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Area Report is compromised.

Obtain a written independent third-party report for the Common Area, Benefited Common Area, and/or Improvements thereon (the "Common Area Report") from a professional engineer licensed by the Arizona Board of Technical Registration with an office located in Maricopa County, Arizona (the "**Inspection Company**"). The Common Area Report must include: (i) a description with photographs of the Common Area and/or Benefited Common Area subject to the Construction Claim; (ii) a description of the present physical condition of the Common Area and/or Benefited Common Area subject to the Construction Claim; (iii) a detailed description of any modifications, maintenance, or repairs to the Common Area and/or Benefited Common Area performed by the Association or a third-party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation and/or repair of the Common Area and/or Benefited Common Area subject to the Construction Claim. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Common Area Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Maricopa County, Arizona, and each such contractor providing the estimate must hold all necessary or required licenses from the Arizona Registrar of Contractors or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Common Area Report must be obtained by the Association. The Common Area Report will not satisfy the requirements of this Section and is not an "independent" report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Association or proposes to represent the Association; (b) the costs and expenses for preparation of the Common Area Report are not required to be paid directly by the Association to the Inspection Company at the time the Common Area Report is finalized and delivered to the Association; or (c) the law firm or attorney that presently represents the Association or proposes to represent the Association has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Association's agreement with the law firm or attorney) the Association for the costs and expenses for preparation of the Common Area Report. For avoidance of doubt, an "independent" report means that the Association has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Association will directly pay for the report at the time the Common Area Report is finalized and delivered to the Association.

(d) Provide a Copy of Common Area Report to all Respondents and Owners. Upon completion of the Common Area Report, and in any event no later than three (3) days after the Association has been provided a copy of the Common Area Report, the Association will provide a full and complete copy of the Common Area Report to each Respondent and to each Owner. The Association shall maintain a written record of each Respondent and Owner who was provided a copy of the Common Area Report which will include the date the report was provided. The Common Area Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

(e) Provide a Right to Cure Defects and/or Deficiencies Noted on Common Area Report. Commencing on the date the Common Area Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Common Area Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Area Report; and (iii) correct any condition identified in the Common Area Report. As provided in *Section 8.10* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Area Report.

(f) Hold Owner Meeting and Obtain Approval. In addition to obtaining approval from Members for the terms of the attorney or law firm engagement agreement, the Association must obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in *Section 11.05*, initiate the mandatory dispute resolution procedures set forth in this *Article 11*, or take any other action to prosecute a Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Claim; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which the Association may be liable as a result of prosecuting the Claim; (v) a summary of the steps previously taken by the Association to resolve the Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Claim may affect the market value, marketability, or refinancing of a Lot or Condominium Unit while the Claim is prosecuted; and (vii) a description of the manner in which the Association proposes to fund the cost of prosecuting the Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Association in the Claim; (b) a member of the law firm of the attorney who represents or will represent the Association in the Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in *Section 11.05*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

(g) Claims Pertaining to the Lots, Condominium Unit(s) and/or Improvements Thereon. Pursuant to *Section 3.12* above, the Association does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design, construction, condition, or sale of Lots, Condominium Unit(s) and/or Improvements thereon. In the event that a court of competent jurisdiction determines that the Association does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design, construction, condition, or sale of Lots, Condominium Unit(s) and/or Improvements thereon, the Association shall be required, as a precondition to providing the Notice defined in *Section 11.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 11*, or taking any other action to prosecute a Claim affecting Lots, Condominium Unit(s) and/or Improvements thereon, to comply with this *Section 11.03*, i.e., the provisions and requirements pertaining to Common Areas and Benefited Common Areas shall also apply to the Lots, Condominium Unit(s) and/or Improvements thereon subject to the Claim.

11.04 Claim by Lot and/or Condominium Unit Owners – Improvements on Lots and/or Condominium Units. In the event an Owner asserts a Claim related to the design, construction, condition, or sale of Improvements on a Lot or Condominium Unit, as a precondition to providing the Notice defined in *Section 11.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 11*, or taking any other action to prosecute a Claim, the Owner must:

(a) Provide Notice of the Inspection. As provided in *Section 11.04(b)* below, an Owner Improvement Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Owner Improvement Report, the Owner must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the

Owner Improvement Report, the Improvement to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(b) Obtain an Owner Improvement Report. The requirements related to the Owner Improvement Report set forth in this *Section 11.04(b)* are intended to provide assurance to the Claimant and Respondent that the substance and conclusions of the Owner Improvement Report and recommendations are not affected by influences that may compromise the professional judgement of the party preparing the Owner Improvement Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Owner Improvement Report is compromised.

Obtain a written independent third-party report for the Improvements on the Lot or Condominium Unit (the "**Owner Improvement Report**") from an Inspection Company. The Owner Improvement Report must include: (i) a description with photographs of the Improvement subject to the Claim; (ii) a description of the present physical condition of the Improvement; (iii) a detailed description of any modifications, maintenance, or repairs to the Improvement performed by the Owner or a third-party, including any Respondent; (iv) specific and detailed recommendations regarding remediation and/or repair of the Improvement. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Owner Improvement Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Maricopa County, Arizona, and each such contractor providing the estimate must hold all necessary or required licenses from the Arizona Registrar of Contractors or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Owner Improvement Report must be obtained by the Owner. The Owner Improvement Report will not satisfy the requirements of this Section and is not an "independent" report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Owner or proposes to represent the Owner; (b) the costs and expenses for preparation of the Owner Improvement Report are not directly paid by the Owner to the Inspection Company no later than the date the Owner Improvement Report is finalized and delivered to the Owner; or (c) the law firm or attorney that presently represents the Owner or proposes to represent the Owner has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Owner's agreement with the law firm or attorney) the Owner for the costs and expenses for preparation of the Owner Improvement Report. For avoidance of doubt, an "independent" report means that the Owner has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Owner will directly pay for the report no later than the date the Owner Improvement Report is finalized and delivered to the Owner.

(c) Provide a Copy of Owner Improvement Report to all Respondents. Upon completion of the Owner Improvement Report, and in any event no later than three (3) days after the Owner has been provided a copy of the Owner Improvement Report, the Owner will provide a full and complete copy of the Owner Improvement Report to each Respondent. The Owner shall maintain a written record of each Respondent who was provided a copy of the Owner Improvement Report which will include the date the report was provided. The Owner Improvement Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

(d) Right to Cure Defects and/or Deficiencies Noted on Owner Improvement Report. Commencing on the date the Owner Improvement Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Owner Improvement Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Owner Improvement Report; and (iii) correct any condition identified in the Owner Improvement Report. As provided in *Section 8.10* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Owner Improvement Report.

(e) Claims Pertaining to the Common Area or Benefited Common Area. Pursuant to *Section 11.03* above, an Owner does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design, construction, condition, or sale of the Common Area, Benefited Common Area, or Improvements thereon. In the event that a court of competent jurisdiction determines that an Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design, construction, condition, or sale of the Common Area, Benefited Common Area, or Improvements thereon, such Owner shall be required, since a Claim affecting the Common Area, Benefited Common Area, and/or Improvements thereon could affect all Owners, as a precondition to providing the Notice defined in *Section 11.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 11*, or taking any other action to prosecute a Claim, to comply with the requirements imposed by the Association in accordance with *Section 11.03(b)* (Provide Notice of Inspection), *Section 11.03(c)* (Obtain a Common Area Report), *Section 11.03(d)* (Provide a Copy of Common Area Report to all Respondents and Owners), *Section 11.03(e)* (Provide Right to Cure

Defects and/or Deficiencies Noted on Common Area Report), *Section 11.03(f)* (Owner Meeting and Approval), and *Section 11.05* (Notice).

11.05 **Notice**. Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this *Section 11.05*. The one hundred and twenty (120) day period for mediation set forth in *Section 11.07* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 11.07* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association, the Notice will also include: (a) if the Claim is a Construction Claim, a true and correct copy of the Common Area Report, and any and all other reports, studies, analyses, and recommendations obtained by the Association related to the Common Area and/or Benefited Common Area; (b) a copy of any engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Claim; (c) if the Claim is a Construction Claim, reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved the law firm and attorney and the written agreement between the Association and the law firm and/or attorney in accordance with *Section 11.03(a)*; (d) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 11.03(f)* above; and (e) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and relates to the design, construction, condition, or sale of a Lot or Condominium Unit and Improvements thereon, the Notice will also include a true and correct copy of the Owner Improvement Report.

If a Claim is subject to A.R.S. Title 12, Chapter 8, Article 14 and/or A.R.S. Title 33, Chapter 18, Article 1, the Claimant is advised, in addition to compliance with *Section 11.05*, to comply with the terms and provisions of A.R.S. Title 12, Chapter 8, Article 14 and/or A.R.S. Title 33, Chapter 18, Article 1 in providing Notice of the Claim.

11.06 **Negotiation**. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property.

If a Claim is subject to A.R.S. Title 12, Chapter 8, Article 14 and/or A.R.S. Title 33, Chapter 18, Article 1, the Claimant and Respondent are advised, in addition to compliance with *Section 11.06*, to comply with the terms and provisions of A.R.S. § 12-1363 during such sixty (60) day period, which shall include, not by way of limitation, Respondent's right to issue a notice of intent to repair or replace any alleged construction defects. Failure to comply with the time periods or actions specified in A.R.S. Title 12, Chapter 8, Article 14 and/or A.R.S. Title 33, Chapter 18, Article 1 could affect a Claim if the Claim is subject to A.R.S. Title 12, Chapter 8, Article 14 and/or A.R.S. Title 33, Chapter 18, Article 1.

11.07 **Mediation**. If the parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the Parties or required by Applicable Law (i.e., after the repair and replacement process has been completed, if at all, in accordance with A.R.S. § 12-1363), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Respondent will submit the Claim to mediation in accordance with this *Section 11.07*. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with *Section 11.08*.

11.08 **Binding Arbitration- Claims**. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 11.08*.

(a) Governing Rules. If a Claim has not been resolved by mediation in accordance with *Section 11.07*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 11.08* and the American Arbitration **Association** (the "**AAA**") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "**AAA Rules**"). In the event of any inconsistency between the AAA Rules and this *Section 11.08,* this *Section 11.08* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows: (i) one (1) arbitrator shall be selected by the Respondent, in its sole and absolute discretion; (ii) one (1) arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and (iii) one (1) arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

(b) Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 11.08* will limit the right of Claimant or Respondent, and Claimant and Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party, to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

(c) Statute of Limitations. All statutes of limitations that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 11.08*.

(d) Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the Applicable Law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 11.08* and subject to *Section 11.09;* provided, however, attorney's fees and costs may not be awarded by the arbitrator to either Claimant or Respondent. In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on: (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Arizona law; (ii) conclusions of law that are erroneous; (iii) an error of Applicable Law; or (iv) a cause of action or remedy not expressly provided under Applicable Law. In no event may an arbitrator award speculative, special, exemplary, treble or punitive damages for any Claim.

(e) Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in Maricopa County, Arizona. Unless otherwise provided by this *Section 11.08*, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Arizona Rules of Civil Procedure and Applicable Law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

11.09 **Allocation of Costs**. Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

11.10 **General Provisions**. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

11.11 **Period of Limitations**. The exclusive period of limitation for any of the Parties to bring any Claim is the applicable statute of limitations for such Claim.

11.12 **Funding the Resolution of Claims**. **The Association** must levy a Special Assessment to fund estimated costs to resolve a Claim pursuant to this *Article 11.* The Association may not use its annual operating income or reserve funds to fund the costs to resolve a Claim unless the Association has previously established and funded a dispute resolution fund.

11.13 **Severability**. The provisions of this Article shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion herein shall not affect the validity or enforceability of any other provision or portion herein.

11.14 **Records**. The Association shall prepare and preserve for a period of five (5) years records that are adequate to comply with Title 33, Chapter 18 of the Arizona Revised Statutes.

[*SIGNATURE PAGES FOLLOW*]

EXECUTED to be effective on the date the foregoing instrument is Recorded.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: ____________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED BY:

VISTANCIA NORTH, LLC,
a Delaware limited liability company

By:______________________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA NORTH, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC
STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED BY:

VISTANCIA CLEMENTINE, LLC,
a Delaware limited liability company

By:______________________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA CLEMENTINE, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED BY:

VISTANCIA MYSTIC, LLC,
a Delaware limited liability company

By:__________________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler the Authorized Signatory for **VISTANCIA MYSTIC, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC
STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED BY:

VISTANCIA SOUTH, LLC,
a Delaware limited liability company

By:______________________________
Name:____________________________
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA SOUTH, LLC**, a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC
STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

EXHIBIT "A"
DESCRIPTION OF ANNEXABLE LAND

(NORTH)

A PARCEL OF LAND BEING ALL OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3; THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4; THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 5; THE SOUTHWEST QUARTER, THE NORTH HALF OF THE SOUTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND THE WEST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE NORTH HALF OF THE NORTHEAST QUARTER AND THE EAST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8; SECTION 9; SECTION 10; SECTION 11; LOTS 1, 2, 4, 6, 8, THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 14; LOTS 1, 3, 4, 6, 8, THE NORTH HALF OF THE NORTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 15, ALL IN TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING (#1-PARCEL-1) AT THE NORTHWEST CORNER OF SAID SECTION 15 (GLO BRASS CAP), FROM WHICH POINT THE WEST QUARTER CORNER THEREOF (GLO BRASS CAP) BEARS SOUTH 00 DEGREES 14 MINUTES 51 SECONDS WEST A DISTANCE OF 2636.81 FEET;

THENCE NORTH 89 DEGREES 43 MINUTES 19 SECONDS WEST A DISTANCE OF 2636.29 FEET;

THENCE NORTH 89 DEGREES 44 MINUTES 13 SECONDS WEST A DISTANCE OF 2639.99 FEET;

THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS WEST A DISTANCE OF 2638.06 FEET;

THENCE NORTH 89 DEGREES 35 MINUTES 15 SECONDS WEST A DISTANCE OF 2639.39 FEET;

THENCE NORTH 00 DEGREES 17 MINUTES 50 SECONDS EAST A DISTANCE OF 2636.79 FEET;

THENCE SOUTH 89 DEGREES 41 MINUTES 30 SECONDS EAST A DISTANCE OF 5274.31 FEET;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS EAST A DISTANCE OF 1320.69 FEET;

THENCE NORTH 89 DEGREES 43 MINUTES 03 SECONDS WEST A DISTANCE OF 2629.03 FEET;

THENCE NORTH 00 DEGREES 21 MINUTES 13 SECONDS EAST A DISTANCE OF 1319.505 FEET;

THENCE SOUTH 89 DEGREES 44 MINUTES 36 SECONDS EAST A DISTANCE OF 1312.875 FEET;

THENCE NORTH 00 DEGREES 07 MINUTES 40 SECONDS EAST A DISTANCE OF 2647.17 FEET;

THENCE SOUTH 89 DEGREES 33 MINUTES 36 SECONDS EAST A DISTANCE OF 1316.67 FEET;

