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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, ASSESSMENTS, CHARGES, SERVITUDES,
LIENS, RESERVATIONS AND EASEMENTS
FOR
BENSCH RANCH ESTATES**

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Index

ARTICLE 1. DEFINITIONS 2

ARTICLE 2. PROPERTY SUBJECT TO BENSCH RANCH DECLARATION 6

 2.1 General Declaration Creating Bensch Ranch 6

 2.2 Master Association Bound 7

 2.3 Satellite Associations Bound 7

ARTICLE 3. EASEMENTS AND RIGHTS OF ENJOYMENT IN MASTER COMMON AREAS 7

 3.1 Easements of Enjoyment 7

 3.2 Delegation of Use 8

ARTICLE 4. LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS 8

 4.1 Land Use Classifications 8

 4.2 Declarant's Right to Change Land Use Classifications 9

 4.3 Covenants, Conditions, Restrictions and Easements Applicable to Parcels
 Within All Land Use Classifications 9

 4.4 Design Review 9

 4.5 Restriction on Further Subdivision, Property Restrictions and Rezoning 10

 4.6 Utility Easements 10

 4.7 Health, Safety and Welfare. 11

 4.8 Model Homes 11

 4.9 Incidental Uses 11

 4.10 Maintenance of Lawns and Plantings 11

 4.11 Nuisances, Construction Activities 12

 4.12 Repair of Building. 12

 4.13 Signs/Flags 12

 4.14 Animals 13

 4.15 Antennas 13

 4.16 Utility Service 13

 4.17 Right of Entry 14

 4.18 Drainage 14

 4.19 Declarant's Exemption. 14

 4.20 Design Review Guidelines. 14

 4.21 Parking Regulations and Restrictions. 14

ARTICLE 5. ORGANIZATION OF MASTER ASSOCIATION 14

 5.1 Formation of Master Association 14

 5.2 Board of Directors and Officers 15

 5.3 The Bensch Ranch Rules. 15

 5.4 Board Standards 15

 5.5 Satellite Associations 16

ARTICLE 6. MEMBERSHIPS AND VOTING 16

 6.1 Owners of Parcels 16

 6.2 Declarant 17

 6.3 Voting 17

 6.3.1 Memberships 17

 6.3.2 Residential Parcels 18

 6.3.3 Declarant Retention of Voting Rights 18

 6.4 Right to Vote 18

 6.5 Membership Rights 18

 6.6 Transfer of Membership 19

ARTICLE 7. COVENANT FOR ASSESSMENTS AND CREATION OF LIEN 19

 7.1 Creation of Lien and Personal Obligation of Assessments and Maintenance
 Charges 19

 7.2 Annual Assessments 19

 7.3 Assessments 20

 7.4 Use Assessments 20

 7.5 Special Assessments for Capital Improvements and Extraordinary Expenses 20

 7.6 Uniform Rate of Assessment, Reduced Assessment 21

 7.7 Notice and Quorum for Any Action Authorized Under Section 7.5. 21

 7.8 Rules Regarding Billing and Collection Procedures; Notice 21

7.9	Collection Costs and Interest on Delinquent Assessments	22
7.10	Evidence of Payment of the Assessments	22
7.11	Property Exempted from the Annual, Use and Special Assessments and Assessment Lien	23
7.12	Utility Usage Fees	23
ARTICLE 8. ENFORCEMENT OF PAYMENT OF ANNUAL ASSESSMENTS, USE ASSESSMENTS AND SPECIAL ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN		23
8.1	Master Association as Enforcing Body	23
8.2	Master Association's Remedies to Enforce Payment of Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges	23
8.3	Subordination of Assessment Lien to First Mortgage or Deed of Trust: Priority of Lien	24
8.4	Costs to be Borne by Member in Connection with Enforcement of Payment of Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges	24
ARTICLE 9. USE OF FUNDS; BORROWING POWER		24
9.1	Purposes for which Master Association's Funds May Be Used	24
9.2	Borrowing Power	25
9.3	Master Association's Rights in Spending Funds From Year to Year	25
9.4	Administration of Special Use Fees	25
9.5	Insurance	25
ARTICLE 10. MAINTENANCE		25
10.1	Master Common Areas and Public Rights-of-Way	26
10.2	Assessment of Certain Costs of Maintenance and Repair or Master Common Areas and Public Areas	27
10.3	Improper Maintenance and Use of Parcels	27
ARTICLE 11. DESIGN REVIEW COMMITTEE		28
11.1	Establishment	28
11.2	Post-Declarant Operation	28
11.3	Purpose	29
11.4	Operation/Authority	29
11.5	Fee	30
11.6	Limited Liability of Design Review Committee Approval	30
11.7	Waiver	31
11.8	Non-applicability to Declarant	31
11.9	Multiple Committees	31
11.10	Continuing Right of Amendment	31
ARTICLE 12. RIGHTS AND POWERS OF MASTER ASSOCIATION		32
12.1	Master Association's Rights and Powers as Set Forth in Articles and Bylaws	32
12.2	Master Association's Rights of Enforcement of Provisions of This and Other Instruments	32
12.3	Contracts with Others for Performance of Master Association's Duties	32
12.4	Reservation of Trade Name	32
ARTICLE 13. ANNEXATION AND DE-ANNEXATION		33
13.1	Annexation Without Approval and Pursuant to Master Plan	33
13.2	De-annexation Without Approval	33
13.3	Supplementary Declarations	33
ARTICLE 14. TERM; AMENDMENTS; TERMINATION		33
14.1	Term and Method of Termination	33
14.2	Amendments	34
14.3	Right of Amendment if Requested by Governmental Agency or Lending Institutions	34
14.4	Declarant's Rights of Amendment	35
ARTICLE 15. MISCELLANEOUS		35
15.1	Interpretation of the Covenants	35

15.2 Severability 35
15.3 Perpetuities and Restraints on Alienation 35
15.4 Rules and Regulations 35
15.5 Declarant's Disclaimer of Representations 36
15.6 References to the Covenants in Deeds 36
15.7 Successors and Assigns of Declarant 36
15.8 Gender and Number 36
15.9 Captions and Titles 36
15.10 Notices 36
15.11 FHA/VA Approval 37
15.12 Minimum Size of Primary Residence 37
ARTICLE 16. Repurchase Rights 37
16.1 Option to Repurchase 37
16.2 Grant of Option 38
16.3 Terms of Purchase 38
ARTICLE 17. Right to Create, Maintain, Sell, Lease and/or Discontinue Equestrian Facilities 38
ARTICLE 18. Mandatory Installation of Fire Sprinklers in Residential Properties. 39

THIS DECLARATION of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Bensch Ranch Estates (hereinafter termed the "Declaration") is made as of the 25 day of February, 2002 (the "Effective Date"), by BENSCH RANCH, L.L.C. (hereinafter sometimes termed "Declarant"), an Arizona limited liability company.

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property located in the County of Yavapai, State of Arizona, described on Exhibit A, attached hereto and incorporated herein by this reference, known as Bensch Ranch Estates (hereinafter sometimes referred to as the "Property" and also sometimes referred to as "Bensch Ranch"); and

WHEREAS, Declarant desires, without obligation, to develop the Property or cause the Property to be developed into a planned community of residential, office, commercial, hotel, resort, employment and other uses; and

WHEREAS, as part of the various stages of development of Bensch Ranch, Declarant intends, without obligation, to record or cause to be recorded various subdivision plats, to dedicate or cause to be dedicated selected portions of Bensch Ranch to the public for streets, roadways, drainage, flood control and general public use and to record various Tract Declarations covering portions of Bensch Ranch, which Tract Declarations will designate the purposes for which the portions of Bensch Ranch may be used and may set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to the portions of Bensch Ranch; and

WHEREAS, Declarant desires to form a nonprofit corporation for the purpose of benefitting Bensch Ranch, the Owners, the Tenants and the Residents, which nonprofit corporation (hereinafter termed the "Master Association") will (1) acquire, construct, operate, manage and maintain any Master Common Areas in Bensch Ranch, (2) establish, levy, collect and disburse the Assessments and other charges imposed hereunder and (3) as the agent and representative of the Members of the Master Association and of the Owners, the Tenants and the Residents of Bensch Ranch administer and enforce this Declaration and enforce the use and other restrictions imposed on various parts of Bensch Ranch; and

WHEREAS, Declarant is preparing the necessary documents for the incorporation and organization of the Master Association and may, without obligation, seek approval of the Bensch Ranch development by the Federal Housing Administration ("FHA"), the Veterans Administration ("VA"), the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or by any other governmental agencies or financial institutions whose approval Declarant deems necessary and desirable; and

WHEREAS, Declarant therefore wishes to subject all of Bensch Ranch to the covenants, conditions, restrictions, assessments, charges servitudes, liens,

reservations and easements (hereinafter collectively called "Covenants") hereinafter set forth; and

WHEREAS, in order to cause the Covenants to run with Bensch Ranch and to be binding upon Bensch Ranch, the Owners, the Tenants and the Residents thereof from and after the date of the Recording of this Declaration, Declarant hereby makes all conveyances of Bensch Ranch, whether or not so provided therein, subject to the Covenants herein set forth, and by accepting deeds, leases, easements or other grants or conveyances to any portion of Bensch Ranch, the Owners, the Tenants, the Residents and other transferees for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the Covenants (including but not limited to the obligation to pay Assessments) hereinafter set forth, except to the extent the persons are specifically excepted herefrom.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees that:

ARTICLE 1. DEFINITIONS. The following words, phrases or terms used in this Declaration shall have the following meanings:

1.1 "Additional Property" shall mean real property which is annexed or added to the "Property" as permitted hereunder.