THENCE SOUTH 89 DEGREES 42 MINUTES 13 SECONDS EAST A DISTANCE OF 2639.27 FEET;

THENCE SOUTH 00 DEGREES 10 MINUTES 25 SECONDS WEST A DISTANCE OF 1983.76 FEET;

THENCE SOUTH 89 DEGREES 40 MINUTES 43 SECONDS EAST A DISTANCE OF 988.80 FEET;

THENCE SOUTH 00 DEGREES 11 MINUTES 28 SECONDS WEST A DISTANCE OF 661.40 FEET;

THENCE SOUTH 89 DEGREES 40 MINUTES 13 SECONDS EAST A DISTANCE OF 659.06 FEET;

THENCE NORTH 00 DEGREES 12 MINUTES 10 SECONDS EAST A DISTANCE OF 661.49 FEET;

THENCE SOUTH 89 DEGREES 40 MINUTES 43 SECONDS EAST A DISTANCE OF 988.80 FEET;

THENCE SOUTH 89 DEGREES 42 MINUTES 09 SECONDS EAST A DISTANCE OF 659.73 FEET;

THENCE SOUTH 00 DEGREES 13 MINUTES 07 SECONDS WEST A DISTANCE OF 661.24 FEET;

THENCE SOUTH 89 DEGREES 44 MINUTES 11 SECONDS EAST A DISTANCE OF 1979.25 FEET;

THENCE SOUTH 89 DEGREES 35 MINUTES 54 SECONDS EAST A DISTANCE OF 2636.59 FEET;

THENCE SOUTH 89 DEGREES 44 MINUTES 21 SECONDS EAST A DISTANCE OF 2657.98 FEET;

THENCE SOUTH 89 DEGREES 41 MINUTES 59 SECONDS EAST A DISTANCE OF 2621.02 FEET;

THENCE SOUTH 00 DEGREES 12 MINUTES 35 SECONDS WEST A DISTANCE OF 2638.26 FEET;

THENCE SOUTH 00 DEGREES 12 MINUTES 40 SECONDS WEST A DISTANCE OF 2638.71 FEET;

THENCE SOUTH 00 DEGREES 03 MINUTES 54 SECONDS WEST A DISTANCE OF 987.44 FEET;

THENCE SOUTH 49 DEGREES 06 MINUTES 18 SECONDS WEST A DISTANCE OF 1572.73 FEET;

THENCE SOUTH 75 DEGREES 04 MINUTES 06 SECONDS WEST A DISTANCE OF 392.16 FEET;

THENCE NORTH 78 DEGREES 58 MINUTES 06 SECONDS WEST A DISTANCE OF 2948.74 FEET;

THENCE NORTH 11 DEGREES 02 MINUTES 27 SECONDS EAST A DISTANCE OF 99.99 FEET;

THENCE NORTH 78 DEGREES 57 MINUTES 33 SECONDS WEST A DISTANCE OF 200.38 FEET;

THENCE SOUTH 11 DEGREES 02 MINUTES 27 SECONDS WEST A DISTANCE OF 99.99 FEET;

THENCE NORTH 78 DEGREES 57 MINUTES 33 SECONDS WEST A DISTANCE OF 504.10 FEET;

THENCE SOUTH 37 DEGREES 43 MINUTES 18 SECONDS WEST A DISTANCE OF 1713.76 FEET;

THENCE NORTH 52 DEGREES 16 MINUTES 36 SECONDS WEST A DISTANCE OF 329.92 FEET;

THENCE SOUTH 37 DEGREES 43 MINUTES 24 SECONDS WEST A DISTANCE OF 659.94 FEET;

THENCE SOUTH 52 DEGREES 16 MINUTES 36 SECONDS EAST A DISTANCE OF 329.96 FEET;

THENCE SOUTH 37 DEGREES 43 MINUTES 11 SECONDS WEST A DISTANCE OF 1696.40 FEET;

THENCE SOUTH 68 DEGREES 42 MINUTES 14 SECONDS WEST A DISTANCE OF 460.86 FEET;

THENCE NORTH 80 DEGREES 24 MINUTES 37 SECONDS WEST A DISTANCE OF 684.36 FEET;

THENCE NORTH 09 DEGREES 18 MINUTES 03 SECONDS EAST A DISTANCE OF 24.72 FEET;

THENCE NORTH 80 DEGREES 14 MINUTES 40 SECONDS WEST A DISTANCE OF 99.99 FEET;

THENCE SOUTH 09 DEGREES 18 MINUTES 13 SECONDS WEST A DISTANCE OF 25.00 FEET;

THENCE NORTH 80 DEGREES 22 MINUTES 20 SECONDS WEST A DISTANCE OF 667.00 FEET;

THENCE SOUTH 76 DEGREES 49 MINUTES 22 SECONDS WEST A DISTANCE OF 1101.41 FEET;

THENCE NORTH 00 DEGREES 15 MINUTES 09 SECONDS EAST A DISTANCE OF 2235.62 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 51 SECONDS EAST A DISTANCE OF 2636.81 FEET TO POINT OF BEGINNING (#1-PARCEL 1);

AND

A PARCEL OF LAND BEING ALL OF THE NORTH HALF OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING (#2-PARCEL-2) AT THE NORTHEAST CORNER OF SAID SECTION 7 (GLO BRASS CAP) FROM WHICH POINT THE EAST QUARTER CORNER THEREOF (GLO BRASS CAP) BEARS SOUTH 00 DEGREES 16 MINUTES 04 SECONDS WEST A DISTANCE OF 2637.14 FEET;

THENCE SOUTH 00 DEGREES 16 MINUTES 04 SECONDS WEST A DISTANCE OF 1977.86 FEET;

THENCE NORTH 89 DEGREES 35 MINUTES 17 SECONDS WEST A DISTANCE OF 2640.43 FEET;

THENCE NORTH 00 DEGREES 16 MINUTES 33 SECONDS EAST DISTANCE OF 659.42 FEET;

THENCE NORTH 89 DEGREES 34 MINUTES 03 SECONDS WEST A DISTANCE OF 1343.65 FEET;

THENCE NORTH 00 DEGREES 15 MINUTES 50 SECONDS EAST A DISTANCE OF 1319.39 FEET;

THENCE SOUTH 89 DEGREES 32 MINUTES 40 SECONDS EAST A DISTANCE OF 1343.93 FEET;

THENCE SOUTH 89 DEGREES 34 MINUTES 44 SECONDS EAST A DISTANCE OF 2640.16 FEET TO POINT OF BEGINNING (#2-PARCEL 2).

FIRST AMERICAN TITLE

AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

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1 of 9

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190578926 07/30/2019 03:26
ELECTRONIC RECORDING

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VISTANCIA

VISTANCIA NORTH

NOTICE OF APPLICABILITY

[RESIDENTIAL]

[Vistancia Village H – Parcel H-19]

DECLARANT: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Vistancia Village H – Parcel H-19]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Vistancia Village H – Parcel H-19]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company ("**Declarant**") and is as follows:

1. **Applicability of Declaration**. This Notice of Applicability is Recorded with respect to Lots 1 through 50, inclusive, of Final Plat of "Vistancia Village H – Parcel H-19" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 34 (collectively, the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. **Applicability of Tract Declaration**. Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. **Tract**. The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. **Property Incorporated Into Subject Property**. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part

of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **Miscellaneous**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the 30 day of July, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: [signature]
Name: Robert E. Unell
Title: Authorized Signatory

STATE OF Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 26 day of July, 2019, by Robert Unell, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

KAREN A HOWARD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
COMMISSION # 550362
My Comm. Expires September 21, 2022

Karen A. Howard
Notary Public

My commission expires: Sept. 21, 2022

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
STEPHEN RICHER
20210366969 04/01/2021 02:25
ELECTRONIC RECORDING

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AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

FIRST AMERICAN TITLE
NCS-956702B-PHX1

VISTANCIA NORTH

NOTICE OF APPLICABILITY

[RESIDENTIAL]

[Vistancia Village H – Parcel H-19]

DECLARANT: VISTANCIA RESIDENTIAL LLC, an Arizona limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

#1

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Vistancia Village H – Parcel H-19]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Vistancia Village H – Parcel H-19]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company ("**Declarant**") and is as follows:

1. **Applicability of Declaration**. This Notice of Applicability is Recorded with respect to Lots 51 through 97, inclusive, of Final Plat of "Vistancia Village H – Parcel H-19" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 34 (collectively, the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant (and its predecessor in interest as Declarant thereunder) served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. **Applicability of Tract Declaration.** Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant (and its predecessor in interest as Declarant thereunder) served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. **Tract.** The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. **Property Incorporated Into Subject Property**. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part

of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **<u>Miscellaneous</u>**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

[NO FURTHER TEXT ON THIS PAGE – SIGNATURE FOLLOWS]

EXECUTED to be effective as of the 26th day of March, 2021.

DECLARANT:

VISTANCIA RESIDENTIAL LLC,
an Arizona limited liability company

By: Vistancia Master Holdings LLC,
an Arizona limited liability company, its sole Member

By: Scarborough Vistancia Partners, LP,
a Texas limited partnership, its Manager

By: Scarborough Vistancia Partners GP, LLC,
a Texas limited liability company, its General Partner

By: ________________
Name: Ryan Burkhardt
Title: Manager

STATE OF TEXAS)
) ss.
County of Dallas)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 26th day of MARCH, 2021, by RYAN Burkhardt, the Manager of Scarborough Vistancia Partners GP, LLC, a Texas limited liability company, the General Partner in Scarborough Vistancia Partners, LP, a Texas limited partnership, the Manager of Vistancia Master Holdings LLC, an Arizona limited liability company, the sole Member in **VISTANCIA RESIDENTIAL LLC,** an Arizona limited liability company, for ~~and~~ on ~~behalf~~ thereof.

BRUCE D BROWNE
Notary ID #124024545
My Commission Expires
January 17, 2022

____
Notary Public

My commission expires:

FIRST AMERICAN TITLE

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190578935 07/30/2019 03:26
ELECTRONIC RECORDING

1564522257865-3-31-24--
Tomutac

AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

936613
1 of 7

VISTANCIA NORTH

NOTICE OF APPLICABILITY

[RESIDENTIAL]

[Vistancia Village H – Parcel H-20]

DECLARANT: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

VISTANCIA

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Vistancia Village H – Parcel H-20]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Vistancia Village H – Parcel H-20]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company ("**Declarant**") and is as follows:

1. Applicability of Declaration. This Notice of Applicability is Recorded with respect to Lots 1 through 83, inclusive, of Final Plat of "Vistancia Village H – Parcel H-20" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 32 (collectively, the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. Applicability of Tract Declaration. Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. Tract. The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. Property Incorporated Into Subject Property. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part

of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **Miscellaneous**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the 30 day of July, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: [signature]
Name: Robert E. Unell
Title: Authorized Signatory

STATE OF Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 26 day of July, 2019, by Robert Unell, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

KAREN A HOWARD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
COMMISSION # 550362
My Comm. Expires September 21, 2022

Karen A. Howard
Notary Public

My commission expires: Sept. 21, 2022

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190578915 07/30/2019 03:26
ELECTRONIC RECORDING

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Tomutac

FIRST AMERICAN TITLE

AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

936773
1 of 11

VISTANCIA NORTH

NOTICE OF APPLICABILITY

[RESIDENTIAL]

[Vistancia Village H – Parcel H-21]

DECLARANT: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

#1 (H-21)

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Vistancia Village H – Parcel H-21]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Vistancia Village H – Parcel H-21]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company ("**Declarant**") and is as follows:

1. **Applicability of Declaration**. This Notice of Applicability is Recorded with respect to Lots 1 through 60, inclusive, of Final Plat of "Vistancia Village H – Parcel H-21" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 36 (the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. **Applicability of Tract Declaration**. Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. **Tract**. The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. **Property Incorporated Into Subject Property**. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **Miscellaneous**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the 30 day of July, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: ______________________
Name: Robert E. Unell
Title: Authorized Signatory

STATE OF Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 26 day of July, 2019, by Robert Unell, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

KAREN A HOWARD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
COMMISSION # 550362
My Comm. Expires September 21, 2022

Karen A. Howard
Notary Public

My commission expires: Sept. 21. 2022

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190578916 07/30/2019 03:26
ELECTRONIC RECORDING

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AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

936355

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VISTANCIA NORTH

NOTICE OF APPLICABILITY

[RESIDENTIAL]

[Village H at Vistancia Parcel H-22]

DECLARANT: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Village H at Vistancia Parcel H-22]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Village H at Vistancia Parcel H-22]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company ("**Declarant**") and is as follows:

1. **Applicability of Declaration**. This Notice of Applicability is Recorded with respect to Lots 1 through 85, inclusive, of Final Plat of "Village H at Vistancia Parcel H-22" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 35 (collectively, the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. **Applicability of Tract Declaration**. Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. **Tract**. The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. **Property Incorporated Into Subject Property**. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part

of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **Miscellaneous**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the 30 day of July, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: [signature]
Name: Robert E. Unell
Title: Authorized Signatory

STATE OF Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 26 day of July, 2019, by Robert Unell, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

KAREN A HOWARD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
COMMISSION # 550362
My Comm. Expires September 2*, 2022

Karen A. Howard
Notary Public

My commission expires: Sept. 21. 2022

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20200497607 06/09/2020 01:57
ELECTRONIC RECORDING

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AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

VISTANCIA

VISTANCIA NORTH

NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Village H at Vistancia Parcel H-23]

DECLARANT: VISTANCIA RESIDENTIAL LLC, an Arizona limited liability company

Cross reference to: (i) that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona; and (ii) that certain Vistancia North Tract Declaration [Residential], recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona.

#2A

VISTANCIA NORTH
NOTICE OF APPLICABILITY
[RESIDENTIAL]
[Village H at Vistancia Parcel H-23]

This Notice of Applicability of Vistancia North Declaration and Vistancia North Tract Declaration *[Residential] [Village H at Vistancia Parcel H-23]* (the "**Notice of Applicability**") is made and executed by **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company ("**Declarant**") and is as follows:

1. **Applicability of Declaration**. This Notice of Applicability is Recorded with respect to Lots 1 through 112, inclusive, of Final Plat of "Village H at Vistancia Parcel H-23" according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1472 of Maps, page 30, and Certificate of Correction recorded as Instrument No. 2019-0628176 (collectively, the "**Tract**"). Pursuant to that certain Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**"), Declarant (and its predecessor in interest as Declarant thereunder) served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be made a part of the Subject Property and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration.

2. **Applicability of Tract Declaration.** Pursuant to the Declaration and that certain Vistancia North Tract Declaration [Residential] recorded as Document No. 20190285592 in the Official Records of Maricopa County, Arizona (the "**Tract Declaration**"), Declarant (and its predecessor in interest as Declarant thereunder) served notice that portions of the property described on Exhibit "A" to the Declaration, upon the Recording of appropriate notices of applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration. Pursuant to this Notice of Applicability, the Tract is subject to the terms, covenants, conditions, restrictions, and obligations of the Tract Declaration.

3. **Tract.** The Tract described and identified in *Paragraph 1* above will constitute one of the Tracts which is permitted, contemplated and defined under the Declaration.

4. **Property Incorporated Into Subject Property**. The provisions of the Declaration and the Tract Declaration shall apply to the Tract. The Tract is hereby included within and made a part

of the Subject Property, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Declaration and the Tract Declaration.

5. **Miscellaneous**. This notice constitutes a Notice of Applicability under *Section 9.05* of the Declaration. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the _**9th**_ day of June, 2020.

DECLARANT:

VISTANCIA RESIDENTIAL LLC,
an Arizona limited liability company

By: Vistancia Master Holdings LLC,
an Arizona limited liability company,
its Member

By: ____________________
Name: Ryan Burkhardt
Title: Manager

STATE OF Texas)
) ss.
County of Dallas)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 5th day of June, 2020, by Ryan Burkhardt, the Manager of Vistancia Master Holdings LLC, an Arizona limited liability company, a Member in **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company, for ~~and on~~ behalf thereof.

BRUCE D BROWNE
Notary ID #124024545
My Commission Expires
January 17, 2022

____
Notary Public

My commission expires: 01/17/2022

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190285592 04/23/2019 11:40
ELECTRONIC RECORDING

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AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

VISTANCIA NORTH
TRACT DECLARATION
[*RESIDENTIAL*]

Declarant: VISTANCIA VILLAGE H, LLC, a Delaware limited liability company

Cross reference to Vistancia North Declaration, recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona.

VISTANCIA NORTH
TRACT DECLARATION
[*RESIDENTIAL]*

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VISTANCIA NORTH
TRACT DECLARATION
[*RESIDENTIAL*]

This Vistancia North Tract Declaration [*Residential*] (the "**Tract Declaration**") is made by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company (the "**Declarant**"), and is as follows:

RECITALS

A. Declarant previously recorded that certain Vistancia North Declaration recorded as Document No. 20190284676 in the Official Records of Maricopa County, Arizona (the "**Declaration**").

B. Pursuant to the Declaration, Declarant served notice that portions of the Annexable Land and Subject Property may be made subject to this Tract Declaration upon the Recording of one or more Notices of Applicability in accordance with Section 9.05 of the Declaration, and once such Notices of Applicability have been Recorded, the portions of the Annexable Land or Subject Property described therein will be governed by and fully subject to this Tract Declaration.

A Tract is a portion of Vistancia North which is subject to the terms and provisions of the Declaration. A Tract Declaration includes specific restrictions which apply to the Tract, in addition to the terms and provisions of the Declaration.

C. This Tract Declaration and the Declaration constitutes a "Village Declaration" as such term is defined under the Vistancia Declaration and Vistancia Declarant executes this Tract Declaration for the purpose of evidencing its consent to the terms and provisions hereof.

NOW, THEREFORE, it is hereby declared: (i) those portions of the Annexable Land or Subject Property as and when made subject to this Tract Declaration by the Recording of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Annexable Land or Subject Property and will be binding upon all parties having right, title, or interest in or to such portions of the Annexable Land, Subject Property, or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; and (ii) each contract or deed conveying those portions of the Annexable Land or Subject Property which are made subject to this Tract Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Tract Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Declaration.

ARTICLE 1
DEFINITIONS

Capitalized terms used but not defined in this Tract Declaration shall have the meaning ascribed to such terms in the Declaration.

ARTICLE 2
USE RESTRICTIONS

All of the Tract will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.01 Use Restrictions. The Tract shall be used solely for single-family residential purposes. The Tract may not be used for any other purposes without the prior written consent of the Declarant during the Development Period, which consent may be withheld by the Declarant in its sole and absolute discretion. No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Tract, except an Owner or Occupant may conduct business activities within a residence so long as: (i) such activity complies with Applicable Law; (ii) participation in the business activity is limited to the Owner(s) or Occupant(s) of a residence; (iii) the existence or operation of the business activity is not apparent or detectable by sight, *i.e.*, no sign may be erected advertising the business within the Tract, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Subject Property; (v) the business does not, as determined by a Majority of the Board, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Tract which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Tract and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subject Property as may be determined by a Majority of the Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than an Owner or Occupant and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

2.02 Rentals. No portion of the Tract may be used as an apartment house, flat, lodging house, hotel, bed and breakfast lodge, or any similar purpose, but the primary residence constructed on a Lot may be leased for residential purposes for a lease term of at least six (6) months. All leases shall be in writing. The Owner must provide to its lessee copies of the Documents. Notice of any lease, together with such additional information as may be required by the Board, must be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. All leases must be for the entire residence.

2.03 Trash Containers. Except when permitted to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection or for such amount of time as otherwise designated by the Board, trash containers and recycling bins must be stored in one of the following locations:

(i) inside the garage of the residence; or

(ii) behind or on the side of a residence in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent residence.

2.04 Unsightly Articles; Vehicles. No article deemed to be unsightly by the Board will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, all commercial vehicles, including passenger automobiles or pick-up trucks with commercial signage or other commercial advertising displayed thereon, other commercial vans, delivery trucks or other commercial vehicles, and all recreational vehicles and equipment, including recreational vehicles, inoperable vehicles, trailers, graders, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles, machinery and garden maintenance equipment, must be kept at all times except when in actual use, concealed in enclosed structures or screened from view and no repair or maintenance work may be done on any of the foregoing (other than minor emergency repairs), except in enclosed garages or other structures; provided however, that non-commercial passenger automobiles and passenger pick-up trucks may be parked in the driveway. Commercial delivery vehicles are permitted for the period of time reasonably necessary to make deliveries to a Lot. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics must be kept at all times within a fenced yard or otherwise appropriately concealed or screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Tract except within enclosed structures or appropriately screened from view. No: (a) racing vehicles; or (b) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag will be permitted to remain visible on any Lot or to be parked on any roadway within the Tract. Motorcycles shall be operated in a quiet manner.

Notwithstanding the foregoing, a vehicle may be parked on a street or driveway if the vehicle is required to be available at designated periods at the Owner or Occupant's Lot as a condition of employment and if the Owner or Occupant is employed by:

(i) a public service corporation that is regulated by the Arizona Corporation Commission;

(ii) an entity regulated by the federal energy regulatory commission; or

(iii) a municipal utility or public service corporation where the municipal utility or public service corporation is required to prepare for emergency deployments of personnel and equipment for repair or maintenance of natural gas, electrical, telecommunications or water infrastructure, the vehicle has a gross vehicle weight rating of twenty thousand pounds or less and is owned or operated by the public service corporation or municipal utility, and the vehicle bears an official emblem or other visible designation of the public service corporation or municipal utility.

Furthermore, and notwithstanding the prohibitions set forth in this *Section 2.04*, a vehicle may be parked on a street or driveway if the vehicle is required to be available at designated periods at the Owner or Occupant's Lot as a condition of employment and if the Owner or Occupant is employed by a public safety agency, including police or fire service for a federal, state, local or tribal agency or a private fire service provider or an ambulance service provider that is regulated pursuant to Title 36, Chapter 21.1 of the Arizona Revised Statutes and the vehicle has a gross vehicle weight rating of ten thousand pounds or less and bears an official emblem or other visible designation of that agency.

Mobile homes are prohibited; <u>provided however</u>, a mobile home may be temporarily loaded and unloaded in the Tract for a time period not to exceed twenty-four (24) hours.

Any vehicle or other equipment stored, parked, or maintained in violation of this *Section 2.04* shall be subject to towing or removal at the sole cost and expense of the owner of the vehicle or equipment (or, if the owner of the vehicle or equipment is a guest, invitee or licensee of an Owner, then at the sole cost and expense of such Owner). Any expense incurred by the Association in connection with towing or removal shall be paid to the Association upon demand by the owner of the vehicle or equipment or, if applicable, the Owner. If the vehicle or equipment is the property of an Owner or an Owner's guest, invitee or licensee, any cost or expense incurred by the Association to effect towing or removal may be assessed, collected and enforced by the Association in the same manner as Assessments.

2.05 **<u>Animals - Household Pets</u>**. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on a Lot (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such pot-bellied pigs, miniature horses, exotic snakes or lizards, ferrets, monkeys or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner or Occupant may keep on a Lot more than four (4) cats and dogs, in the aggregate. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic household pets will be allowed on the Tract other than within the residence, or the fenced yard space associated therewith, unless confined to a leash. The Board may restrict pets to certain areas within the Subject Property. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on a Lot, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside area. All pet waste will be removed and appropriately disposed of by the owner of the pet. All pets must be registered, licensed and inoculated as required by Applicable Law. All pets not confined to a residence must wear collars with appropriate identification tags. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Tract. Capturing, killing or trapping wildlife is prohibited within the Tract unless performed by a government official or licensed professional acting in his or her official capacity, except in any circumstance in which there is an imminent threat to the health or safety of persons or domestic household pets, as determined by a Majority of the Board.

2.06 **Garages.** No garage may be permanently enclosed or otherwise used for habitation.

2.07 **Antennae.**

(a) Prohibited Antennas; Permitted Antennas. Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, nor any solar energy system, may be erected, maintained or placed on a Lot without the prior written approval of the Design Review Committee; provided, however, that:

(i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals (collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**");

(iv) Permitted Antennas will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Design Review Committee, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Subject Property.

(b) <u>Location of Permitted Antennas</u>. A Permitted Antenna may be installed solely on the Owner's Lot and may not encroach upon any street, Common Area, Benefited Common Area, or any other portion of the Subject Property. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Subject Property, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Design Review Committee are as follows:

(i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Design Review Committee may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

2.08 **<u>Signs</u>**. Unless otherwise prohibited by Applicable law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the Design Review Committee, except for:

(i) signs which are permitted pursuant to the Design Guidelines or Rules;

(ii) signs installed by the Declarant or installed with the advance written consent of the Declarant;

(iii) one (1) "For Sale" sign and sign rider placed on the Lot, subject to approval by the Design Review Committee. The design and content of the sign and sign rider must be approved by the Design Review Committee, and the size will be limited to industry standard sizes, not to exceed eighteen by twenty four inches for the sign and six by twenty-four inches for the rider. Signs that are not commercially produced are prohibited. The sign must be removed within two (2) business days following the sale of the Lot;

(iv) one small security service sign per Lot, provided that the sign has a maximum face area of two square feet (2′ x 1′) and is located no more than five feet (5′) from the front elevation of the principal residence constructed upon the Lot;

(v) a "no soliciting" and "security warning" sign near or on the front door to their residence, provided, that the sign may not exceed twenty-five square inches (5″ x 5″);

(vi) signs or permits as may be required by Applicable Law;

(vii) one (1) temporary "For Sale", "For Lease", or "Open House" sign placed on the Lot. The sign must be commercially made and shall be limited to an industry standard size sign, which shall not exceed eighteen by twenty four inches and the industry standard size rider, which shall not exceed six by twenty-four inches. The sign must be removed within two (2) business days following the sale or lease of the Lot or within twenty-four hours following an open house marketing event held at the Lot;

(viii) political signs may be placed on a Lot provided the sign is erected no earlier than the 71st day before the date of the election to which the sign relates, is removed from the Lot no later than the 3rd day after the date of the election to which the sign relates, is ground-mounted, and the maximum aggregate total dimensions of all political signs erected on a Lot shall not exceed nine square feet (3′ x 3′);

(ix) permits as may be required by legal proceedings; and

(x) permits as may be required by any governmental entity.

2.09 **Solar Energy Device**. A Solar Energy Device may be installed with the advance written approval of the Design Review Committee. A "Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, and may also have the capability of storing such energy for future utilization; and provided that passive systems shall clearly be designed as a Solar Energy Device such as a trombe wall and not merely a part of a normal structure such as a window.

(a) Application. To obtain the Design Review Committee approval of a Solar Energy Device, the Owner shall provide the Design Review Committee with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "**Solar Application**"). A Solar Application may only be submitted by an Owner. The Solar Application shall be submitted in accordance with the provisions of Article 6 of the Declaration.

(b) Approval Process. The Design Review Committee will review the Solar Application in accordance with the terms and the provisions of Article 6 of the Declaration, provided however, that nothing herein should be construed to prevent the installation of a Solar Energy Device, impair the functioning of the Solar Energy Device or restrict the use or adversely affect the cost or efficiency of the Solar Energy Device. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this *Section 2.09* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Design Review Committee, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located on the Owner's Lot, entirely within a fenced area of the Owner's Lot, or entirely within a fenced patio located on the Owner's Lot.

(ii) If the Solar Energy Device will be located in the fenced area of the Owner's Lot or patio, no portion of the Solar Energy Device may extend above the fence line.

(iii) If the Solar Energy Device will be located on the roof of the principal residence located on the Owner's Lot, then unless otherwise approved in writing by the Design Review Committee: (A) the Solar Energy Device may not extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; and (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

2.10 Flags.

(a) Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Arizona, an official or replica flag of any branch of the United States army, navy, air force, marine corps or coast guard, the

POW/MIA flag, an Arizona Indian nations flag, and the Gadsden flag (**"Permitted Flag"**). An Owner is also permitted to install no more than one flagpole in the front yard and one flagpole in the backyard (a **"Permitted Flagpole"**). A Permitted Flagpole installed which is no more than five feet (5′) in length affixed to the front of a residence near the principal entry or affixed to the rear of the residence does not need to be approved in advance by the Design Review Committee. Advance approval by the Design Review Committee as to the location, dimensions, and materials is required prior to installing any vertical freestanding flagpole, which may be no taller than the rooftop of the residence in either or both the front or back yard area of any Lot (**"Freestanding Flagpole"**), which may be one of two Permitted Flagpoles.

(b) Installation and Display. Unless otherwise approved in advance and in writing by the Design Review Committee, Permitted Flags and Permitted Flagpoles must comply with the following:

(i) no more than two (2) Permitted Flags may be displayed at once and only two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(ii) any Permitted Flagpole may not be any taller than the rooftop of the residence on the Owner's Lot;

(iii) any Permitted Flag displayed on any Permitted Flagpole may not be more than three feet in height by five feet in width;

(iv) the flag of the United States of America and any permitted military flag must be displayed in accordance with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 U.S. Code §§ 4-10);

(v) the display of a Permitted Flag, or the location and construction of a Permitted Flagpole must comply with Applicable Law, easements and setbacks of record;

(vi) Each Permitted Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the residence;

(vii) Permitted Flags and Permitted Flagpoles must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpoles must be repaired, replaced or removed;

(viii) Permitted Flags may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring property; and

(ix) any external halyard of a Permitted Flagpole must be secured so as to reduce or eliminate noise from flapping against the Permitted Flagpole.

2.11 **Temporary Structures**. No tent, shack, or other temporary building, Improvement, or structure shall be placed within or upon the Tract without the prior written approval of the Design Review Committee. Sales and construction trailers or other temporary structures associated with the sale and/or construction of residences and Improvements associated therewith are permitted if approved in advance by the Declarant.