1.2 "Annual Assessment" shall mean the charge levied and assessed each year against each Membership pursuant to Section 7.2.

1.3 "Apartments" shall mean multi-family dwellings.

1.4 "Articles" shall mean the Articles of Incorporation of the Master Association as the same may from time to time be amended or supplemented.

1.5 "Assessable Property" shall mean any Parcel, except the part or parts thereof as may from time to time constitute Exempt Property.

1.6 "Assessment" shall mean an Annual Assessment, Use Assessment, Special Assessment and/or Maintenance Charge.

1.7 "Assessment Lien" shall mean the lien created and imposed by Article 7.

1.8 "Board" shall mean the Board of Directors of the Master Association.

1.9 "Bylaws" shall mean the Bylaws of the Master Association as the same may from time to time be amended or supplemented.

1.10 "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

1.11 "Declarant" shall mean and refer to the above recited Declarant or any person or persons to whom any part of all of Declarant's rights reserved to the Declarant hereunder are assigned in whole or in part. The Declarant's rights shall only be assigned by a written, recorded instrument expressly assigning those rights.

1.12 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements, as amended or supplemented from time to time.

1.13 "Deed" shall mean a deed or other instrument conveying the fee simple title in a Parcel.

1.14 "Design Review Committee" shall mean the committee of the Master Association to be created pursuant to Article 11 hereof.

1.15 "Design Review Guidelines" shall mean those guidelines established by the Declarant pursuant to Article 11 hereof

1.16 "Designated Broker" shall mean Larry M. Henley or his assignee.

1.17 "Dwelling Unit" shall mean any building or portion of a building situated upon a Parcel designed and intended for use and occupancy as a residence by a Single Family.

1.18 "Exempt Property" shall mean the following parts of Bensch Ranch:

1.18.1 All land and improvements owned by, or dedicated to and accepted by, the United States of America, the State of Arizona, Yavapai County, or any other political subdivision;

1.18.2 All Master Association Land, for as long as the Master Association is the owner thereof;

1.18.3 Any land the use of which is exclusively restricted to the operation of a sewer or water treatment plant, or water storage tanks or related facilities, or other utility designated by Declarant or the Association.

1.19 "Land Use Classification" shall mean the classification to be established by the Declarant pursuant to Section 4.1, which designates the type of improvements which may be constructed on a Parcel or Master Association Land and the purposes for which the improvements and surrounding land may be utilized.

1.20 "Tenant" shall mean the Tenant under a lease, including an assignee of a lease but excluding any person who has assigned all of his interest in a lease.

1.21 "Lot" shall mean any area of real property within Bensch Ranch designated as a Lot on any subdivision plat Recorded or approved by Declarant and limited by a Tract Declaration to Single Family Residential Use.

1.22 "Maintenance Charges" shall mean any and all costs assessed pursuant to Article 10 hereof.

1.23 "Master Association" shall mean the Arizona nonprofit corporation or limited liability company to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, its successors and assigns. Declarant hereby reserves the exclusive right to cause the Master Association to be incorporated. It is the intent of the Declarant that the Master Association shall be referred to as "Bensch Ranch Community Master Association."

1.24 "Master Association Land" shall mean the part or parts of Bensch Ranch, together with the buildings, structures and improvements thereon, and other real property which the Master Association may at any time own in fee or in

which the Master Association may at any time have a leasehold interest, for as long as the Master Association is the owner of the fee or leasehold interest.

1.25 "Master Common Area" and "Master Common Areas" (also referred to as "Common Area" or "Common Areas") shall mean (a) all Master Association Land; (b) all land within Bensch Ranch which the Declarant, by this Declaration or other Recorded instrument, makes available for use by Members of the Master Association and evidences its intent to convey to the Master Association at a later date; (c) all land within Bensch Ranch which the Declarant indicates on a Recorded subdivision plat or Tract Declaration is to be used for landscaping, drainage, water retention, and/or flood control for the benefit of Bensch Ranch and/or the general public and is to be dedicated to the public, a political subdivision or other public entity upon the expiration of a fixed period of time, but only until the land is so dedicated; (d) all other lands within the drainage easement areas as set forth by Tract Declarations or other Recorded instruments; and (e) areas on a Parcel within easements granted to the Master Association or its Members for the operation and maintenance of walking paths, and other recreational facilities, for the location, construction, maintenance, repair and replacement of a wall, fence or sign or of landscaping, which easement may be granted or created on a recorded subdivision plat or Tract Declaration or by a Deed or other conveyance accepted by the Master Association.

1.26 "Master Plan" shall mean the Bensch Ranch development plan and related documents as approved by Yavapai County or other applicable governmental agencies, as amended from time to time, a copy of which shall be on file at all times in the office of the Master Association.

1.27 "Maximum Annual Assessment" means the upper limit for the total Annual Assessment to be established by the Declarant or by the Board; until January 1st of the year following the Recording of the first Tract Declaration, the Maximum Annual Assessment is \$60 per Lot per Year. See Section 7.3.

1.28 "Member" shall mean any person holding a Membership in the Master Association pursuant to this Declaration.

1.29 "Membership" shall mean a Membership in the Master Association and the rights granted to the Owners pursuant to Article 6 hereof to participate in the Master Association.

1.30 "Non-Residential Parcels" shall mean those Parcels the use of which is non-residential.

1.31 "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Parcel, but excluding those who hold title merely as security for the performance of an obligation. In the case of a Parcel, the fee simple title to which is vested of Record in a seller under a valid and outstanding Agreement or Contract of Sale, as defined in A.R.S. §33-741, legal title shall be deemed to be in the purchaser under the Agreement or Contract of Sale. In the case of a Parcel, the fee simple title to which is vested of Record in a trustee pursuant to A.R.S. §33-801, *et seq*, legal title shall be deemed to be in the Trustor.

An Owner shall include any person who holds record title to a Parcel in joint ownership with any other person or holds an undivided fee interest in any Parcel.

1.32 "Parcel" shall mean an area of real property within Bensch Ranch

1.33 "Plat" shall mean a Tract Declaration as defined below.

1.34 "Property" or "Bensch Ranch" shall mean the Property situated in the Yavapai County, Arizona, as described on Exhibit A to this Declaration, and the additions, if any, as hereafter become subject to this Declaration and are brought within the jurisdiction of the Master Association pursuant to the provisions of this Declaration.

1.35 "Recording" or "Recordation" shall mean placing an instrument of public record in the office of the Yavapai County Recorder and "Recorded" shall mean a matter of public record.

1.36 "Resident" shall mean:

1.36.1 Each Owner or Tenant actually residing or conducting a business on any part of the Property; and

1.36.2 Members of the immediate family of each Owner and Tenant actually living in the same household with Owner or Tenant. Subject to the rules and regulations of the Master Association (including the imposition of special non-Resident fees for use of the Master Association Land if the Master Association shall so direct), the term "Resident" also shall include the guests or invitees of any Owner or Tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.37 "Residential Parcels" shall mean those Parcels the use of which is to be residential.

1.38 "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household in a Dwelling Unit.

1.39 "Special Assessment" shall mean any Assessment levied and assessed pursuant to Section 7.5.

1.40 "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Tenant, Resident or any other person is obligated to pay to the Master Association over, above and in addition to any Annual Assessments, Use Assessments, Special Assessments or Maintenance Charges imposed or payable hereunder.

1.41 "Supplementary Declaration" shall mean a written instrument Recorded in the records of the County Recorder of Yavapai County, Arizona which refers to this Declaration and which amends, enlarges or reduces this Declaration or which effects the annexation of real property to this Declaration in accordance with the provisions of Article 13 of this Declaration.

1.42 "Tract Declaration" (or a "Plat") shall mean a declaration Recorded pursuant to Section 4.1 of this Declaration.

1.43 "Utility Tracts" as shown on the Plat shall mean parcels used to provide sewer, water, power, telephone, cell phone or other utilities to the Property; the

owner and user of a Utility Tract is not a Member of the Association, has no vote and pays no Assessments but is subject to the review and approval power of the Design Review Committee and to use restrictions issued by the Declarant or the Design Review Committee from time to time.

1.44 "Visible From Neighboring Property" shall mean, with respect to any given object, that the object is, or would be, visible to a person six feet tall, standing on the same plane as the object being viewed at a distance of 100 feet or less from the nearest boundary of the property being viewed.

1.45 "Wildlife Corridor" shall mean Hackberry Wash and Muledeer Wash in the area along Bensch Ranch Boulevard as depicted on the Recorded Plat. To the extent required by the zoning approval stipulations imposed by Yavapai County, Arizona, for Bensch Ranch, no fences may be constructed in a manner which prevent the natural movement of wild life to and from the Wildlife Corridors. This restriction affects the Lots as shown on the Tract Declaration or Plat, as may be amended from time to time. Fences may be constructed by Owners only within the boundary of the "Building Envelope," if any, defined on the Plat.