2.12 **Compliance with Restrictions**. Each Owner and Occupant of a Lot, and their guests and invitees shall comply strictly with the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of the Restrictions and may result in a fine against the Owner in accordance with Section 5.14 of the Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Board on behalf of the Association, or by an aggrieved Owner. Without limiting any rights or powers of the Association, the Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the Restrictions, and the Owner whose violation has been so remedied shall be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1½%) per month) shall be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot shall be secured by the liens reserved in the Declaration for Assessments and may be collected by any means provided in the Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). EACH SUCH OWNER AND OCCUPANT SHALL RELEASE AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS *SECTION 2.12* (INCLUDING ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

2.13 Liability of Owners for Damage to Common Area. No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area without the prior written approval of the Board. Each Owner shall be liable to the Association for any and all damages to: (i) the Common Area and any Improvements constructed thereon; or (ii) any

Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such Owner or Occupant, or their guests or invitees. The full cost of all repairs of such damage shall be an Individual Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided in Section 5.12 of the Declaration.

2.14 **Party Wall Fences**. A fence or wall located on or near the dividing line between two (2) Lots and intended to benefit both Lots constitutes a "**Party Wall**" and, to the extent not inconsistent with the provisions of this *Section 2.14*, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) Encroachments & Easement. If the Party Wall is on one Lot due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this *Section 2.14.* Each Lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

(b) Right to Repair. If the Party Wall is damaged or destroyed from any cause, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition, and the Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

(c) Maintenance Costs. In the event that an Owner shares a Party Wall with the Association or the Declarant, the Association or the Declarant may have the option to contribute towards the costs to repair, reconstruct, or replace the Party Wall based on a prorated amount, reflecting that amount of the Party Wall actually used by the Association or the Declarant. Any other Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Official Records of Maricopa County, Arizona, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to require contribution from another Owner under this *Section 2.14* is appurtenant to the Lot and passes to the Owner's successors in title.

(d) Alterations. The Owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the adjoining Lot. The Party Wall will always remain in the same location as when erected unless otherwise approved by the Owner of each Lot sharing the Party Wall and the Design Review Committee.

2.15 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Design Review Committee; provided, however, that when Declarant or a Declarant Affiliate is the Owner thereof, Declarant (or the Declarant Affiliate, as applicable) may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Design Review Committee.

2.16 Hazardous Activities. No activities may be conducted on or within the Tract and no Improvements constructed on any portion of the Tract which, as determined by a Majority of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Tract unless discharged in conjunction with an event approved in advance by the Board. There shall be no open fires, except that barbecues, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Design Review Committee shall be permitted. No Owner will permit any condition upon its portion of the Tract which creates a fire hazard or otherwise violates Applicable Law. Unless otherwise approved by the Declarant, no portion of the Tract may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.17 Mining and Drilling. No portion of the Tract may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted or approved by the Declarant.

2.18 Noise. No noise which constitutes a nuisance shall be permitted to exist or operate upon any portion of the Tract so as to be offensive or detrimental to any other portion of the Tract, Owners or Occupants thereof.

2.19 Rubbish and Debris. As determined by a Majority of the Board, no rubbish or debris of any kind may be placed or permitted to accumulate on or within the Tract, and no odors will be permitted to arise therefrom so as to render all or any portion of the Subject Property unsanitary, unsightly, offensive, or detrimental to any other property or Occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

2.20 **Maintenance**. The Owners of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. A Majority of the Board shall determine whether a violation of the maintenance obligations set forth in this *Section 2.20* has occurred. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner:

(i) Prompt removal of all litter, trash, refuse, and wastes.

(ii) Lawn mowing, tree and shrub pruning, landscape irrigation facilities, and maintaining the lawn and garden areas alive, free of weeds, and attractive.

(iii) Keeping mechanical facilities in working order.

(iv) Keeping sidewalks and driveways in good condition and repair.

(v) Repainting of Improvements.

(vi) Repair of exterior damage, and wear and tear to Improvements.

(vii) Complying with Applicable Law.

2.21 **Street Landscape Area-Owner's Obligation to Maintain Landscaping**. Each Owner will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the curb of any adjacent right-of-way, street or alley (the "**ST Landscape Area**") unless the responsibility for maintaining the ST Landscape Area is undertaken by the Association in a Recorded written instrument.

ARTICLE 3
DEVELOPMENT

3.01 **Notice of Applicability**. Upon Recording, this Tract Declaration serves to provide notice that at any time, and from time to time, Declarant, and Declarant only, may subject all or any portion of the Subject Property to the terms, covenants, conditions, restrictions and obligations of this Tract Declaration. This Tract Declaration will apply to and burden a portion or portions of the Annexable Land or Subject Property upon the Recording of a Notice of Applicability in accordance with Section 9.05 of the Declaration.

3.02 **Withdrawal of Land.** Declarant may, at any time and from time to time, reduce or withdraw land from the terms and provisions of this Tract Declaration. Upon any such withdrawal this Tract Declaration and the covenants, conditions, restrictions and obligations set forth herein will no longer apply to the portion of the land withdrawn. To withdraw lands from the Tract hereunder, Declarant will be required only to Record a notice of withdrawal of land executed by Declarant and the Owner of the withdrawn land (if different than Declarant) containing the following provisions:

(i) A reference to this Tract Declaration, which will include the Recoding information thereof;

(ii) A statement that the provisions of this Tract Declaration will no longer apply to the withdrawn land; and

(iii) A legal description of the withdrawn land.

3.03 Construction of Improvements. No Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any portion of the Tract unless approved in advance and in writing by the Design Review Committee in accordance with the Declaration. Pursuant to Section 6.04(b) of the Declaration, the Design Review Committee has adopted Design Guidelines applicable to the Tract. All Improvements must strictly comply with the requirements of the Design Guidelines unless a variance is obtained pursuant to the Declaration.

3.04 Construction Activities. This Tract Declaration will not be construed or applied so as to interfere with or prevent normal construction activities related to the completion of the residences and associated Improvements. Such construction may, from time to time, produce certain conditions on the Tract, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) temporary interruption of utilities; and/or (vii) other conditions customarily experienced during development and construction activities. Such conditions resulting from construction and development activities shall not be deemed a nuisance or violation of the terms and provisions of this Tract Declaration.

ARTICLE 4
GENERAL PROVISIONS

4.01 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Tract Declaration will run with and bind the Tract, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Tract Declaration is Recorded, and continuing through and including January 1, 2089, after which time this Tract Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. Notwithstanding any provision in this *Section 4.01* to the contrary, if any provision of this Tract Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

4.02 **Amendment.** This Tract Declaration may be amended or terminated by the Recording of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws.

Notwithstanding any term or provision herein to the contrary, in accordance with Section 14.2 of the Vistancia Declaration, any amendment affecting any portion of the Covered Property or the Annexable Property (both as defined in the Vistancia Declaration) shall be approved in advance and in writing by the Vistancia Declarant during the Vistancia Development Period.

4.03 **Notices.** Any notice permitted or required to be given by this Tract Declaration must be in writing and may be delivered either personally or by mail, or as otherwise required by Applicable Law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

4.04 **Interpretation.** The provisions of this Tract Declaration will be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Tract, provided, however, that the provisions of this Tract Declaration will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Tract. This Tract Declaration will be construed and governed under the laws of the State of Arizona.

4.05 **Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

4.06 **Assignment of Declarant's Rights.** Notwithstanding any provision in this Tract Declaration to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Tract Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

4.07 **No Warranty of Enforceability**. Declarant makes no warranty or representation as to the present or future validity or enforceability of the Restrictions. Any Owner acquiring a Lot in reliance on one or more of the Restrictions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

4.08 **Enforcement and Nonwaiver**. Except as otherwise provided herein, any Owner of Lot at such Owner's own expense, the Vistancia Maintenance Corporation, Declarant and the Association will have the right to enforce all of the provisions of this Tract Declaration. The Vistancia Maintenance Corporation, the Association, and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Tract Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant, the Association, or the Vistancia Maintenance Corporation. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Tract is hereby declared to be a violation of this Tract Declaration and subject to all of the enforcement procedures set forth herein. The failure to enforce any provision of the Documents at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Documents.

4.09 **Construction**. The provisions of this Tract Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof will not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular. All captions and titles used in this Tract Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

EXECUTED to be effective the 15th day of April, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: ______________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 18th day of April, 2019, by Scott A. Fowler the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

PAMELA L RODARTE
My Commission Expires
July 14, 2019

My commission expires:
July 14, 2019

ACKNOWLEDGED, AGREED TO, RATIFIED AND CONFIRMED BY:

VISTANCIA SOUTH, LLC,
a Delaware limited liability company

By: ______________________
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA SOUTH, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

My commission expires:
July 14, 2019

NOTARY PUBLIC
STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190285727 04/23/2019 11:52
ELECTRONIC RECORDING

1556044777089-3-1-1--
morenoa

AFTER RECORDING RETURN TO:
Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

VISTANCIA NORTH

ADOPTION OF WORKING CAPITAL ASSESSMENT AND WAIVER NOTICE

Declarant: **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company

Cross reference to Vistancia North Declaration, recorded as Document No. 20190284676, in the Official Records of Maricopa County, Arizona.

VISTANCIA NORTH
ADOPTION OF WORKING CAPITAL ASSESSMENT AND WAIVER NOTICE

The following Adoption of Working Capital Assessment and Waiver Notice is made pursuant to *Section 5.08* of that certain Vistancia North Declaration, recorded under Document No. 20190284676, Official Records of Maricopa County, Arizona (the "**Declaration**"), by **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company (the "**Declarant**"), and is as follows:

1. **Working Capital Assessment**. In accordance with *Section 5.08* of the Declaration, the Declarant adopts a working capital assessment amount equal to one-fourth (1/4) of the annual Regular Assessment amount (the "**Working Capital Assessment**"). The Working Capital Assessment applies to all Lots and Condominium Units subject to the Declaration unless otherwise exempt pursuant to *Section 5.08* of the Declaration or *Paragraph 2* below.

2. **Waiver of Working Capital Assessment**. In accordance with *Section 5.08* of the Declaration, the Declarant hereby waives the payment of any Working Capital Assessment for any transfer of a Lot or Condominium Unit from the Declarant or a Declarant Affiliate to any Residential Developer or Homebuilder.

3. **Subject to Change**. The amount of the Working Capital Assessment and waiver designated hereunder are subject to change from time to time by the Declarant, until the expiration or termination of the Development Period, and the Board thereafter.

4. **Capitalized Terms**. Capitalized terms used but not defined herein shall have the meanings ascribed such terms in the Declaration.

[*SIGNATURE PAGE FOLLOWS*]

EXECUTED TO BE EFFECTIVE on the 15th day of April, 2019.

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: ______________________
Name: Scott A. Fowler
Title: Authorized Signatory

4820-5193-8419v2

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler the Authorized Signatory for **VISTANCIA VILLAGE H, LLC,** a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

My commission expires:
July 14, 2019

PAMELA L RODARTE
My Commission Expires
July 14, 2019

NOTARY PUBLIC STATE OF TEXAS

ROBERT D. BURTON, ESQ.
WINSTEAD, PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: RBURTON@WINSTEAD.COM

VISTANCIA NORTH

COMMUNITY MANUAL

Consisting of:

Articles of Incorporation
Bylaws
Fine Policy
Assessment Collection Policy

Cross-reference to Vistancia North Declaration recorded under Document No. 20190284676, Official Records of Maricopa County, Arizona, as the same may be amended from time to time.

VISTANCIA

VISTANCIA NORTH
COMMUNITY MANUAL

VISTANCIA VILLAGE H, LLC, a Delaware limited liability company, as the Declarant under that certain Vistancia North Declaration, recorded under Document No. 20190284676, Official Records of Maricopa County, Arizona, and the initial and sole member of Vistancia North Master Community, Inc., an Arizona non-profit corporation (the "**Association**"), certifies that the foregoing Community Manual was adopted as part of the initial project documentation for Vistancia North.

SIGNED on this 15th day of April, 2019 by:

DECLARANT:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By: [signature]
Name: Scott A. Fowler
Title: Authorized Signatory

STATE OF Texas)
) ss.
County of Harris)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 15th day of April, 2019, by Scott A. Fowler, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company, for and on behalf thereof.

Pamela L. Rodarte
Notary Public

NOTARY PUBLIC STATE OF TEXAS
PAMELA L RODARTE
My Commission Expires
July 14, 2019

My commission expires:
July 14, 2019

Signature page

VISTANCIA NORTH
COMMUNITY MANUAL

I. INTRODUCTION

More than a spot on the map or your destination at the end of the day, a community is a sense of place and belonging – it is your home. A community consists of people who share the same goals and interests as you and your family to make your home an extra-ordinary place to live, recreate and thrive. **Vistancia North is your Community.**

VISTANCIA VILLAGE H, LLC, a Delaware limited liability company, is the master developer of Vistancia North. The guiding principles for the Community have been set forth in the governing documents for Vistancia North, which include the Development Documents and the Association Documents (both defined below) and collectively referred to herein as the **"Documents."** The Documents include such instruments as the Vistancia North Declaration (the **"Declaration"**), any applicable Notices of Applicability, the Tract Declaration, the Design Guidelines, if any, and this Community Manual (collectively referred to as the **"Development Documents"**). The Development Documents contain covenants, conditions and restrictions which not only encumber your property, but also have a legal and binding effect on all Owners and Occupants in the Community, now or in the future.

Under the Development Documents, the developer is the **"Declarant"** who has reserved certain rights to facilitate the development, construction, and marketing of the Community, including its size, shape and composition, while the Community is being built-out for up to seventy-five years (the **"Development Period"**). Furthermore, the Development Documents identify and set forth the obligations of Vistancia North Master Community, Inc., an Arizona nonprofit corporation, which was created by the Declarant to exercise the authority and assume the powers described in the Declaration (the **"Association"**). Integral to the functioning of the Community, the Association's roles include owning, operating and maintaining various Common Areas and Community amenities, as well as administering and enforcing all of the Documents.

Other specific Documents include such instruments as the Articles of Incorporation and Bylaws which set forth the corporate governance structure of the Association as well as the various Rules, which include rules, regulations, policies and procedures outlining the operation of the Association and required standards for use of property, activities and conduct (the **"Association Documents"**). It is the Association Documents which are included within this Community Manual, as further set forth herein.

Vistancia North is part of a larger community and in addition to the Documents, your property is subject to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Vistancia, recorded as Document No. 20180931102 in the Official Records of

Maricopa County, Arizona, as may be amended (the "**Vistancia Declaration**"), and the Association is a member of the Vistancia Maintenance Corporation, an Arizona non-profit corporation, the association created to administer the terms and provisions of the Vistancia Declaration. You are encouraged to review the Vistancia Declaration and all documents associated therewith.

II. PURPOSE

A successful community evolves when all community stakeholders work together to uphold the vision for the Community through the application and enforcement of the guiding principles and the standards set forth in all of the Documents. Declarant and the Association, as well as builders, owners, residents and visitors all have a role in ensuring the application and enforcement of the guiding principles and the standards of the Community. A reasonable balance must be achieved to uphold not only individual preferences in the Community, but also lend credence to those issues and concerns which have been determined to be in the best interests of the Community as a whole.

With these issues in mind, the Declarant has developed this Community Manual as a compilation of the Association Documents. It does not, however, include the Development Documents or the Vistancia Declaration, which nonetheless contain requirements for you and all other Owners and Occupants of the Community.

III. CONTENTS AND PROCESS

The initially adopted Community Manual contains the following Association Documents, the terms and provisions of each of which are applicable to or may be enforced against the Owners and Occupants within the Community as set forth therein: 1) the Articles of Incorporation; 2) the Bylaws; 3) the Fine and Enforcement Policy; and 4) the Assessment Collection Policy.

As the Association Documents are changed from time to time as determined by the Board or new Rules are adopted, a Majority of the Board upon approval by the Declarant may adopt a Supplement to the Community Manual to include the documents which are being changed or added to the Community Manual.

Capitalized terms used but not defined in this Community Manual shall have the meaning ascribed to such terms in the Declaration.

VISTANCIA NORTH
COMMUNITY MANUAL

TABLE OF CONTENTS

ATTACHMENT 1

ARTICLES OF INCORPORATION

ARTICLES OF INCORPORATION

NON-PROFIT CORPORATION

ENTITY INFORMATION

ENTITY NAME:	VISTANCIA NORTH MASTER COMMUNITY, INC.
ENTITY ID:	1943053
ENTITY TYPE:	Domestic Nonprofit Corporation
EFFECTIVE DATE:	01/24/2019
CHARACTER OF BUSINESS:	HOMEOWNERS ASSOCIATION
CORPORATION WILL HAVE MEMBERS:	**YES**
CORPORATION WILL NOT HAVE MEMBERS:	NO

STATUTORY AGENT INFORMATION

STATUTORY AGENT NAME:	CAPITAL CONSULTANTS MANAGEMENT CORPORATION
PHYSICAL ADDRESS:	8360 E. VIA DE VENTURA BLVD., SUITE L-100, SCOTTSDALE, AZ 85258
MAILING ADDRESS:	

KNOWN PLACE OF BUSINESS

29701 NORTH SUNRISE POINT, PEORIA, AZ 85383

PRINCIPAL INFORMATION

Director: CHRIS REED - 28620 N EL MIRAGE RD., STE. 102, PEORIA, AZ 85383 - - Date of Taking Office:

Director: KAREN HOWARD - 28620 N EL MIRAGE RD., STE. 102, PEORIA, AZ 85383 - - Date of Taking Office:

Director: KIMBERLEY CLIFFORD - 12026 W LONE MOUNTAIN PARKWAY, PEORIA, AZ 85383 - - Date of Taking Office:

Incorporator: ROBERT D BURTON - 401 CONGRESS AVE, STE 2100, AUSTIN, TX 78701 - - Date of Taking Office:

SIGNATURE

Incorporator: ROBERT D BURTON - 01/24/2019

ARTICLES OF INCORPORATION
OF
VISTANCIA NORTH MASTER COMMUNITY, INC.

ARTICLE 1
ENTITY NAME

The name of the corporation is Vistancia North Master Community, Inc., an Arizona nonprofit corporation (the "**Association**").

ARTICLE 2
DEFINED TERMS

Capitalized terms used in these Articles of Incorporation without definition shall have the meanings specified for such terms in the Vistancia North Declaration, recorded in the Official Records of Maricopa County, Arizona, as may be amended from time to time (the "**Declaration**").

ARTICLE 3
NONPROFIT CORPORATION

The Association is formed as a non-stock, nonprofit corporation under the laws of the State of Arizona.

ARTICLE 4
PURPOSE OF THE ASSOCIATION

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to Arizona law. The Association is formed for the purpose of exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association as set forth in the Declaration. Without limiting the generality of the foregoing, the Association is organized for the following general purposes:

(a) to fix, levy, collect, and enforce payment by any lawful means all charges or assessments arising pursuant to the terms of the Declaration;

(b) to pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the Association's property; and

(c) to have and to exercise any and all powers, rights, and privileges which a corporation organized under Arizona law may now, or later, have or exercise; provided, however, that the Association shall not have the power to institute, defend, intervene in, settle or compromise proceedings in the name of any Owner or Member.

The above statement of purposes shall be construed as a statement of both purposes and powers. The purposes and powers stated in each of the clauses above shall not be limited or restricted by reference to, or inference from, the terms and provisions of any other such clause, but shall be broadly construed as independent purposes and powers.

Notwithstanding any provision in Article 12 to the contrary, any proposed amendment to the provisions of this Article 4 shall be adopted only upon an affirmative vote of Members holding one-hundred percent (100%) of the total number of votes of the Association and the Declarant during the Development Period.

Terms used but not defined in these Articles of Incorporation, shall have the meanings ascribed to such terms in the Declaration.

ARTICLE 5
BOARD OF DIRECTORS

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be Members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to Arizona law. The number of Directors of the Association may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

Name	Mailing Address
Karen Howard	28620 N El Mirage Rd, Ste. 102 Peoria, AZ 85383
Chris Reed	28620 N El Mirage Rd, Ste. 102 Peoria, AZ 85383
Kimberley Clifford	12026 W Lone Mountain Parkway Peoria, AZ 85383

ARTICLE 6
STATUTORY AGENT

Capital Consultants Management Corporation, a Nevada corporation authorized and qualified to do business in the State of Arizona, whose address is 8360 E. Via de Ventura Blvd., Suite L-100, Scottsdale, AZ 85258, is hereby appointed and designated as the initial statutory agent for the Association. The Board of Directors may revoke the appointment of the agent at any time and shall have the power to fill any vacancy.

ARTICLE 7
PRINCIPAL OFFICE

The principal office and known place of business of the Association shall be located at 29701 North Sunrise Point, Peoria, AZ 85383, or such other location as the Board of Directors may determine.

ARTICLE 8
INCORPORATOR

The name and address of the incorporator of the Association is:

Name	Mailing Address
Robert D. Burton	401 Congress Ave., Ste. 2100 Austin, Texas 78701

ARTICLE 9
MEMBERSHIP AND VOTING RIGHTS

Membership in the Association shall be dependent upon ownership of a qualifying property interest as defined and set forth in the Declaration. Any person or entity acquiring such a qualifying property interest shall automatically become a member of the Association, and such membership shall be appurtenant to, and shall run with, the property interest. The foregoing shall not be deemed or construed to include persons or entities holding an interest merely as security for performance of an obligation. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

ARTICLE 10
LIMITATION ON LIABILITY OF DIRECTORS

A Director of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a Director, except to the extent otherwise expressly provided by Arizona law. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a Director of the Association existing at the time of the repeal or modification.

ARTICLE 11
INDEMNIFICATION

To the fullest extent permitted by law, 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, other than an action by or in the right of the Association, 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 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 interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification of the Members, directors, officers, employees or agents of the Association shall be governed by and made in accordance with the provisions of the Arizona Revised Statutes pertaining to nonprofit corporations and shall include the Declarant and incorporator. Any repeal or modification of this Article shall be prospective only and shall not adversely affect, defeat or limit the right of any person to indemnification for any act, or failure to act, occurring prior to the effective date of such repeal or modification.

ARTICLE 12
AMENDMENTS

These Articles may be amended only upon a resolution duly adopted by the Board of Directors and approved by a vote of the Members holding at least two-thirds of the total number of votes in the Association; provided, however, that until expiration or termination of the Development Period, the written consent of the Declarant shall also be required; provided further that such vote of Members is not required with respect to any amendment to these Articles adopted for the sole purpose of complying with the requirements of any governmental or regulatory agency or any institutional lender authorized to fund, insure, or guarantee mortgages on Lots or Condominium Units, which amendments may be adopted by the Board of Directors without a vote of the Members, but otherwise approved by the Declarant until expiration or termination of the Development Period.

ARTICLE 13
DISSOLUTION

Upon dissolution of the Association, other than incident to a merger or consolidation, after discharge of all corporate liabilities, the Members shall be entitled to share in the distribution of any remaining assets or proceeds thereof, except to the extent the distribution represents net income or profit of the Association, in which case, such assets of the Association shall be distributed exclusively to an organization as the Association shall elect to be used for purposes similar to those for which this Association was created.

ARTICLE 14
CONFLICT WITH DECLARATION

If there is any inconsistency between the terms of the Declaration and the terms of these Articles of Incorporation, as may be amended from time to time, the terms of the Declaration shall control.

IN WITNESS WHEREOF, the undersigned incorporator has hereunto affixed his hand this 23rd day of January, 2019.

Incorporator:

Robert D. Burton

19012409223581

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR ACC USE ONLY.

CERTIFICATE OF DISCLOSURE

Read the Instructions C003i

1. **ENTITY NAME** – give the exact name of the corporation in Arizona:

   Vistancia North Master Community, Inc.

2. **A.C.C. FILE NUMBER** (if already incorporated or registered in AZ):____________________

   Find the A.C.C. file number on the upper corner of filed documents OR on our website at: http://www.azcc.gov/Divisions/Corporations

3. **Check only one of the following to indicate the type of Certificate:**

   ☒ Initial (accompanies formation or registration documents)

   ☐ Annual (credit unions and loan companies only)

   ☐ Supplemental to COD filed __________________ (supplements a previously-filed Certificate of Disclosure)

4. FELONY/JUDGMENT QUESTIONS:

Has any person (a) who is currently an officer, director, trustee, or incorporator, or (b) who controls or holds over ten per cent of the issued and outstanding common shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation been:

4.1	Convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the five-year period immediately preceding the signing of this certificate?	☐ Yes	☒ No
4.2	Convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses or restraint of trade or monopoly in any state or federal jurisdiction within the five-year period immediately preceding the signing of this certificate?	☐ Yes	☒ No
4.3	Subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the five-year period immediately preceding the signing of this certificate, involving any of the following: a. The violation of fraud or registration provisions of the securities laws of that jurisdiction; b. The violation of the consumer fraud laws of that jurisdiction; c. The violation of the antitrust or restraint of trade laws of that jurisdiction?	☐ Yes	☒ No
4.4	If any of the answers to numbers 4.1, 4.2, or 4.3 are **YES**, you **MUST** complete and attach a Certificate of Disclosure Felony/Judgment Attachment form C004.		

5. BANKRUPTCY QUESTION:			
5.1	Has any person (a) who is currently an officer, director, trustee, incorporator, or (b) who controls or holds over twenty per cent of the issued and outstanding common shares or twenty per cent of any other proprietary, beneficial or membership interest in the corporation, served in any such capacity or held a twenty per cent interest in **any other corporation** (not the one filing this Certificate) on the bankruptcy or receivership **of the other corporation**?	☐ Yes	☒ No
5.2	If the answer to number 5.1 is **YES**, you **MUST** complete and attach a Certificate of Disclosure Bankruptcy Attachment form C005.		

IMPORTANT: If within 60 days of the delivery of this Certificate to the A.C.C. any person not included in this Certificate becomes an officer, director, trustee or person controlling or holding over ten per cent of the issued and outstanding shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation, the corporation must submit a SUPPLEMENTAL Certificate providing information about that person, signed by all incorporators or by a duly elected and authorized officer.

SIGNATURE REQUIREMENTS:	
Initial Certificate of Disclosure:	This Certificate must be signed by all incorporators. If more space is needed, complete and attach an Incorporator Attachment form C084.
Foreign corporations:	This Certificate may be signed by a duly authorized officer or by the Chairman of the Board of Directors.
Credit Unions and Loan Companies:	This Certificate must be signed by any 2 officers or directors.

Robert D. Burton
Name

401 Congress Avenue
Address 1

Suite 2100
Address 2

Austin | TX | 78701
City | State | Zip

Country: UNITED STATES

SIGNATURE – *see Instructions C003i:*

By typing or entering my name and checking the box marked "I accept" below, I acknowledge *under penalty of perjury* that this document together with any attachments is submitted in compliance with Arizona law.

☒ I ACCEPT

[signature]
Signature

Robert D. Burton — 01/23/2019
Printed Name — Date

REQUIRED – check only one:

☒ **Incorporator -** I am an incorporator of the corporation submitting this Certificate.
☐ **Officer -** I am an officer of the corporation submitting this Certificate
☐ **Chairman of the Board of Directors -** I am the Chairman of the Board of Directors of the corporation submitting this Certificate.
☐ **Director** – I am a Director of the credit union or loan company submitting this Certificate.

Name

Address 1

Address 2

City | State | Zip

Country

SIGNATURE – *see Instructions C003i:*

By typing or entering my name and checking the box marked "I accept" below, I acknowledge *under penalty of perjury* that this document together with any attachments is submitted in compliance with Arizona law.

☐ I ACCEPT

Signature

Printed Name — Date

REQUIRED – check only one:

☐ **Incorporator -** I am an incorporator of the corporation submitting this Certificate.
☐ **Officer -** I am an officer of the corporation submitting this Certificate
☐ **Chairman of the Board of Directors -** I am the Chairman of the Board of Directors of the corporation submitting this Certificate.
☐ **Director** – I am a Director of the credit union or loan company submitting this Certificate.

Filing Fee: None All fees are nonrefundable - see Instructions.	Mail: Arizona Corporation Commission - Corporate Filings Section 1300 W. Washington St., Phoenix, Arizona 85007 Fax: 602-542-4100

Please be advised that A.C.C. forms reflect only the **minimum** provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business.
All documents filed with the Arizona Corporation Commission are **public record** and are open for public inspection.
If you have questions after reading the Instructions, please call 602-542-3026 or (within Arizona only) 800-345-5819.

STATUTORY AGENT ACCEPTANCE

The undersigned, having been designated to act as statutory agent for VISTANCIA NORTH MASTER COMMUNITY, INC., hereby accepts such appointment and acknowledges and agrees to act in that capacity until replacement, removal or resignation, whichever occurs first, in accordance with applicable provisions of the Arizona Revised Statutes.

The undersigned declares and certifies that the information contained within this Statutory Agent Acceptance is true and correct, and is submitted in compliance with Arizona law.

Dated this 23rd day of January, 2019.

CAPITAL CONSULTANTS
MANAGEMENT CORPORATION,
a Nevada corporation

By: [signature]
Printed Name: Delores Ferguson
Title: Division President

4830-4421-8995v.5
56106-1 1/23/2019

ATTACHMENT 2

BYLAWS
OF
VISTANCIA NORTH MASTER COMMUNITY, INC.

ARTICLE I
INTRODUCTION

The name of the corporation is Vistancia North Master Community, Inc., hereinafter referred to as the "**Association**". The principal office of the Association shall be located initially in Maricopa County, Arizona, but meetings of Members and Directors may be held at such places within the State of Arizona as may be designated by the Board of Directors as provided in these Bylaws.

The Association is organized to be a nonprofit corporation.

Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Vistancia North Declaration, recorded in the Official Records of Maricopa County, Arizona, as amended (the "Declaration"), including the number, qualification, appointment, removal, and replacement of Directors.

ARTICLE II
DEFINITIONS

Capitalized terms used but not defined in these Bylaws shall have the meanings ascribed to such terms in the Declaration.