ARTICLE 2. PROPERTY SUBJECT TO BENSCH RANCH DECLARATION

2.1 General Declaration Creating Bensch Ranch. Declarant intends to develop Bensch Ranch by subdivision into various Parcels and to sell and convey Parcels for a profit. As portions of Bensch Ranch are developed, Declarant intends to Record one or more Tract Declarations covering Parcels, which Tract Declarations may designate Master Common Areas and shall establish those additional covenants, conditions, and restrictions as may be appropriate for the Parcel or Parcels covered by the applicable Tract Declaration. Declarant hereby declares that all of the real property within Bensch Ranch is, and shall be, held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration and any Recorded Tract Declarations applicable thereto, as amended or modified from time to time. Restrictions imposed in this Declaration upon the Owners, the Tenants or the Residents concerning the use and maintenance of portion or portions of the Property shall at all times apply to the Owners, the Tenants and the Residents. This Declaration and the Tract Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of Bensch Ranch, and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of Bensch Ranch and every part thereof. All of this Declaration shall run with the land with respect to all Parcels for all purposes and shall be binding upon and inure to the benefit of Declarant, the Master Association, all Owners, Tenants and Residents and their successors in interest. Nothing in this Declaration shall be construed to prevent the Declarant from modifying the Master Plan or any portions thereof.

2.2 Master Association Bound. Upon issuance of a Certificate of Incorporation or in the case of a limited liability company, a Certificate of

Organization, by the Arizona Corporation Commission to the Master Association, the Covenants shall be binding upon and shall benefit the Master Association.

2.3 Satellite Associations Bound. Any and all Satellite Associations created pursuant to Section 5.5 of this Declaration shall be bound by and, to the extent specifically set forth in this Declaration or the applicable Tract Declaration, benefitted by the Covenants.

ARTICLE 3. EASEMENTS AND RIGHTS OF ENJOYMENT IN MASTER COMMON AREAS

3.1 Easements of Enjoyment. Declarant and every Owner, Tenant and Resident of the Master Association shall have a right and easement of enjoyment in and to the Master Common Area which right shall be appurtenant to, and shall pass with, the title to every Parcel subject to these limitations and reservations of right. For as long as the Declarant has at least eight votes, Declarant specifically reserves the right and power in its sole and absolute discretion to take these actions; thereafter, the Master Association's Board of Directors, in its sole and absolute discretion, may:

3.1.1 charge reasonable admission and other Special Use Fees for the use of the Master Common Areas or any facilities constructed thereon;

3.1.2 suspend the voting rights and right to use the facilities and other Master Common Areas by any Member (i) for any period during which any Assessment against his Parcel remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, a Tract Declaration or the Bensch Ranch Rules, and (iii) for successive 60 day periods if any infraction is not corrected during any prior 60 day suspension period;

3.1.3 grant, prohibit, limit and regulate access to, and the use of, the Master Common Areas through the Bensch Ranch Rules, which rules are generally intended to enhance the preservation of the Master Common Areas for the safety and convenience of its users, and otherwise promote the common good of the Owners, Tenants and Residents.

3.1.4 deed, lease, option, dedicate or otherwise transfer all or any part of the Master Common Areas to any public agency, authority, or utility if (i) required by zoning stipulations or other agreements with applicable governing municipalities effective prior to the date hereof or if (ii) specified on a Recorded subdivision plat, or if (iii) requested in writing by the Declarant. If the proposed Transfer fails to meet one of these three requirements, however, and if the Transfer will have a substantial adverse effect on the enjoyment of the Master Common Areas by a majority of the Members, then the written consent of the Owners is required on a document Recorded in the office of the Yavapai County Recorder which is signed by the holders of 51% of the votes;

3.1.5 change the use of the Master Common Areas in accordance with this Declaration;

3.1.6 change the size, shape or location of Master Common Areas, to exchange Master Common Areas for other lands or interests therein which

become Master Common Areas and to abandon or otherwise transfer Master Common Areas so long as, in each use, either (i) the Declarant or Board determines that the Members are not materially and adversely affected, or (ii) Declarant executed an instrument agreeing to the transaction or, if Declarant no longer possesses a Class B Membership, then two-thirds of the Class A Memberships have executed an instrument consenting to the transaction.

3.1.7 PROVIDED, HOWEVER, that notwithstanding any other provisions hereof, at any time the Declarant has at least eight votes, the Declarant may grant non-residential users full or partial rights and privileges to use and enjoy the Master Common Areas without limitation.

3.2 Delegation of Use. When acting in accordance with the Declaration and the Bensch Ranch Rules, a Member may delegate his right of enjoyment in the Master Common Areas and facilities to the members of his family, his Tenants or his Residents but not to persons who do not reside on Bensch Ranch at the time they are using these facilities. All equestrian, walking and other paths controlled by the Master Association shall be available for use by guests and invitees; subject, however, to the Bensch Ranch Rules.

ARTICLE 4. LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

4.1 Land Use Classifications. As portions of Bensch Ranch are prepared for development, the Land Use Classifications, restrictions, easements, rights-of-way, and other matters (including new or different uses and restrictions thereon and including any number of subclassifications thereof for any special uses), shall be fixed by Declarant in a Tract Declaration which shall be Recorded for that portion of Bensch Ranch. A Tract Declaration may set forth restrictions on the use of the Parcel(s) subject to the Tract Declaration. The Tract Declaration(s) shall be construed as a supplement to this Declaration and fully a part hereof for all purposes to the same extent as if all of the provisions thereof were set forth in this Declaration. Contemplated Land Use Classifications include, but are not limited to, these "Land Use Classifications:"

4.1.1 Single Family Residential Use.

4.1.2 Apartment Development Use, which may be converted to Time-Share Use upon approval by the Board.

4.1.3 Condominium Development Use, which may be converted to Time-Share Use upon approval by the Board.

4.1.4 Commercial Office Use.

4.1.5 Business Park Use, which may be used for research or other business purposes.

4.1.6 General Commercial Use.

4.1.7 Hotel Use.

4.1.8 Medical Center Use.

- 4.1.9 Tourist Attraction Use.
- 4.1.10 Employment Use.
- 4.1.11 Industrial Park Use.
- 4.1.12 Master Association Use, which may include Master Common Areas.
- 4.1.13 General Public Use.
- 4.1.14 Well-Site or Water Storage Tank Use.
- 4.1.15 Waste Treatment Plant Site Use.
- 4.1.16 General Utility Site.
- 4.1.17 Wildlife Corridors, Equestrian Facilities, Equestrian and/or Pedestrian Trails.
- 4.1.18 Common Areas.

Unless otherwise specifically provided in this Declaration, the definitions and characteristics of the Land Use Classifications, and specific permitted and prohibited uses in the classifications, shall be determined in the Tract Declaration.

4.2 Declarant's Right to Change Land Use Classifications. Unless the applicable Tract Declaration provides to the contrary, for so long as Class B Memberships exist, Declarant (in the event Declarant is the Owner of said Parcel) or Declarant and the Owner(s) of said Parcel (in the event Declarant is not the Owner or the sole Owner of said Parcel) shall have the right to change the Land Use Classification of a Parcel as established in a Recorded Tract Declaration or otherwise amend a Recorded Tract Declaration by Recordation of an amendment to the applicable Tract Declaration executed by Declarant and, if applicable, the Owner(s) of said Parcel.

4.3 Covenants, Conditions, Restrictions and Easements Applicable to Parcels Within All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Parcels, the Owners, Residents and Tenants thereof, regardless of Land Use Classifications.

4.4 Design Review. All properties at Bensch Ranch are subject to Design Review as established by the Design Review Committee. Except as otherwise expressly provided in this Declaration, no improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters any property within Bensch Ranch, or the exterior appearance of improvements located thereon, from its natural or improved state existing on the date a Tract Declaration for the property was first Recorded shall be made or done without prior written approval of the Design Review Committee. No changes or deviations in or from the plans and specifications once approved by the Design Review Committee shall be made without prior written approval of the Design Review Committee. The construction of the exterior (and those interior portions of structures visible from the outside of the applicable structure) of any building, fence, wall, residence or other structure shall not be commenced, erected,

maintained, improved, altered, or made without the prior written approval of the Design Review Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Parcels, shall be subject to the prior written approval of the Design Review Committee. In its sole discretion, the Declarant may excuse or exempt certain Parcels, Lots or improvements from compliance with the Design Guidelines.

4.5 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Parcel subject to a Recorded Tract Declaration shall be further subdivided or separated into smaller Parcels by any Owner, and no portion less than all of the Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on the plat or other instrument creating the subdivision, easement or other interest. No further covenants, conditions, restrictions or easements shall be Recorded by any Owner, Tenant or other person against any Parcel without the provisions thereof having been first approved in writing by the Board and any covenants, conditions, restrictions or easements Recorded without the approval being evidenced thereon shall be null and void. Except as set forth in Section 4.2 any change of use of Parcels covered by a Tract Declaration must first be approved in writing by the Board or Design Review Committee as appropriate. For so long as Declarant owns any undeveloped Parcel in Bensch Ranch, this Subsection shall not be applicable to or binding upon Declarant with respect to any Parcel.