ARTICLE III
MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 3.1. Membership. Each Owner of a Lot or Condominium Unit is a mandatory Member of the Association, as more fully set forth in the Declaration.

Section 3.2. Place of Meetings. Meetings of the Association shall be held where designated by the Board, either within the Subject Property or as convenient as possible and practical.

Section 3.3. Annual Meetings. There shall be an annual meeting of the Members of the Association for the purposes of Association-wide elections or votes and for such other Association business at such reasonable place, date and time as set by the Board.

Section 3.4. Special Meetings. Special meetings of Members may be called in accordance with Arizona Revised Statutes § 10-3702, § 10-3705 and § 33-1804, or any successor statute.

Section 3.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by pre-paid United States mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President, the Secretary, or the officers or persons calling the meeting. In the case of a special meeting or when otherwise required by statute or these

Bylaws, the following shall be stated in the notice: (i) the time and place of the meeting; and (ii) the purpose for which the meeting is being called, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in Assessments that require approval of the Members and any proposal to remove a Director or officer. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid. The failure of any Member to receive actual notice of a meeting of the Members does not affect the validity of any action taken at that meeting.

Section 3.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting by a Member shall be deemed a waiver of notice of all business transacted at such meeting unless an objection by a Member on the basis of lack of proper notice is raised before the business is put to a vote.

Section 3.7. Quorum. Except as provided in these Bylaws or in the Declaration, the presence of the Members representing ten (10%) of the total votes in the Association shall constitute a quorum at all Association meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum, provided that Members representing at least ten percent (10%) of the total votes in the Association remain in attendance, and provided that any action taken is approved by at least a Majority of the votes present at such adjourned meeting, unless otherwise provided in the Declaration.

Section 3.8. Conduct of Meetings. The President or any other person appointed by the Board shall preside over all Association meetings, and the Secretary, or the Secretary's designee, shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring at the meeting. All Members or any person designated by a Member in writing as the Member's representative so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. The Board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a Member or Member's designated representative to speak once after the discussion of a specific agenda item but before any formal action on that item is taken in addition to any other opportunities to speak. The Board shall provide for a reasonable number of persons to speak on each side of an issue. Persons attending may tape record or videotape those portions of the meetings that are open. The Board may adopt reasonable rules governing the taping of open portions of the meetings, but such rules shall not preclude such tape recording or videotaping by those attending.

Section 3.9. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein by reference. Except as otherwise provided in the Declaration, action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Members having a Majority of the total votes present at such meeting in person or proxy or by absentee ballot or electronic voting in accordance with Arizona Revised Statutes § 33-1812, if such votes are considered present at the meeting as further set forth herein. Cumulative voting shall not be allowed. The person holding legal title to a Lot or Condominium Unit shall be entitled to cast the vote allocated to such Lot or Condominium Unit and not the person merely holding beneficial title to the same unless such right is expressly delegated to the beneficial Owner thereof in writing.

Section 3.10. Method of Voting: In Person; Absentee and E-Mail Ballots.

(a) In Person. The voting rights of an Owner may be cast or given in person at a meeting of the Association. Any vote cast in an election or vote by a Member of the Association must be in writing and signed by the member. Any Member may attend a meeting and cast the Member's vote(s) in person.

(b) Absentee Ballots. Any absentee ballots and/or e-mail or electronic ballots shall comply with Arizona Revised Statutes § 33-1812.

Section 3.11 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting if the action is approved by written consent by Members holding at least a majority of the voting power. The action shall be evidenced by one or more written consents describing the action taken, signed by a majority of the Members, and delivered to the Association for inclusion in the minutes or filing with the corporate records. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action. The effective date of the action shall be the date prescribed by Arizona Revised Statutes §10-3704. A Member may revoke his or her consent by delivering a signed revocation of the consent to the President or the Secretary of the Association before the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of voting power.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1. Authority; Number of Directors.

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Articles of Incorporation. The initial Directors shall serve until their successors are elected and qualified.

(b) In accordance with *Section 3.03* of the Declaration, until expiration or termination of the Development Period, Declarant will be entitled to appoint and remove all members of the Board.

(c) At such time as Declarant no longer has the right to appoint and remove all members of the Board as provided in the Declaration, the President of the Association will call a meeting of the Members of the Association where the Members, including Declarant, will elect five (5) new Directors, two (2) Directors for a three (3) year term, two (2) Directors for a two (2) year term, and one (1) Director for a one (1) year term (with the two individuals receiving the highest number of votes serving the three (3) year terms, the two individuals receiving the third and fourth highest number of votes serving the two (2) year terms, and the individual receiving the fifth highest number of votes serving the one (1) year term). Upon expiration of the term of a Director elected by the Members as provided herein, his or her successor will be elected by the Members for a term of two (2) years.

(d) A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

(e) Each Director, other than Directors appointed by Declarant, shall be a Member, or in the case of corporate, limited liability company, or partnership ownership of a Lot or Condominium Unit, a duly authorized agent or representative of the corporate, limited liability company, or partnership Owner. The corporate, limited liability company, or partnership Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors.

Section 4.2. Compensation. The Directors shall serve without compensation for such service.

Section 4.3 Nominations to Board of Directors. Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

Section 4.4. Vacancies on Board of Directors. At such time as Declarant's right to appoint and remove Directors has expired or been terminated, if the office of any elected Director shall become vacant by reason of death, resignation, or disability, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws. Except with respect to Directors appointed by the Declarant, any Board Member whose term has expired or who has been removed from the Board must be elected by the Members.

Section 4.5. Removal of Directors by Members. Subject to the right of Declarant to nominate and appoint Directors as set forth in Section 4.1 of these Bylaws, an elected Director may be removed by the Members pursuant to the terms set forth in Arizona Revised Statutes § 33-1813.

ARTICLE V
MEETINGS OF DIRECTORS

Section 5.1. Regular Meetings. Regular meetings of the Board shall be held at a frequency as determined by the Board, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 5.2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than forty-eight (48) hours' notice of the date, time, and place of the meeting to each Director.

Section 5.3. Quorum. A Majority of the number of Directors shall constitute a quorum for the transaction of business. 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.

Section 5.4. Open Board Meetings. All regular and special Board meetings must be open to all Members of the Association or any person designated by a Member in writing as the Member's representative and all Members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. The Board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a Member or Member's designated representative to speak once after the Board has discussed a specific agenda item but before the Board takes formal action on that item in addition to any other opportunities to speak. The Board shall provide for a reasonable number of persons to speak on each side of an issue. Persons attending may tape record or videotape those portions of the meetings of the Board that are open. The Board may adopt reasonable rules governing the taping of open portions of the meetings of the Board, but such rules shall not preclude such tape recording or videotaping by those attending.

Section 5.5. Executive Session. Notwithstanding the open meeting provisions set forth in *Section 5.4* above, the Board has the right to adjourn a meeting and reconvene in closed executive session to consider actions involving: (a) legal advice from an attorney for the board or the association; provided however, that on final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment; (b) pending or contemplated litigation; (c) personal, health or financial information about an individual member of the Association, an individual employee of the Association or an individual employee of a contractor for the Association, including records of the Association directly related to the personal, health or financial information about an individual Member of the Association, an individual employee of the Association or an individual employee of a contractor for the Association; (d) matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the Association or an individual employee of a contractor of the Association who works under the direction of the Association; and (e) discussion of a Member's appeal of any violation cited or penalty imposed by the Association except on request of the affected member that the meeting be held in an open session.

Section 5.6. Record; Minutes. The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board.

Section 5.7. Notices. After the end of the Development Period, notice to Members of meetings of the Board of Directors shall be given at least forty-eight (48) hours in advance of a meeting via: (i) newsletter; (ii) posting the notice in a conspicuous manner reasonably designed to provide notice to Members; or (iii) any other reasonable means as determined by the Board of Directors. An affidavit of notice by an officer of the Association shall be considered prima facie evidence that notice of the meeting was given, as prescribed in Arizona Revised Statutes § 33-1804. In the event of emergency, if circumstances require action by the Board before notice of a meeting of the Board of Directors can be given, such notice is not required. The failure of any member to receive actual notice of a meeting of the Board of Directors does not affect the validity of any action taken at that meeting.

Section 5.8. Meeting Requirements. For any meeting of the Board of Directors after the end of the Development Period, the following requirements shall apply: 1) the agenda shall be available to all Members attending; 2) an emergency meeting of the Board of Directors may be called to discuss business or take action that cannot be delayed until the next regularly scheduled board meeting. In such an event, the minutes of the emergency meeting shall state the reason that the emergency meeting was necessary, and such minutes shall be read and approved at the next regularly scheduled meeting of the Board of Directors; 3) a quorum of the Board of Directors may meet by means of a telephonic conference if a speaker phone is available in the meeting room that allows board members and association members to hear all parties speaking during the meeting; and 4) any quorum of the Board of Directors that meets informally to discuss Association business shall be required to comply with the open meeting and notice provisions of Arizona Revised Statutes § 33-1804, without regard to whether the Board of Directors votes or takes any action on any matter at that informal meeting.

Section 5.9. Telephone and Electronic Meetings. Any action permitted to be taken by the Board without prior notice to Members may be taken by telephone or electronic methods by means of which all persons participating in the meeting can hear each other. Participation in such a meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 5.10. Consent in Writing. Any action permitted to be taken by the Board may be taken without a meeting if all Directors individually or collectively consent in writing to such action. The written consent must describe the action taken, be signed by each Director, and be included in the minutes of Board meetings or filed with the corporate records. Action by written consent has the same force and effect as a unanimous vote of the Directors, and is effective when the last Director signs the consent, unless the consent specifies a different date. Any Director may revoke their consent by delivering a signed revocation of the consent to the President or the Secretary before the date the last Director signs the consent or consents.

Section 5.11. Development Period. The provisions of this *Article V* do not apply to Board meetings during the Development Period (as defined in the Declaration) during which period the Board may take action by unanimous written consent in lieu of a meeting, except with respect to: (a) adopting or amending the Documents; (b) increasing the amount of regular assessments of the Association or adopting or increasing a special assessment; (c) electing non-developer Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

ARTICLE VI
POWERS AND DUTIES OF THE BOARD

<u>Section 6.1. Powers</u>. The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) adopt and publish the Rules;

(b) suspend (i) the voting rights of, and (ii) the right of any Member to use the Common Area or Benefited Common Area, during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such voting and use rights may also be suspended by the Board after notice and hearing, for a period not to exceed sixty (60) days, for any period during which an infraction of the Documents by such Member exists;

(c) exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Documents;

(d) to enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Subject Property;

(e) 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;

(f) employ such employees as they deem necessary, and to prescribe their duties;

(g) as more fully provided in the Declaration, to:

(1) fix the amount of the Assessments against each Lot and/or Condominium Unit in advance of each annual assessment period and any other Assessments provided by the Declaration; and

(2) foreclose the lien against any property for which Assessments are not paid for a period of one (1) year or in the amount of one thousand two hundred ($1,200) dollars or more, whichever occurs first, or to bring an action at law against the Owner personally obligated to pay the same;

(h) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

(i) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(j) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(k) exercise such other and further powers or duties as provided in the Declaration or by law.

ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 7.1. Enumeration of Offices. The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

Section 7.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 7.3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

Section 7.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, 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.

Section 7.6. Vacancies. A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

Section 7.8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice President. The Vice President, if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board 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.

(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; shall sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

Section 7.9. Execution of Instruments. Except when the Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association, including without limitation checks from the Association's bank account. In the absence of Board designation, and unless otherwise provided herein, the President and the Secretary are the only persons authorized to execute instruments on behalf of the Association.

Section 7.10. Annual Audit. Pursuant to Arizona Revised Statutes § 33-1810, the Board of Directors shall provide for an annual financial audit, review, or compilation of the Association. The audit, review, or compilation shall be completed no later than one hundred eighty (180) days after the end of the Association's fiscal year and shall be made available upon request to the Members within thirty (30) days after its compilation.

Section 7.11. Conflicts of Interest. If any contract, decision, or other action for compensation taken by or on behalf of the Board of Directors would benefit any member of the Board of Directors or any person who is a parent, grandparent, spouse, child, or sibling of a member of the Board of Directors or a parent or spouse of any of those persons, that member of the Board of Directors shall declare a conflict of interest for that issue. The Member shall declare the conflict in an open meeting for the Board of Directors before the Board of Directors discusses or takes action on that issue and that Member may then vote on that issue. Any contract entered into in violation if this section is void and unenforceable.

ARTICLE VIII
OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, but is not required, to adopt a resolution to create a committee or committees for any purpose; provided, however, that any such other committee or committees shall serve solely in an advisory capacity and discharge only those functions expressly identified in the resolution establishing such committee or committees, which resolution shall be subject to the approval of Declarant until expiration or termination of the Development Period. Any committee or committees of the Board shall have those rights set forth in Arizona Revised Statutes § 10-3825.

ARTICLE IX
BOOKS AND RECORDS

Pursuant to Arizona Revised Statutes § 33-1805, the books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Documents shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a fee of no more than fifteen cents per page.

ARTICLE X
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are the personal obligation of the Member as well as secured by a continuing lien upon the Lot or Condominium Unit against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

ARTICLE XI
CORPORATE SEAL

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

ARTICLE XII
AMENDMENTS

Section 12.1. These Bylaws may be amended by: (i) the Declarant until expiration or termination of the Development Period; or (ii) a Majority vote of the Board of Directors with the advance written consent of the Declarant until expiration or termination of the Development Period.

Section 12.2. 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.

ARTICLE XIII
INDEMNIFICATION OF DIRECTORS AND OFFICERS

Pursuant to Arizona Revised Statutes § 10-3851, the Association may indemnify an individual made party to a proceeding because (1) the individual is or was a director at the time the liability was incurred, if all the following conditions exist: (a) the individual's conduct was in good faith; (b) the individual reasonably believed that (i) in the case of conduct in an official capacity with the Association, that the conduct was in the Association's best interest, and (ii) in all other cases, that the conduct was at least not opposed to the Association's best interests; and (c) in the case of any criminal proceedings, that the individual had no reasonable cause to believe that the conduct was unlawful, or (2) the director engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the Articles of Incorporation. However, no Director shall be indemnified, (a) in connection with a proceeding by or in the right of the Association in which the Director was adjudged liable to the Association; or (b) in connection with a proceeding charging improper personal benefit to the Director, whether or not the charges involve action done in the Director's official capacity, in which the Director was adjudged liable on the basis that personal benefit was improperly received by the Director.

ARTICLE XIV
MISCELLANEOUS

The fiscal year of the Association shall begin on the first 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.

CERTIFICATE OF ADOPTION

The undersigned Secretary hereby certifies that the foregoing Bylaws were adopted by the Board of Directors of Vistancia North Master Community, Inc., an Arizona nonprofit corporation.

VISTANCIA NORTH MASTER COMMUNITY, INC.,
an Arizona nonprofit corporation

By: Kimberley Clifford
Printed Name: Kimberley Clifford
Title: Secretary

ATTACHMENT 3

VISTANCIA NORTH MASTER COMMUNITY, INC.
FINE AND ENFORCEMENT POLICY

1. Background. Vistancia North is subject to that certain Vistancia North Declaration, recorded in the Official Records of Maricopa County, Arizona, as amended ("**Declaration**"). In accordance with the Declaration, Vistancia North Master Community, Inc., an Arizona nonprofit corporation (the "**Association**") was created to administer the terms and provisions of the Declaration. Unless the Declaration or applicable law expressly provides otherwise, the Association acts through a majority of its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, Articles, Bylaws, Community Manual, the Design Guidelines (if adopted), any applicable Tract Declaration, any applicable Notice of Applicability as each may be amended from time to time, and any rules and regulations promulgated by the Association pursuant to the Declaration or any Tract Declaration, as adopted and amended from time to time (collectively, the "**Documents**"), including the obligation of Owners to pay assessments pursuant to the terms and provisions of the Declaration and the obligations of the Owners to compensate the Association for costs incurred by the Association for enforcing violations of the Documents.

   The Board hereby adopts this Fine and Enforcement Policy to establish equitable policies and procedures for the levy of fines within the Association in compliance with Arizona Revised Statutes § 33-1803. To the extent any provision within this policy is in conflict the Act or any other applicable law, such provision shall be modified to comply with the applicable law.

   Terms used in this policy, but not defined, shall have the meaning ascribed to such term in the Documents.

2. Policy. The Association uses fines to discourage violations of the Documents, and to encourage compliance when a violation occurs – not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Documents. The Association's use of fines does not interfere with its exercise of other rights and remedies for the same violation.

3. Owner's Liability. An Owner is liable for fines levied by the Association for violations of the Documents by the Owner and the relatives, guests, employees, and agents of the Owner and residents. Regardless of who commits the violation, the Association may direct all communications regarding the violation to the Owner.

4. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Documents. If the Association allows fines to accumulate,

the Association may establish a maximum amount for a particular fine, at which point the total fine will be capped.

5. Late Payment. A payment is deemed late if it is unpaid fifteen (15) or more days after its due date. Any monies paid by an Owner for an unpaid penalty shall be applied first to the principal amount unpaid and then to the interest accrued. The Association may not impose a charge for a late payment of the penalty that exceeds the greater of fifteen ($15) dollars or ten (10%) of the amount of the unpaid penalty.

6. Violation Notice. Before levying a fine, the Association will give the Owner a written violation notice via certified mail, return receipt requested, and an opportunity to be heard, if requested by the Owner. This requirement may not be waived. An Owner who receives a written notice that their property is in violation of the Documents may contest the violation notice by sending a response to the Association by certified mail within twenty-one (21) business days after the date of receiving the Association's violation notice. Within ten (10) business days after receipt of the Owner's response contesting the violation notice, the Association shall respond. The Association's written violation notice will contain the following items: (1) a reference to the rule or provision that is being violated; (2) the date of the violation or the date the violation was observed; (3) the first and last name of the person or persons who observed the violation; (4) the process that the Owner must follow to contest the notice; (5) a description of the action required to cure the violation; (6) the timeframe in which the violation is required to be cured to avoid the fine or suspension; (7) information pertaining to the manner in which the penalty will be enforced and the amount of the potential fine; (8) a statement that no later than the thirtieth (30th) day after receiving the notice, the Owner may request a hearing.

7. Violation Hearing to Contest the Notice. The Owner has the right to submit a written request to the Association for a hearing before the Board or a committee appointed by the Board to discuss and verify the facts and resolve the matter. To request a hearing, the Owner must submit a written request (the "**Request**") to the Association's manager (or the Board if there is no manager) within thirty (30) days after receiving the violation notice. The Association must then hold the hearing requested no later than thirty (30) days after the Board receives the Request. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. The Board or the Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. Any hearing before the Board will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner shall attend the hearing in person, but may be represented by another person (i.e., attorney) during the hearing, upon advance written notice to the Board. If an Owner intends to make an audio recording of the hearing, such Owner's request for hearing shall include a statement noticing the Owner's intent to make an audio recording of the hearing, otherwise, no audio or video recording of the hearing may be made, unless otherwise approved by the Board. Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the agenda attached hereto as Exhibit A.

8. Hearing on Subsequent Notice. After providing notice and an opportunity to cure as set forth herein, in the event that the violation has still not been cured and the Association must provide

additional notices and increased fines as set forth in the *Schedule of Fines* described below, no additional hearings shall be required.

9. Continuous Violation. After an Owner has been notified of a violation as set forth herein, provided an opportunity to be heard, and assessed fines in the amounts set forth in the *Schedule of Fines* described below, if the Owner has never cured the violation in response to either the notices or the fines, in its sole discretion, the Board may determine that such a circumstance is a continuous violation which warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board.

10. Levy of Fine. Any fine levied shall be reflected on the Owner's periodic statements of account or delinquency notices.

11. Collection of Fines. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard, pursuant to Arizona Revised Statutes § 33-1803.

12. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until the Association duly adopts an amendment to this policy.

Schedule of Fines

The Board has adopted the following general schedule of fines. The number of notices set forth below does not mean that the Board is required to provide each notice prior to exercising additional remedies as set forth in the Restrictions. The Board may elect to purse such additional remedies at any time in accordance with applicable law. The Board also reserves the right to set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effect of the violation:

FINES:

New Violation:	**Fine Amount:**
Courtesy Notice	**None.**
Repeat Violation:	
1st Notice	**$50.00**
2nd Notice	**$75.00**
3rd Notice	**$100.00**
4th Notice	**$125.00**
Continuous Violation:	
Continuous Violation Notice	**$300.00**

EXHIBIT A
HEARING BEFORE THE BOARD

Note: An individual will act as the presiding hearing officer. The hearing officer will provide introductory remarks and administer the hearing agenda.

I. Introduction:

Hearing Officer. The Board has convened for the purpose of providing [Owner] an opportunity to be heard regarding a notice of violation of the Documents sent by the Association.

The hearing is being conducted as required by Arizona Revised Statutes § 33-1803, and is an opportunity for [Owner] to discuss, verify facts, and attempt to resolve the matter at issue. The Board may be able to resolve the dispute at the hearing or the Board may elect to take the matter under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within fifteen (15) days.

II. Presentation of Facts:

Hearing Officer. This portion of the hearing is to permit a representative of the Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines or penalties. After the Association's representative has finished his presentation, the Owner or its representative will be given the opportunity to present photographs or other material relevant to the violation, fines or penalties. The Board may ask questions during either party's presentation. It is requested that questions by [Owner] be held until completion of the presentation by the Association's representative.

[Presentations]

III. Discussion:

Hearing Officer. This portion of the hearing is to permit the Board and [Owner] to discuss factual disputes relevant to the violation. Discussion regarding any fine or penalty is also appropriate. Discussion should be productive and designed to seek, if possible, a mutually agreed upon resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.

IV. Resolution:

Hearing Officer. This portion of the hearing is to permit discussion between the Board and [Owner] regarding the final terms of a mutually agreed upon resolution, if such resolution was agreed upon during the discussion phase of the hearing. If no mutually agreed upon resolution was reached, the Hearing Officer may: (i) request that the Board enter into executive session to discuss the matter; (ii) request that the Board take the matter under advisement and adjourn the hearing; or (iii) adjourn the hearing.

ATTACHMENT 4

VISTANCIA NORTH MASTER COMMUNITY, INC.
ASSESSMENT COLLECTION POLICY

Vistancia North is a community (the "**Community**") created by and subject to Vistancia North Declaration, recorded in the Official Records of Maricopa County, Arizona, and any amendments or supplements thereto ("**Declaration**"). The operation of the Community is vested in Vistancia North Master Community, Inc. (the "**Association**"), acting through its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, Articles, Bylaws, Community Manual, the Design Guidelines (if adopted), any applicable Tract Declaration, any applicable Notice of Applicability, and any rules and regulations promulgated by the Association pursuant to the Declaration or any Tract Declaration, as adopted and amended from time to time (collectively, the "**Documents**"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration.

The Board hereby adopts this Assessment Collection Policy to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Documents. Terms used in this policy, but not defined, shall have the meaning ascribed to such term in the Declaration.

SECTION 1. DELINQUENCIES, LATE CHARGES & INTEREST

1-A. Due Date. An Owner will timely and fully pay Assessments. Regular Assessments are assessed annually and are due and payable on the first calendar day of the month at the beginning of the fiscal year, or in such other manner as the Board may designate in its sole and absolute discretion.

1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full — including collection costs, interest and late fees.

1-C. Late Fees & Interest. If the Association does not receive full payment of an Assessment by 5:00 p.m. on the due date established by the Board, the Association may levy a late fee of $15 per month or ten percent (10%) of the amount of the unpaid assessments, whichever is greater, and/or interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1 and 1/2% per month) until paid in full.

1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.

1-E. Insufficient Funds. The Association may levy a charge of $25 for any check returned to the Association marked "not sufficient funds" or the equivalent.

1-F. Waiver. Properly levied collection costs, late fees, and interest may only be waived by a Majority of the Board.

1-G. Assessment Lien Foreclosure. The Association may foreclose on its assessment lien only if the Owner has been delinquent in the payment of monies secured by the lien for a period of one year or in the amount of one thousand two hundred ($1,200.00) dollars or more, whichever occurs first, excluding reasonable collection fees, reasonable attorney fees and charges for late payment of and costs incurred with respect to those assessments. The Association has a lien for fees, charges, late charges, other than charges for late payment of assessments, monetary penalties or interest charged pursuant to Arizona Revised Statutes § 33-1803 after the entry of a judgment in a civil suit for those fees, charges, late charges, monetary penalties or interest from a court of competent jurisdiction and the recording of that judgment in the office of the county recorder as otherwise provided by law. The Association's lien for monies other than for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those assessments may not be foreclosed upon and is effective only in conveyance of any interest in real property. A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due.

1-H. On written request, the Association shall furnish to a lienholder, escrow agent, unit owner or person designated by a unit owner a statement setting forth the amount of any unpaid assessment against the unit. The Association shall furnish the statement within ten (10) days after receipt of the request, and the statement is binding on the Association, the Board of Directors and every Owner if the statement is requested by a licensed escrow agency. Failure to provide the statement to the escrow agent within the ten (10) day time period shall extinguish any lien for any unpaid assessment then due.

SECTION 2. INSTALLMENTS & ACCELERATION

If an Assessment, other than a Regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of the Assessment. An Assessment, other than a Regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

SECTION 3. PAYMENTS

3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association shall be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

(1) Delinquent assessments

(2) Current assessments

(4) Attorney fees and costs associated with delinquent assessments

(5) Other attorney's fees

(3) Principal Amount of Fines

(6) Any remaining amounts shall be applied next to other unpaid fees, charges and monetary penalties or interest and late charges on any of those amounts.

3-B. Payment Plans. The Board may, but shall have no obligation to, adopt a payment plan and offer such plan to delinquent Owners for which the Owner may be charged reasonable administrative costs and interest. The Association will determine the term of each payment plan offered to an Owner.

3-C. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.

3-D. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.

3-E. Notice of Payment. If the Association receives full payment of the delinquency after Recording a notice of lien, the Association will cause a release of notice of lien to be publicly Recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and Recording the release.

3-F. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

SECTION 4. LIABILITY FOR COLLECTION COSTS

4-A. Collection Costs. The defaulting Owner may be liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

SECTION 5. COLLECTION PROCEDURES

5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's Manager, an attorney, or a debt collector.

5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by United States mail, stating (a) the amount delinquent and the total amount of the payment required to make the account current, (b) the options the Owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the Association, and (c) that the Owner has thirty (30) days (or any other period of time as determined by a Majority of the Board) to cure the delinquency before further collection action is taken, as determined by the Board. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.

5-C. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lien-holders, including the mortgage company.

5-D. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.

5-E. Notification of Mortgage Lender. The Association may notify the Mortgage lender of the default obligations.

5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.

5-G. Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Manager of the Association or the Board of the Association shall refer the delinquent account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following actions unless otherwise directed by the Board:

(1) *Initial Notice*: Preparation of the Initial Notice of Demand for Payment Letter. If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association), then

(2) *Lien Notice*: Preparation of the Lien Notice and Demand for Payment Letter and record a Notice of Unpaid Assessment Lien. If the account is not paid in full within 30 days, then

(3) *Final Notice*: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose and Notice of Intent to Foreclose to Lender. If the account is either: (a) one (1) year delinquent; or (b) delinquent in the amount of one thousand two hundred ($1,200.00) dollars or more, whichever occurs first, then

(4) *Foreclosure of Lien*: Only upon specific approval by a majority of the Board.

5-H. Notice of Lien. The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's home to be publicly Recorded. In that event, a copy of the notice will be sent to the defaulting Owner and may also be sent to the Owner's Mortgagee.

5-I. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.

5-J. Suspension of Use of Certain Facilities or Services. The Board may suspend the use of the Common Area amenities by an Owner, or his Occupant, whose account with the Association is delinquent for at least thirty (30) days.

SECTION 6. GENERAL PROVISIONS

6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, Manager, and attorney of the Association may exercise their independent, collective, and respective judgment in applying this policy.

6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Documents and the laws of the State of Arizona.

6-C. Limitations of Interest. The Association, and its officers, directors, Managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Arizona. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Assessments, or reimbursed to the Owner if those Assessments are paid in full.

6-D. Notices. Unless the Documents, applicable law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that an Owner’s property is owned by two (2) or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant is deemed notice to all Occupants. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.

6-E. Amendment of Policy. This policy may be amended from time to time by the Board.

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20200654213 07/21/2020 04:53
ELECTRONIC RECORDING

1595375433640-7-7-2--
Yorkm

When recorded mail to:

CAPTION HEADING: **Assignment and Assumption of Declarants Rights (Vistancia North)**

This document is being re-recorded to correct the name of the Assignee on the 1st page to be "Vistancia Residential LLC, an Arizona limited liability company".

DO NOT REMOVE

THIS IS PART OF THE OFFICIAL DOCUMENT

20200654213

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20200310107 04/10/2020 02:56
ELECTRONIC RECORDING

1586553078785-6-13-7--
morenoa

When recorded, return to:

Vistancia Residential LLC
c/o Westside Property Investment
Company, Inc.
4100 E. Mississippi Av., Suite 500
Denver, CO 80246
Attention: Andrew R. Klein

First American Title - NCS-986813-PHX1; **6 of 12**

ASSIGNMENT AND ASSUMPTION
OF
DECLARANT RIGHTS
(VISTANCIA NORTH)

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS ("Assignment") is entered into as of the 10th day of April, 2020 (**"Effective Date"**), by and between **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company (**"Assignor"**) and **VISTANCIA RESIDENTIAL LLC**, a Delaware limited liability company (**"Assignee"**).

RECITALS

A. Assignor is the "Declarant" under that certain declaration and related documents described in **Exhibit A** attached hereto (collectively, the **"Declaration"**).