4.6 Utility Easements. There is hereby created a blanket easement upon, across, over and under each parcel for ingress to, egress from and for the installation, replacing, repairing and maintaining of all utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, et cetera., as the utilities are installed in connection with the development of each Parcel. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Parcels. Notwithstanding anything to the contrary contained in this Subsection, no sewers, electrical lines, water lines, or other utility or service lines may be installed or relocated on any Parcel except as initially programmed and approved by the Declarant or the Design Review Committee or, if installed after the Recording of the Tract Declaration, approved by the Owner and the Design Review Committee.

4.7 Health, Safety and Welfare. In the event additional uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Tenants or Residents, the Board may make rules restricting or regulating their presence on Bensch Ranch as part of the Bensch Ranch Rules, or may direct the Design Review Committee to make rules governing their presence on Parcels as part of the design guidelines.

4.8 Model Homes. The provisions of this Declaration and of Tract Declarations which prohibit non-residential use of Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction or sale of residential dwellings on Bensch Ranch and parking incidental to the visiting of the model homes so long as the location of the model homes are approved by the Design Review Committee. The Design Review Committee may also permit other areas to be used for parking in connection with the showing of model homes provided the parking and parking areas are in compliance with the ordinances of the governing authority, other applicable governmental agencies and any rules of the Design Review Committee.

4.9 Incidental Uses. The Board may approve uses of property within a Land Use Classification which are incidental to the full enjoyment by the Owners of the property within that Land Use Classification. The approval may be subject to those regulations, limitations and restrictions, including termination of the use, as the Board may wish to impose, in its sole discretion, for the benefit of Bensch Ranch as a whole. By way of example and not of limitation, the uses which the Board may permit are private roadways and streets within an area having a Land Use Classification of Apartment Residential Use or Condominium Development Use, recreation facilities intended primarily for the benefit of all or certain Owners and Residents within areas having a Land Use Classification of Apartment Residential Use or Condominium Development Use, recreational facilities intended for usage by the Residents or Owners or more than a single Parcel within any area classified for residential use, and a sales, information and marketing center operated by Declarant.

4.10 Maintenance of Lawns and Plantings. Each Owner of a Parcel shall neatly trim all shrubs, trees, hedges, grass and plantings of every kind located on (i) his Parcel (including set back areas and Master Common Areas), (ii) planted public right-of-way areas between sidewalks (or bike paths) and the street curb in front of his property, if any, (iii) any other public right-of-way or easement area which abuts the Owner's Parcel and which is located between the boundary line of his Parcel and the paved area of any street, sidewalk, bike path or similar area, and (iv) any non-street public right-of-way neatly trimmed and shall keep all areas properly cultivated and free of trash, weeds and other unsightly material; provided, however, that the Owner shall not be responsible for maintenance of any area over which (1) the Master Association assumes the responsibility in writing; (2) the Master Association has been given the responsibility by a Recorded instrument as provided in Section 10. 1 of this Declaration; or (3) the County of Yavapai or other public agency assumes responsibility, for so long as the Master Association, said political subdivision or other public agency assumes or has responsibility as provided in (1), (2) or (3) above. The Design Review Committee may require landscaping by the Owner of the areas described in (i), (ii), (iii) and (iv) above.

4.11 Nuisances, Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Parcel and no

odors shall be permitted to arise or emit therefrom so as to render the property, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other Parcel in the vicinity thereof or to the occupants of another Parcel. No other nuisance shall be permitted to exist or operate upon any Parcel so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices or devices used for security purposes, shall be located, used or placed on any Parcel. Normal construction activities and parking in connection with the building of improvements on a Parcel shall not be considered a nuisance or otherwise prohibited by this Declaration, but Parcels shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate and supplies of brick, block, lumber and other building materials shall be piled only in those areas as may be approved by the Design Review Committee. In addition, any construction equipment and building materials stored or kept on any Parcel during construction of improvements may be kept only in areas approved by the Design Review Committee. The Design Review Committee may also require screening of said storage areas. The Board, in its sole discretion, shall have the right to determine the existence of any nuisance.

4.12 Repair of Building. No building or structure on any Parcel shall be permitted to fall into disrepair; all structures shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Subsection 4.1, the building or structure shall be immediately repaired or rebuilt or shall be demolished.

4.13 Signs/Flags. No signs or flags whatsoever (including, but not limited to, commercial, political and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Parcel except:

4.13.1 Signs required by legal proceedings,

4.13.2 No more than two identification signs for individual residences, each with a face area of 72 square inches or less, the nature and location of which have been approved in advance and in writing by the Design Review Committee.

4.13.3 Signs (including "For Sale" and "For Lease" signs) the nature, number, and location of which have been approved in advance and in writing by the Design Review Committee.

4.13.4 Promotional and advertising signs of builders on any Parcel, approved from time to time in advance and in writing by the Design Review Committee as to number, size, color, design, message content, location and type.

4.13.5 Other signs (including, but not limited to, construction job identification signs, builder identification signs, and subdivision, shopping center, apartment and business identification signs) which are in conformance with the applicable requirements of the County of Yavapai or other applicable

government agencies and which have been approved in advance and in writing by the Design Review Committee as to size, color, design, message content and location.

4.13.6 No more than two flags for individual residences not to exceed 3' x 5' each. The flags must be attached to the Dwelling Unit or by separate flag pole if approved by the Design Review Committee.

4.13.7 A flag of the United States of America not to exceed 200 square feet, except with the written permission of the Design Review Committee.

4.14 Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Property, and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any animal shall be maintained so as to be Visible from Neighboring Property. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on the property is reasonable. Any decision rendered by the Board shall be final and shall be enforceable to the same extent as other restrictions in this Declaration. Owners shall be liable for any and all damage to Property and injury to persons and animals, fish and fowl (domestic and wildlife) caused by their household pets.

4.15 Antennas. No antenna, "disk," or other device for the transmission or reception of television or radio signals or any other forms of electromagnetic radiation shall be erected, used, or maintained outdoors on any property, whether attached to a building or structure or otherwise, unless approved by the Architectural Committee.

4.16 Utility Service. No lines, wires, or other devices for communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Parcel unless the same shall be contained in conduits or cables installed and maintained underground, except to the extent (if any) the underground or concealed placement may be prohibited by law, and except for above-ground structures and/or media for transmission as may be originally constructed by Declarant or as may be otherwise approved by the Design Review Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Design Review Committee.

4.17 Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Parcel, any member of the Design Review Committee, any member of the Board, or any authorized representative of either of them, shall have the right to enter upon and inspect any Parcel, and the improvements thereon, except for the interior portions of any completed residence, for the purpose of ascertaining whether or not the provisions of this Declaration

have been, or are being, complied with, and these persons shall not be deemed guilty of trespass by reason of entry.

4.18 Drainage. All drainage plans for each Parcel shall be subject to the approval of the Design Review Committee.

4.19 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures, improvements or signs necessary or convenient to the development or sale of Parcels within Bensch Ranch.

4.20 Design Review Guidelines. Either Declarant or the Design Review Committee may issue "Design Review Guidelines" from time to time setting forth additional binding legal restrictions regarding the nature of uses or improvements which are permitted or prohibited on the Property.

4.21 Parking Regulations and Restrictions. From time to time the Declarant and/or the Master Association or the Board may issue additional rules and regulations restricting or permitting parking of vehicles of various types. The word "Vehicle" is intended to include motorcycles, automobiles, pickups, vans, trucks, trailers, recreational vehicles, mobile homes or trailers, boats, houseboats, boat trailers, jet skis, watercraft of all types, golf carts, all terrain vehicles, dirt bikes, tractors, construction equipment of all types and all other types of motorized, towed or pushed conveyances, whether operable or inoperable, tracked or tired, including but not limited to, parts thereof.

4.21.1 Residents shall not park any Vehicles overnight on private streets or thoroughfares.

4.21.2 All Vehicles, except for two operable automobiles or pickups, shall be parked only in enclosed garages; provided, however, that third party construction, service and delivery vehicles (i.e., those owned and operated by non-Residents which are temporarily on the Property for the delivery of goods or services) are exempt from this provision during daylight hours but only for the period of time as is reasonably necessary to provide service or to make a delivery to a Lot.

ARTICLE 5. ORGANIZATION OF MASTER ASSOCIATION

5.1 Formation of Master Association. The Master Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Board of Directors and Officers. The affairs of the Master Association shall be conducted by the Board and the officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. The Board may also appoint various committees and may appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Master Association. The Board

shall determine the compensation to be paid to the manager or any other employee of the Master Association.

5.3 The Bensch Ranch Rules. By a majority vote of the Board, the Master Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as the Bensch Ranch Rules. The Bensch Ranch Rules may restrict and govern the use of any Common Area by any Member, Tenant or Resident; provided, however, that the Bensch Ranch Rules shall not be inconsistent with this Declaration, the Articles, the Bylaws or any applicable Tract Declaration. Upon adoption, the Bensch Ranch Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

5.4 Board Standards.

5.4.1 In the performance of their duties, Association directors and officers shall be insulated from personal liability as provided by Arizona law for directors and officers of nonprofit corporations, and as otherwise provided in the governing documents. Directors are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule.

5.4.2 As defined herein, a director shall be acting in accordance with the business judgment rule so long as the director: (a) acts within the express or implied terms of the governing documents and those actions are not *ultra vires*; (b) affirmatively undertakes to make decisions which are necessary for the successful operation of the Association and, when decisions are made, they are made on an informed basis; (c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in the decisions and actions; and (d) acts in a non-fraudulent manner and without reckless indifference to the affairs of the Association. A director acting in accordance with the business judgment rule shall be protected from personal liability.

5.4.3 Board determinations of the meaning, scope, and application of governing documents provisions shall be upheld and enforced so long as the determinations are reasonable. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the governing documents.

5.5 Satellite Associations. In the event any homeowners or similar association is to be formed by the developer (other than the Declarant) of a Parcel, the articles of incorporation and bylaws or other governing documents for the satellite association shall not be effective unless the contents thereof have been approved by the Board and the governing documents specify that the association and the rights of its members are subject and subordinate to this Declaration, the Articles and Bylaws of the Master Association, any applicable Tract Declaration and the Bensch Ranch Rules. The Declarant may form one or more Satellite Associations from time to time in its sole discretion and upon those terms and conditions as it deems advisable.

ARTICLE 6. MEMBERSHIPS AND VOTING

6.1 Owners of Parcels. Each Owner of a Parcel which is subject to assessment, pursuant to Article 7 hereof, shall be a Member of the Master Association. Each Membership shall be appurtenant to and may not be separated from ownership of the Parcel to which the membership is attributable and joint ownership or ownership of undivided interests in any real property which establishes a Membership shall not cause there to be more Memberships than the number established for purposes of this Section.

6.1.1 Each Owner of a Residential Parcel, other than an Apartment Development, shall have one Membership for each Lot owned by the Owner. Each Owner of a Non-Residential Parcel or of an Apartment Development shall have those membership and voting rights as are specified by Declarant.

6.1.2 When a Tract Declaration is Recorded limiting the use of a Parcel to Single Family Residential Use, Residential Condominium Development Use, or similar residential uses (but specifically excluding Apartment Development Use), there shall be one Membership for each Lot permitted upon the Parcel by the applicable Tract Declaration. When a subdivision plat or other instrument creating Lots is Recorded covering all or part of the Parcel, the Memberships attributable to the Lots shall be determined as set forth above and the number of Memberships held by the Owner, as Owner of the remainder, if any, of the unplatted portion of the Parcel, shall be equal to the number of Lots permitted by the Tract Declaration minus the number of Recorded Lots.

6.1.3 When a Recorded Tract Declaration Parcel limits the use of a Parcel to uses other than Single Family Residential Use, Residential Condominium Use, or similar residential uses (but specifically excluding Apartment Development Use), the number of Memberships attributable to that Parcel shall be determined by the Declarant in its sole and absolute discretion for as long as the Declarant (or its successor or assign) has Class B Membership and may, but need not, be set forth in the Tract Declaration. The number of Memberships attributable to that Parcel shall not thereafter be reduced without the prior written consent of the Owner of that Parcel, but the number of Memberships attributable to that Parcel may thereafter be increased by virtue of further subdivision of the Parcel and/or conveyance of the Parcel to additional Owners. The exercise of the power of eminent domain or condemnation by a government entity of a Parcel or a substantial portion of a Parcel may result in the reduction of Memberships attributable to that Parcel for so long as the portion remains Exempt Property; the amount of that reduction shall be determined by the Declarant in its sole and absolute discretion for as long as the Declarant (or its successor or assign) has Class B Membership and, thereafter, by the Board based on the square footage of the real property taken by eminent domain or condemnation.

6.2 Declarant. The Declarant shall be a Member of the Master Association for so long as Declarant holds a Class B Membership pursuant to Section 6.3 or

owns any Parcel in Bensch Ranch. The Class B Membership shall be given not less than ten days written notice of all meetings and proposed actions of the Association. The Declarant (or its successors) may freely transfer its powers and rights to act as the Declarant and may disclaim or terminate its powers at any time by Recording a declaration thereof.

6.3 Voting.

6.3.1 Memberships. The Master Association shall have two classes of voting Memberships:

- (1) **Class A.** Class A Memberships shall be all Memberships, except the Class B Memberships held by the Declarant, and each Owner shall be entitled to one vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner for violations of this Declaration in accordance with the provisions hereof or any applicable Tract Declaration;
- (2) **Class B.** Until converted to Class A Memberships as provided below, each Membership owned by Declarant shall be a Class B Membership. At the time of any vote by the Members of the Master Association, Declarant shall be entitled to eight votes for each Class B Membership held by Declarant. So long as the Class B Membership exists, the Class B Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole and absolute judgment of the Class B Member, would tend to impair rights of Declarant or of builders under the Declaration or would interfere with development or construction of any portion of Bensch Ranch or would diminish the level of services being provided by the Association. The Class B Memberships shall cease and be converted to Class A Memberships on the first to occur of:
 - (a) The date when the total votes outstanding in the Class A Memberships equal the total votes outstanding in the Class B Memberships;
 - (b) Fifteen years after the date of recording of this document; or
 - (c) The date Declarant notifies the Board that Declarant is terminating its Class B Memberships.

6.3.2 Residential Parcels. With respect to Residential Parcels, Declarant expressly reserves the right to require the establishment, in accordance with the applicable terms of this Declaration, of a Satellite Association for one or more of the Parcels. Declarant further reserves the right to require, through the terms of the applicable Tract Declaration, that the votes of all Memberships held by Owners of Residential Parcels be cast only by the Satellite Association designated in the applicable Tract Declaration as

entitled to cast the votes of the Members. In that event, the Satellite Association's board of directors shall cast the votes in accordance with the Tract Declaration and the Satellite Association's articles of incorporation and bylaws.

6.3.3 Declarant Retention of Voting Rights. Notwithstanding anything contained in this Article or elsewhere in this Declaration, during any period that an Owner is paying Reduced Assessments in connection with a Parcel or Portion thereof pursuant to the provisions of Section 7.6 of this Declaration, Declarant shall be entitled to exercise any and all voting rights otherwise entitled to be cast by the Member as a result of its ownership of the Parcel or portion thereof.

6.4 Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of the change and is provided with satisfactory proof thereof. The vote for each Membership must be cast as a unit and fractional votes shall not be allowed. If a Membership is owned by more than one person or entity and the Owners are unable to agree amongst themselves as to how their vote or votes shall be cast, they shall lose the right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that the Member was acting with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast for a particular Membership, none of said votes shall be counted and all said votes shall be deemed void.

6.5 Membership Rights. Each Member shall have the rights, duties, and obligations set forth in this Declaration and those other rights, duties and obligations as are set forth in the Articles, Bylaws and any applicable Tract Declarations, as the same may be amended from time to time.

6.6 Transfer of Membership. The rights and obligations of the Owner of a Class A Membership in the Master Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Parcel and then only to the transferee of ownership of the Parcel. A transfer of ownership to a Parcel may be effectuated by deed, intestate succession, testamentary disposition, foreclosure of a mortgage or deed or trust of record or other legal process as is now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of a Parcel's ownership shall operate to transfer the Membership(s) appurtenant to said Parcel to the new Owner thereof.

ARTICLE 7. COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation of Assessments and Maintenance Charges. The Declarant, for each Parcel hereafter established within Bensch Ranch, hereby covenants and agrees and each Owner by acceptance of a Deed therefor (whether or not it shall be so expressed in the Deed)

is deemed to covenant and agree to pay to the Master Association the following assessments and charges: (1) Annual Assessments established by this Article; (2) Use Assessments established by this Article; (3) Special Assessments for Capital Improvements or other extraordinary expenses or costs established by this Article; and (4) Maintenance Charges established by Article 10, and (5) all assessments to be established and collected as hereinafter provided. The Annual Assessments, Use Assessments, Special Assessments, and Maintenance Charges (sometimes hereinafter referred collectively as the "Assessments" and individually as the "Assessment"), together with interest, costs, and reasonable attorneys' fees, shall be a charge, continuing servitude and lien upon the Parcel against which each assessment is unpaid. The Assessments assessed against each Parcel shall be based upon the number of Memberships appurtenant to the Parcel. Each Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Parcel at the time the Assessment was due. The personal obligation for delinquent assessments shall not pass to the successors in title unless expressly assumed by the successors.

7.2 Annual Assessments. To provide for the uses and purposes specified in Article 9 hereof, including the establishment of replacement and maintenance reserves, the Board shall assess against each Membership an Annual Assessment. The amount of the Annual Assessment shall be determined with the objective of fulfilling the Master Association's obligations under this Declaration to provide for the uses and purposes specified in Article 9. The Board may, during the Assessment Period, revise the amount of the Annual Assessment in order to meet expenses which exceed the amounts anticipated by the Master Association and collect the increased assessment in accordance with procedures established pursuant to Section 7.8. The Annual Assessment shall be assessed against each Member commencing with the year the first Tract Declaration is Recorded; provided, however, that in the event fulfillment of the purposes of the Association does not require the imposition of an Annual Assessment at that time, the Board may delay the initial imposition of the Annual Assessment against each Member until the fulfillment of the purposes of the Association requires an imposition.