B. This Assignment is delivered pursuant to that certain Purchase and Sale Contract with Joint Escrow Instructions dated January 10, 2020, between Assignor and certain of its affiliates, as Seller, and Assignee, as Buyer, and certain other parties as named therein (as amended, the **"Purchase Contract"**), pursuant to which certain Property (as defined and described in the Purchase Contract) is being conveyed to Assignee, which conveyance has occurred or will occur substantially concurrently with the execution and delivery of this Assignment.

C. In connection with the foregoing conveyance of the Property and pursuant to the Purchase Contract, Assignor now desires to transfer and assign to Assignee all of Assignor's right, title and interest as Declarant under the Declaration, and Assignee desires to accept such assignment and assume such right, title and interest of the Declarant under the Declaration, all subject to and in accordance with the terms, conditions and limitations set forth in this Assignment.

AGREEMENT AND ASSIGNMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation.** The recitals set forth above are hereby incorporated herein and made a part hereof.

2. **Effectiveness.** This Assignment shall become effective only upon the conveyance of the Property to Assignee pursuant to the Purchase Contract, and the date on which such conveyance occurs shall be inserted as the Effective Date of this Assignment as set forth above.

3. **Agreements of Assignor.** Assignor (a) hereby sells, transfers, assigns and delivers to Assignee all of Assignor's right, title and interest as Declarant or otherwise in, to and under the Declaration and under any tract declaration, supplemental declaration, notice of applicability, or other similar instrument recorded pursuant to the provisions of the Declaration (which tract declaration(s), supplemental declaration(s), notice(s) of applicability, and other similar instrument(s) are included in the term "Declaration" as used in this Assignment), and (b) shall indemnify, defend, and hold Assignee harmless for, from and against any and all losses, damages, liabilities, actions, proceedings, demands, claims, costs and expenses including, but not limited to, reasonable attorneys' fees (collectively, "**Claims**") that are suffered or incurred by or asserted against Assignee, which arise out of or in connection with Assignor's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues prior to the Effective Date.

4. **Agreements of Assignee.** Assignee (a) hereby accepts the foregoing assignment and assumes and agrees to observe, perform and be bound by all of the covenants, agreements and obligations of the Declarant under the Declaration that first arise or first accrue on or after the Effective Date, and (b) shall indemnify, defend and hold Assignor harmless for, from and against any and all Claims that are suffered or incurred by or asserted against Assignor, which arise out of or in connection with Assignee's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues on or after the Effective Date.

5. **Cooperation re Lot Sales.** It is acknowledged that Assignor has retained ownership of the Parcel H-19 Phase 2 Lots (as defined in the Purchase Contract) and the Parcel H-23 Lots (as defined in the Purchase Contract) which Assignor intends to sell to a homebuilder in separate sale transactions, and that at the closing of each such sale it will be necessary to record certain documents related to the Declaration as hereinafter described. Assignee hereby agrees, in its capacity as Declarant under the Declaration, to reasonably cooperate with Assignor (including, but not limited to, by timely executing and delivering the documents in the forms described below) in connection with (A) the recordation at the closing of Assignor's sale of the Parcel H-19 Phase 2 Lots of a Notice of Applicability, a Notice of Reduction of Assessments, and a Partial Assignment of Declarant Rights, each of which shall be in substantially the same form as the same documents recorded as Instrument Nos. 2019-0578926, 2019-0578928, and 2019-0578929 of the official records of Maricopa County, Arizona ("**Official Records**"), respectively, (B) the recordation at the closing of Assignor's sale of the Parcel H-23 Lots of a Notice of Applicability and a Notice of Reduction of Assessments in substantially the forms thereof required under the Parcel H-23 PSA (as defined in the Purchase Contract), and (B) the dedication and acceptance by the Northpointe HOA (as defined in the Purchase Contract) of the Rec Center Land, the Parcel H-19 Tracts, the Parcel H-20, H-21 and H-22 Tracts (as those terms are defined in the Purchase Contract).

6. **Attorneys' Fees.** In the event of any dispute arising out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

7. **Inurement.** This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

8. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

9. **Cooperation.** Assignor and Assignee agree to reasonably cooperate with one another (which reasonable cooperation shall include, without limitation, executing such documents or

instruments, and/or attempting to obtain applicable third party consents) as may be necessary or appropriate to complete the assignment hereunder and/or to assign other applicable contracts and documents in order to effectuate the overall intent of the Purchase Contract.

10. Subject to Purchase Contract. This Assignment is being delivered pursuant to the Purchase Contract and is subject to the terms thereof including, but not limited to, the limitations set forth in Sections 10.4 and 12 thereof.

[NO FURTHER TEXT ON THIS PAGE - SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date set forth above.

ASSIGNOR:

VISTANCIA VILLAGE H, LLC,
a Delaware limited liability company

By:________________________
Name: Robert Unell
Title: Authorized Signatory

STATE OF Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9 day of April, 2020, by Robert Unell, the Authorized Signatory for **VISTANCIA VILLAGE H, LLC**, a Delaware limited liability company, for and on behalf thereof.

Karen A. Howard
Notary Public

My Commission Expires: Sept. 21. 2022

KAREN A HOWARD
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
COMMISSION # 550362
My Comm. Expires September 21, 2022

ASSIGNEE:

VISTANCIA RESIDENTIAL LLC,
an Arizona limited liability company

By: Vistancia Master Holdings LLC,
an Arizona limited liability company,
its Member

By:______________________________
Andrew R. Klein, Manager

STATE OF COLORADO)
) ss.
County of Arapahoe)

The foregoing instrument was acknowledged before me this 8 day of April, 2020, by Andrew R. Klein, the Manager of Vistancia Master Holdings LLC, an Arizona limited liability company, a Member in **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company, for and on behalf thereof.

____
Notary Public

My Commission Expires: 12/31/23

PATRICK JOHN SCHMITZ
NOTARY PUBLIC
STATE OF COLORADO
Notary ID 20154049532
My Commission Expires December 31, 2023

EXHIBIT A

Declaration

1. Vistancia North Declaration recorded in the Official Records of Maricopa County, Arizona ("**Official Records**") on April 23, 2019 as Instrument No. 2019-0284676

2. Vistancia North Tract Declaration (Residential) recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285592

3. Vistancia North Adoption of Working Capital Assessment and Waiver Notice recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285727

4. Notice of Reduction of Assessments for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578928

5. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578929

6. Notice of Applicability for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578926

7. Notice of Reduction of Assessments for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578937

8. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578938

9. Notice of Applicability for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578935

10. Notice of Reduction of Assessments for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578919

11. Notice of Applicability for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578915

12. Notice of Reduction of Assessments for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578920

13. Notice of Applicability for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578916

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
STEPHEN RICHER
20210489682 04/30/2021 04:42
ELECTRONIC RECORDING

FIRST AMERICAN TITLE

When recorded, return to:

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leonardil

IHP Capital Partners
100 Bayview Circle, Suite 2000
Newport Beach, CA 92660
Attention: Legal Department
NCS: 1038357

ASSIGNMENT AND ASSUMPTION
OF
DECLARANT RIGHTS
(VISTANCIA NORTH)

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS ("**Assignment**") is entered into as of the 30 day of April, 2021 ("**Effective Date**"), by and between **VISTANCIA RESIDENTIAL LLC,** an Arizona limited liability company ("**Assignor**") and **VISTANCIA DEVELOPMENT LLC,** a Delaware limited liability company ("**Assignee**").

RECITALS

A. Assignor is the "Declarant" under certain declarations described in **Exhibit A** attached hereto (collectively, the "**Declaration**").

B. This Assignment is delivered pursuant to that certain Purchase and Sale Contract with Joint Escrow Instructions dated January 25, 2021, between Assignor and its affiliate, as Seller, and Assignee, as Buyer (the "**Purchase Contract**"), pursuant to which certain Property (as defined and described in the Purchase Contract) is being conveyed to Assignee, which conveyance has occurred or will occur substantially concurrently with the execution and delivery of this Assignment.

C. In connection with the foregoing conveyance of the Property and pursuant to the Purchase Contract, Assignor now desires to transfer and assign to Assignee all of Assignor's right, title and interest as Declarant under the Declaration, and Assignee desires to accept such assignment and assume such right, title and interest of the Declarant under the Declaration, all subject to and in accordance with the terms, conditions and limitations set forth in this Assignment.

AGREEMENT AND ASSIGNMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation. The recitals set forth above are hereby incorporated herein and made a part hereof.

2. Effectiveness. This Assignment shall become effective only upon the conveyance of the Property to Assignee pursuant to the Purchase Contract, and the date on which such conveyance occurs shall be inserted as the Effective Date of this Assignment as set forth above.

3. Agreements of Assignor. Assignor (a) hereby sells, transfers, assigns and delivers to Assignee all of Assignor's right, title and interest as Declarant or otherwise in, to and under the Declaration and under any tract declaration, supplemental declaration, or other similar instrument recorded pursuant to the provisions of the Declaration (which tract declaration(s), supplemental declaration(s) and other similar instrument(s) are included in the term "Declaration" as used in this Assignment), and (b) shall indemnify, defend, and hold Assignee harmless for, from and against any and all losses, damages, liabilities, actions, proceedings, demands, claims, costs and expenses including, but not limited to, reasonable attorneys' fees (collectively, "**Claims**") that are suffered or incurred by or asserted against Assignee, which arise out of or in connection with Assignor's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues prior to the Effective Date.

4. **Agreements of Assignee.** Assignee (a) hereby accepts the foregoing assignment and assumes and agrees to observe, perform and be bound by all of the covenants, agreements and obligations of the Declarant under the Declaration that first arise or first accrue on or after the Effective Date, and (b) shall indemnify, defend and hold Assignor harmless for, from and against any and all Claims that are suffered or incurred by or asserted against Assignor, which arise out of or in connection with Assignee's failure to observe, perform and discharge any covenant, agreement and/or obligation of the Declarant under the Declaration that first arises or first accrues on or after the Effective Date.

5. **Cooperation re Lot Sales.** It is acknowledged that Assignor does not own the Parcel H-19 Phase 2 Lots (as defined in the Purchase Contract) and the Parcel H-23 Lots (as defined in the Purchase Contract), such ownership having been retained by Assignor's seller, Vistancia Village H (as defined in the Purchase Contract), which Vistancia Village H intends to sell to a homebuilder in separate sale transactions, and that at the closing of each such sale it will be necessary to record certain documents related to the Declaration as hereinafter described. Assignee hereby agrees, in its capacity as Declarant under the Declaration, to reasonably cooperate with Assignor and Vistancia Village H (including, but not limited to, by timely executing and delivering the documents in the forms described below) in connection with (A) the recordation at the closing of the sale of the Parcel H-19 Phase 2 Lots of a Notice of Applicability, a Notice of Reduction of Assessments, and a Partial Assignment of Declarant Rights, each of which shall be in substantially the same form as the same documents recorded as Instrument Nos. 2019-0578926, 2019-0578928, and 2019-0578929 of the official records of Maricopa County, Arizona ("**Official Records**"), respectively, and (B) the dedication and acceptance by the Northpointe HOA (as defined in the Purchase Contract) of the Rec Center Land, the Parcel H-19 Tracts, the Parcel H-20, H-21 and H-22 Tracts (as those terms are defined in the Purchase Contract).

6. **Attorneys' Fees.** In the event of any dispute arising out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

7. **Inurement.** This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

8. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

9. **Cooperation.** Assignor and Assignee agree to reasonably cooperate with one another (which reasonable cooperation shall include, without limitation, executing such documents or instruments, and/or attempting to obtain applicable third party consents) as may be necessary or appropriate to complete the assignment hereunder and/or to assign other applicable contracts and documents in order to effectuate the overall intent of the Purchase Contract.

10. Subject to Purchase Contract. This Assignment is being delivered pursuant to the Purchase Contract and is subject to the terms thereof including, but not limited to, the limitations set forth in Sections 10.4 and 12 thereof.

[NO FURTHER TEXT ON THIS PAGE - SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date set forth above.

ASSIGNOR:

VISTANCIA RESIDENTIAL LLC,
an Arizona limited liability company

By: Vistancia Master Holdings LLC,
an Arizona limited liability company,
sole member

By:____________________________
Andrew Klein, Manager

STATE OF COLORADO)
) ss.
County of Arapahoe)

The foregoing Assignment of Declarant Rights was acknowledged before me this 28 day of April, 2021, by Andrew Klein, the Manager of Vistancia Master Holdings LLC, an Arizona limited liability company, a Member in **VISTANCIA RESIDENTIAL LLC**, an Arizona limited liability company, for and on behalf thereof.

____
Notary Public

My Commission Expires: 8/12/24

BLAKE AMEN
Notary Public
State of Colorado
Notary ID # 20204027915
My Commission Expires 08-12-2024

ASSIGNEE:

VISTANCIA DEVELOPMENT LLC,
a Delaware limited liability company

By: Vistancia Investors LLC,
a Delaware limited liability company,
manager

By: RWhiteley
Richard S. Whiteley
Executive Vice President

By: Barry S. Ville
Barry S. Villines
Chief Financial Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss.
County of Orange)

On April 28, 2021, before me, Sharon L. Pozos, Notary Public, personally appeared Richard S. Whiteley and Barry S. Villines, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SHARON L. POZOS
Notary Public - California
Orange County
Commission # 2288913
My Comm. Expires Jun 14, 2023

Signature Sharon L. Pozos (Seal)

EXHIBIT A

Declaration

1. Vistancia North Declaration recorded in the Official Records of Maricopa County, Arizona ("**Official Records**") on April 23, 2019 as Instrument No. 2019-0284676

2. Vistancia North Tract Declaration (Residential) recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285592

3. Vistancia North Adoption of Working Capital Assessment and Waiver Notice recorded in the Official Records on April 23, 2019 as Instrument No. 2019-0285727

4. Notice of Reduction of Assessments for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578928

5. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-19 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578929

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7. Notice of Reduction of Assessments for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578937

8. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578938

9. Notice of Applicability for Vistancia Village H Parcel H-20 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578935

10. Notice of Reduction of Assessments for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578919

11. Notice of Applicability for Vistancia Village H Parcel H-21 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578915

12. Notice of Reduction of Assessments for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578920

13. Notice of Applicability for Vistancia Village H Parcel H-22 recorded in the Official Records on July 30, 2019 as Instrument No. 2019-0578916

14. Assignment and Assumption of Declarant Rights for Vistancia North recorded in the Official Records on April 10, 2020 as Instrument No. 2020-0640407 and re-recorded on July 21, 2020 as Instrument No. 2020-0654213

15. Notice of Reduction of Assessments for Vistancia Village H Parcel H-23 recorded in the Official Records on June 9, 2020 as Instrument No. 2020-0497609

16. Notice of Applicability for Vistancia Village H Parcel H-23 recorded in the Official Records on June 9, 2020 as Instrument No. 2020-0497609

17. Notice of Applicability for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366969

18. Notice of Reduction of Assessments for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366971

19. Partial Assignment of Declarant Rights for Vistancia Village H Parcel H-19 recorded in the Official Records on April 1, 2021 as Instrument No. 2021-0366972