7.3 Assessments. The total Annual Assessment to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Annual Assessment" which Maximum Annual Assessment shall be determined and shall vary in accordance with these provisions:

7.3.1 Until January 1st of the year following the Recording of the first Tract Declaration, the "Initial Maximum Annual Assessment" against each Owner of a Parcel or Lot is \$60.00 per month per each Membership.

7.3.2 From and after January 1st of the year immediately following the Recording of the first Tract Declaration and during the year, the Initial Maximum Annual Assessment shall not be increased without the consent of Declarant.

7.3.3 From and after January 1st of the year immediately following the year in which the Declarant no longer owns a Class B Membership, the Initial Maximum Annual Assessment may be increased as otherwise determined hereunder by a vote of 51% of the Directors who are voting in person or by proxy at a meeting duly called for that purpose.

7.4 Use Assessments. If the Board determines that certain services provided by the Master Association benefit one or more Parcels in a disproportionate manner or if a Member or Members owning one or more Parcels contract with the Master Association for the Master Association to provide particular services with regard to the Parcel or Parcels, the Board shall be entitled to assess Use Assessments against Memberships. The amount of any Use Assessments shall be determined in a manner consistent with the Board's determination of the respective benefits each Parcel receives from the services.

7.5 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments and Use Assessments authorized above, the Master Association may levy, in any Assessment Period, a Special Assessment applicable to that Assessment Period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Master Common Area, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided, however, that any Special Assessment shall have the assent of Declarant, if it still holds a Class B Membership or, if no Class B Memberships exist, two-thirds of the votes of the Members who are voting in person or by proxy at a meeting duly called for that purpose. The provisions of this Section shall not preclude or limit the assessment, collection or use of the Annual Assessments for the these purposes.

7.6 Uniform Rate of Assessment, Reduced Assessment. Except as hereinafter specifically set forth in this Section, the amount of any Annual Assessment or Special Assessment shall be fixed at a uniform rate per Membership. The Annual Assessments and the Use Assessments may be collected on a monthly, quarterly, or annual basis and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Master Association approving the Special Assessment. Until a Tract Declaration is Recorded with respect to a Parcel, the Owner of a Parcel shall pay only 25% of the Annual Assessments and Special Assessments otherwise payable in connection therewith (hereinafter sometimes referred to as "Reduced Assessments"). With respect to a Parcel the use of which is limited by the applicable Tract Declaration to Single Family Residential Use, Residential Condominium Development Use, or similar residential uses (but specifically excluding Apartment Development Use), the Owner of the Parcel shall continue to pay Reduced Assessments until the earlier to occur of (i) the completion of the first Dwelling Unit on the Parcel, or (ii) six months from the date of commencement of construction of the first Dwelling Unit on the above Parcel. In addition, notwithstanding the occurrence of (i) or (ii) above, in the event a

Parcel is to be developed in phases and a portion of a Parcel has not yet been subdivided into Lots by Recordation of a subdivision plat, condominium plat or similar instrument, the Owner of the Parcel shall continue to pay Reduced Assessments with respect to the phases not yet subdivided. With respect to a Parcel the use of which is limited by the applicable Tract Declaration to uses other than Single Family Residential Use, Residential Condominium Development Use, or similar residential uses (but specifically excluding Apartment Development Use), the Owner of the Parcel shall continue to pay Reduced assessments until the earlier to occur of (i) completion of the first building (i.e., issuance of a certificate of occupancy or the functional equivalent if it is not issued) on the Parcel, or (ii) six months following the commencement of construction of the first building on the Parcel.

7.7 Notice and Quorum for Any Action Authorized Under Section 7.5.

Written notice of any meeting called for the purpose of taking any action authorized under Section 7.5 of this Article shall be sent to all Members subject to the assessment no less than 30 days nor more than 60 days in advance of the meeting. At the first meeting called, the presence of Members or of proxies entitled to cast 60% of all the votes (exclusive of suspended voting rights) of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

7.8 Rules Regarding Billing and Collection Procedures; Notice.

The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein, for the billing and collection of the Assessments, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Master Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than 30 days in which to respond to the written notice. Prior to the foreclosure or enforcement, notice shall be sent to the address of the records of the Master Association that the Assessment, or any installment thereof is, or will be, due, and of the amount owing. The notice may be given at any time prior to or after delinquency of the payment. The Master Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period. Successor Owners of Parcels shall be given credit on a prorated basis for prepayments made by prior Owners. If the owner of a Membership becomes liable for payment of an increased sum pursuant to this Article during the Assessment Period, he shall notify the Master Association, but his failure to notify the Master Association shall not relieve him of the liability for those amounts. The amount of the Annual Assessment against Members who become delinquent during an Assessment Period upon the

Recording of a Tract Declaration shall be prorated. The new Members shall not be liable for any previously levied Special Assessment. Declarant expressly reserves the right to provide in the applicable Tract Declaration that it shall have the right to assess a Satellite Association for all Assessments attributable to Members whose Parcels are located within the Satellite Association.

7.9 Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear a late fee, the amount of which shall be determined by the Board, and the Member shall be liable for all costs, including actual attorneys' fees, which may be incurred by the Master Association in collecting the same. The Board also may, but is not obligated to, Record a Notice of Delinquent Assessment against any Parcel as to which an Assessment is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Master Association for the Master Association's cost in Recording the Notice, processing the delinquency and Recording a notice of payment, which fixed fee shall be treated as a collection cost of the Master Association secured by the Assessment Lien.

7.10 Evidence of Payment of the Assessments. Upon receipt of a written request by a Member or any other person, the Master Association, within a reasonable period of time thereafter, shall issue to the Member or other person a written certificate stating (a) that all Assessments (including costs and attorneys' fees, if any, as provided in Section 7.9) have been paid with respect to any specified Parcel as of the date of the certificate, or (b) if all Assessments have not been paid, the amount of the Assessments (including costs and attorneys' fees, if any) due and payable as of that date. The Master Association may make a reasonable charge for the issuance of the certificates, which charge must be paid at the time the request for a certificate is made. When duly issued, the certificate is conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Parcel in question.

7.11 Property Exempted from the Annual, Use and Special Assessments and Assessment Lien. Exempt Property shall be exempted from the Annual Assessments, Use Assessments and Special Assessments and, except as provided in Article 10, from Maintenance Charges and the Assessment Lien; provided, however, that if any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall, to the extent applicable, be subject to the Annual Assessments, Use Assessments and Special Assessments and, if exempt therefrom, Maintenance Charges (prorated as of the date it became Assessable Property) and the Assessment Lien.

7.12 Utility Usage Fees. Due to the costs incurred in installing sewer and water systems, Sewer Fees are due and payable upon the earlier of the date of connection to the sewer system or the second anniversary of the Recordation of the Deed by which a Member acquires title to a Lot.

ARTICLE 8. ENFORCEMENT OF PAYMENT OF ANNUAL ASSESSMENTS, USE ASSESSMENTS AND SPECIAL ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

8.1 Master Association as Enforcing Body. The Declarant, for so long as it holds a Class B Membership, and the Master Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration and the Tract Declarations. However, if the Declarant and Master Association shall fail or refuse to enforce this Declaration, the Tract Declarations or any provision hereof or thereof for an unreasonable period of time after written request to do so, then any Member may enforce them on behalf of the Master Association, by any appropriate action, whether in law or in equity but not at the expense of the Master Association. A Member need not own property covered by a Tract Declaration to enforce the covenants and restrictions set forth in the Tract Declaration.

8.2 Master Association's Remedies to Enforce Payment of Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges. If any Member fails to pay the Annual Assessments, Use Assessments or Special Assessments or installments when due, or to pay Maintenance Charges assessed pursuant to Article 10, the Master Association may enforce the payment of the Assessments and/or the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Master Association does not prejudice or waive its right to exercise the other remedy):

8.2.1 Bring an action at law and obtain judgment against the Member personally obligated to pay the Assessments;

8.2.2 Foreclose the Assessment Lien against the Parcel in accordance with the then prevailing Arizona law relating to the foreclosure of the liens (including, where applicable, the right to recover any deficiency).

8.3 Subordination of Assessment Lien to First Mortgage or Deed of Trust: Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien or deed of trust of which the beneficiary is a bona fide third party lender who has lent funds with the Parcel as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Parcel. Sale or transfer of any Parcel shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Parcel free of the Assessment Lien for all Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's

deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior), and the mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Annual Assessments, Use Assessments, Special Assessments, Maintenance Charges and the Assessment Lien thereof accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

8.4 Costs to be Borne by Member in Connection with Enforcement of Payment of Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges. In any action taken pursuant to Section 8.2, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual Assessments, Use Assessments, Special Assessments and Maintenance Charges together with the Master Association's collection costs and attorneys' fees, including, but not limited to, those costs and fees specified in Section 7.9.

ARTICLE 9. USE OF FUNDS: BORROWING POWER

9.1 Purposes for which Master Association's Funds May Be Used. The Master Association shall apply all funds and property collected and received by it (including the Annual Assessments and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of Bensch Ranch and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without Bensch Ranch, which may be necessary, desirable or beneficial to the general common interests of Bensch Ranch, the Members and the Residents. The following are some, but not all, of the areas in which the Master Association may seek to aid, promote and provide for the common benefit: maintenance of landscaping on Master Common Areas and public right-of-way and drainage areas within Bensch Ranch, obtaining of liability insurance, supplying of utilities and other public services, providing for communication and transportation within and dissemination of information concerning Bensch Ranch, indemnification of officers and directors of the Master Association and generally protecting the health and safety of the Members and the Residents. The Master Association also may expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Arizona or the municipality's character.

9.2 Borrowing Power. The Master Association may borrow money in those amounts, at those rates, upon those terms and security, and for those periods of time as determined by the Board.

9.3 Master Association's Rights in Spending Funds From Year to Year

The Master Association shall not be obligated to spend in any year all the sums received by it in the year (whether by way of Annual Assessments, Use Assessments or Special Assessments, fees or other-wise), and may carry forward as surplus any balances remaining. The Master Association is not obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year and the Master Association may carry forward from year to year a surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Master Association and the accomplishment of its purposes.

9.4 Administration of Special Use Fees. The Master Association is authorized to bill for, sue for, collect, administer and disburse Special Use Fees. The payment thereof shall be secured by the Assessment Lien, provided, however, that all Special Use Fees collected shall, if imposed in connection with a particular improvement, be separately accounted for as to each separate improvement pertaining to which they are collected and shall be expended on the particular improvement to which they pertain.

9.5 Insurance. The Master Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Master Common Areas, with the amount and type of coverage to be determined by the Board.

ARTICLE 10. MAINTENANCE

10.1 Master Common Areas and Public Rights-of-Way. The Master Association, or its duly delegated representative, shall maintain and otherwise manage Master Common Areas, including, but not limited to, landscaping, walkways, paths, equestrian trails, equestrian facilities, parking areas, drives and other facilities; provided, however, the Master Association shall not be responsible for providing or maintaining the landscaping or structures on any Master Common Areas which are part of Parcels unless (i) the landscaping or structures are available for use by all Owners and Residents or are within easements intended for the general benefit of Bensch Ranch; and (ii) the Master Association assumes in writing the responsibility for the maintenance or the responsibility is set forth in a Recorded instrument as hereinafter provided. The Master Association shall also maintain any landscaping and other improvements not on Parcels which are within the exterior boundaries of Bensch Ranch within areas shown on a subdivision plat or other plat of dedication for Bensch Ranch or covered by a Tract Declaration and which are intended for the general benefit of the Owners and Residents of Bensch Ranch, except the Master Association shall not maintain areas which (i) the County of Yavapai or other governmental entity is maintaining or (ii) are to be maintained by the Owners of a Parcel pursuant to a Recorded Tract Declaration unless the Master Association elects to maintain the areas. Specific areas to be maintained by the Master Association may be identified on subdivision plats Recorded or approved by the Declarant, in Tract

Declarations and in deeds from the Declarant to a transferee of a Parcel, but the failure to so identify the areas shall not affect the Master Association's rights or responsibilities with respect to the Master Common Areas and other areas intended for the general benefit of Bensch Ranch.

10.1.1 The Board shall use a reasonable standard of care in providing for the repair, management and maintenance of said property so the Bensch Ranch development will reflect a pride of ownership. In this connection the Master Association may, in the discretion of the Board:

- (1) Reconstruct, repair, replace or refinish any improvement or portion thereof upon Master Association Land except that no permanent improvements shall be made by the Master Association on any Common Area that is not Master Association Land and the Master Association shall provide only maintenance on Master Common Areas which are not Master Association Land;
- (2) Replace injured and diseased trees and other vegetation in any Master Common Area and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (3) Place and maintain upon any Master Common Area those signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (4) Do all those other and further acts which the Board deems necessary to preserve and protect the Master Common Area and the beauty or value thereof, in accordance with the general purposes specified in this Declaration.

10.1.2 The Board shall be the sole judge as to the appropriate maintenance of all Master Common Areas and other properties maintained by the Master Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

10.1.3 In the event any subdivision plat, Tract Declaration, deed restriction or this Declaration permits the Board to determine whether Owners of certain Parcels will be responsible for maintenance of certain Master Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners, Tenants and Residents of Bensch Ranch for the Master Association or an individual Owner to be responsible for the maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Master Association to contract with others for the performance of the maintenance and other obligations of the Master Association under this Article and, in order to promote uniformity and harmony of appearance, the Board may also cause the Master Association to contract to provide maintenance services to Owners of Parcels having the

responsibilities in exchange for the payment of the fees as the Master Association and Owner may agree upon.

10.2 Assessment of Certain Costs of Maintenance and Repair or Master Common Areas and Public Areas. In the event that the need for maintenance or repair of Master Common Areas and other areas maintained by the Master Association is caused through the willful or negligent act of any Member, his family, guests or invitees, the cost of the maintenance or repairs shall be added to, and become a part of, the Assessment to which the Member and the Member's Parcel is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Parcel in connection with a contract entered into by the Master Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of the Assessment and shall be secured by the Assessment Lien.

10.3 Improper Maintenance and Use of Parcels. In the event any portion of any Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Parcels or other areas of Bensch Ranch which are substantially affected thereby or related thereto, or in the event any portion of a Parcel is being used in a manner which violates this Declaration or any Tract Declaration applicable thereto, or in the event the Owner of any Parcel is failing to perform any of its obligations under this Declaration, any Tract Declaration or the Design Review Guidelines, standards and rules and regulations of the Design Review Committee, the Board may by resolution make a finding specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within 14 days, the Board may cause the action to be taken at said Owner's cost. If at the expiration of said 14 day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause the action to be taken and the cost thereof shall be added to, and become a part of, the Assessment to which the offending Owner and the Owner's Parcel is subject, and shall be secured by the Assessment Lien.

ARTICLE 11. DESIGN REVIEW COMMITTEE

11.1 Establishment. Each Owner, Resident and/or Tenant, by accepting a deed or other instrument conveying any interest in a Lot or a Parcel acknowledges that, as the developer of, and owner of real property within and in the vicinity of Bensch Ranch, Declarant has a substantial interest in ensuring that the improvements within the Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on property owned, leased or controlled by the Owner's unless and until Declarant or its designee has given its prior written approval for the activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

11.1.1 In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and shall owe no duty to any other Person.

11.1.2 Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of the Properties or any real property adjacent to the Properties, unless earlier terminated in a written instrument executed and Recorded by Declarant.

11.1.3 Declarant reserves all rights, power and authority to function as the Design Review Committee. Declarant may, in its sole discretion from time to time, designate one or more persons to act on its behalf and to possess all right, power and authority to act as the Design Review Committee, including, but not limited to, the power to establish and adopt Design Review Guidelines and procedural rules and regulations.

11.2 Post-Declarant Operation. At any time after Declarant has fewer than eight votes, these provisions govern:

11.2.1 the Design Review Committee shall consist of three regular members and an alternate member, each appointed by Declarant;

11.2.2 the appointees need not be Owners, Tenants or Residents and need not possess any special qualifications except as Declarant may, in its discretion, require.

11.2.3 Declarant may replace any member of the Design Review Committee at any time with or without cause. In the event of the death or resignation of any member of the Design Review Committee, Declarant shall replace said member within 90 days following the death or resignation. Pending the replacement of the deceased or resigned member, the remaining member or members of the Design Review Committee shall have full authority to act as the Design Review Committee under this Declaration.

11.2.4 Any delegation of authority by Declarant to the Design Review Committee shall be in writing, shall specify the scope of responsibilities delegated, and is expressly subject to Declarant's right to revoke any delegation at any time for any reason and to reassume jurisdiction over matters previously delegated.

11.2.5 Declarant also specifically reserves the right to veto any decision which Declarant determines, in its sole and absolute discretion, to be inappropriate or inadvisable for any reason. As long as Declarant has the right of appointment under this Article, the jurisdiction of the Design Review Committee is expressly limited to those matters that are specifically delegated to it in writing by Declarant.

11.2.6 Declarant's right to appoint Design Review Committee members shall cease and the Board shall be vested with that right and all rights of the Declarant pertaining to the Design Review Committee upon the earliest to occur of the following: (1) five years after the date on which the last Class B Membership expires; (2) at the time Declarant no longer owns any

undeveloped Parcel in Bensch Ranch; or (3) when the rights are expressly relinquished by Declarant to the Board in writing.

11.3 Purpose. The purpose of the design review process is to maintain uniformity of architectural and landscaping standards throughout Bensch Ranch and thereby enhance the aesthetic and economic value of Bensch Ranch. The Design Review Committee is hereby empowered to supplement and amend the Design Review Guidelines and its procedural rules and regulations to the extent and with the frequency it deems necessary; provided, however, that the modifications are in general conformity with the standards set forth in this Declaration and the applicable Tract Declarations.

11.4 Operation/Authority. The Design Review Committee shall consider and act upon all proposals and plans submitted to it pursuant to this Declaration. A quorum for its meetings shall consist of two members and an affirmative vote of two of the members of the Design Review Committee is necessary for any decision. A duly appointed alternate member may participate in any meeting in which there is not a quorum of regular members present, may constitute a quorum by his/her presence, and shall have all the authority of a regular member while so participating. Upon receipt of a written demand, the Design Review Committee shall furnish a written decision to the applicant setting forth the reasons for its decision and the nature of any objections. If the Design Review Committee fails to furnish a written decision within 60 calendar days after an application has been submitted or resubmitted to it, then the application is deemed denied. The Design Review Committee has broad discretionary powers in determining whether an application is in conformance with the Design Review Guidelines. In addition, the Design Review Committee may disapprove any application if it, in its discretion, believes the applicant failed to supply sufficient or accurate information for the Design Review Committee to exercise the judgment required by this Declaration. The Design Review Committee need not keep records of all applications for approval submitted to it in connection with all actions taken by it under the provisions of the Design Review Guidelines.

11.5 Fee. The Board shall have the right, in its sole discretion, to assess against applicants a processing fee to defer the costs incurred by the Design Review Committee in considering any requests for approval submitted to it. If imposed, the fee shall be in the amount and payable in accordance with the schedule as reasonably determined by the Design Review Committee.

11.6 Limited Liability of Design Review Committee Approval. The standards, plans, drawings and specifications approved by the Design Review Committee are not reviewed by the Design Review Committee for engineering, design or architectural competence. Through its approval of the plans, drawings and specifications, the Design Review Committee does not assume liability or responsibility therefor or for any defect in any structure constructed from the plans, drawings and specifications. Declarant, members of the Design Review Committee and members of the Board shall not be liable to the Master

Association, an Satellite Association, any Owner or any other entity for any damage, loss or prejudice suffered or claimed because of:

11.6.1 the approval or disapproval specifications, whether or not defective; or of any plans, drawings or

11.6.2 the construction or performance of any work, whether or not pursuant to approved plans, drawings or specifications.

11.6.3 soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder, any loss or damages arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured the contractor as a building in Bensch Ranch, or any injury, damages, or loss arising out of the manner or quality of other circumstances of approved construction on or modifications to any Lot.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Bensch Ranch; they do not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value, or size of similar design, aesthetically pleasing, or otherwise acceptable to neighboring property owners. In all matters, the Board, the Design Review Committee, and the members of each shall be defended and indemnified by the Association as provided herein.

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

11.8 Non-applicability to Declarant. The restrictive provisions of this Article are not to apply to any Parcels while owned by Declarant or by any entity directly owned or controlled by Declarant.

11.9 Multiple Committees. Notwithstanding the references in this Article and elsewhere in this Declaration to "Design Review Committee" in the singular, Declarant shall have the right, at any time prior to the date on which Declarant's right to appoint Design Review Committee members ceases in accordance with this Declaration, to establish two Design Review Committees, a Residential Design Review Committee which shall exercise all powers of the Design Review Committee with regard to all Parcels limited by the applicable Tract Declaration to Single Family Residential Use, Residential Condominium Development Use, and similar residential uses (but specifically excluding Apartment Development Use), and a Non-Residential Design Review Committee which shall exercise all powers of the

Design Review Committee not specifically delegated to the Residential Design Review Committee by virtue of the foregoing. In the event Declarant so establishes two Design Review Committees, the Committees shall continue in existence following termination of Declarant's right to appoint Design Review Committee members and thereafter the members of the Residential Design Review Committee and of the Non-Residential Design Review Committee shall be appointed by the Board, and the Board shall be vested with all other rights of the Declarant pertaining to the Design Review Committees as set forth above.

11.10 Continuing Right of Amendment. Declarant has the sole and full authority to amend the Design Review Guidelines as long as it retains its power of appointment under this Section. This power to amend the Design Review Guidelines continues regardless of whether or not Declarant has previously delegated power to amend the Design Review Guidelines or to promulgate guidelines to a Design Review Committee. Amendments to the Design Review Guidelines shall be prospective only and may not be interpreted to require modifications to or removal of structures previously constructed under approval given by the Declarant. There are no limitations on the scope of amendments to the Design Review Guidelines. Amendments may remove requirements previously imposed or may otherwise make the Design Review Guidelines less restrictive.

ARTICLE 12. RIGHTS AND POWERS OF MASTER ASSOCIATION

12.1 Master Association's Rights and Powers as Set Forth in Articles and Bylaws. In addition to the rights and powers of the Master Association set forth in this Declaration, the Master Association shall have the rights and powers as are set forth in its Articles and Bylaws. These rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided the Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration. After incorporation of the Master Association, a copy of the Articles and Bylaws of the Master Association shall be available for inspection at the office of the Master Association during reasonable business hours.

12.2 Master Association's Rights of Enforcement of Provisions of This and Other Instruments. The Master Association, as the agent and representative of the Owners and Tenants, shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (ii) otherwise shall indicate that the provisions of the instrument were intended to be enforced by the Master Association or by Declarant.

12.3 Contracts with Others for Performance of Master Association's Duties. Subject to the restrictions and limitations contained herein, the Master Association may enter into contracts and transactions with others, including

Declarant and its affiliated companies, and the contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Master Association, or members of any committee, is employed by, or otherwise connected with, Declarant or its affiliates, provided that the fact of the interest shall be disclosed or known to the other directors acting upon the contract or transaction, and provided further that the transaction or contract is fair and reasonable.

12.4 Reservation of Trade Name. Declarant hereby reserves all right, title and interest in the name "Bensch Ranch" for the uses set forth herein and any other use as Declarant may choose. The Master Association and all Owners shall be entitled to the non-exclusive use of the name "Bensch Ranch" only with reference to, and in connection with, the Property, the Master Association or its authorized activities. Any officer of the Master Association, each acting alone without the other, is hereby authorized to execute on behalf of the Master Association those consents, approvals, confirmations, acknowledgments and other instruments as Declarant may request in order to evidence and confirm the rights and interests of Declarant in the name "Bensch Ranch."

ARTICLE 13. ANNEXATION AND DE-ANNEXATION

13.1 Annexation Without Approval and Pursuant to Master Plan. Additional Property may be annexed to the Property and become subject to this Declaration and subject to the jurisdiction of the Master Association without the approval, assent or vote of the Master Association or its Members, provided that a Supplementary Declaration of Covenants, Conditions and Restrictions covering the portion of the Additional Property sought to be annexed shall be executed and Recorded by Declarant or its successors and assigns and by the fee title holder(s) of the portion of the Additional Property sought to be annexed. Execution and Recording of a Supplementary Declaration shall constitute the annexation of that Additional Property and subjects that real property to this Declaration and to the functions, powers and jurisdiction of the Master Association. Thereafter the annexed Additional Property shall be part of the Property. The Owners of Parcels in the annexed Additional Property shall automatically be Members of the Master Association. Although Declarant, its successors and assigns, may annex all or any portion of the Additional Property, neither Declarant, nor its successors and assigns, are obligated to annex any Additional Property.

13.2 De-annexation Without Approval. A portion or portions of the Property may be de-annexed from the Property and be withdrawn from this Declaration and the jurisdiction of the Master Association without the approval, assent or vote of the Master Association or its Members, provided that a Certificate of De-annexation covering the portion of the Property sought to be de-annexed is executed and Recorded by Declarant or its successors and assigns and provided that the portion of the Property covered by the Declaration is owned by Declarant

or its successors and assigns and that the de-annexation is not disapproved by Yavapai County, Arizona.

13.3 Supplementary Declarations. A Supplementary Declaration may contain modifications of the covenants, conditions and restrictions as necessary to reflect the character of the annexed property or of the property remaining after de-annexation.

ARTICLE 14. TERM; AMENDMENTS; TERMINATION

14.1 Term and Method of Termination. This Declaration is effective upon the date of its Recordation and, as amended from time to time, shall continue in full force and effect for a term of 20 years from the date this Declaration is Recorded. This Declaration, as amended, shall be automatically extended for successive periods of ten years each, unless there is an affirmative written vote to terminate this Declaration by 75% of the then Members. Anything in the foregoing to the contrary notwithstanding, a vote to terminate this Declaration is not effective unless and until the written consent to termination has been obtained from the holders of all mortgages and deeds of trust on 75 % of the parcels which are encumbered by Recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be Recorded with the Yavapai County Recorder a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Master Association. Thereupon these Covenants shall have no further force and effect, and the Master Association shall be dissolved pursuant to the terms set forth in its Articles.

14.2 Amendments. This Declaration may be amended by Recording with the Yavapai County Recorder a Certificate of Amendment, duly signed and acknowledged. The Certificate of Amendment shall set forth in full the amendment and, except as provided in Sections 14.3 and 14.4, shall certify that, at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws, the Owners casting at least 66% of the votes then entitled to be cast voted affirmatively for the adoption of the Amendment; provided, however, after 25 years from the date of the Recording of this Declaration, the affirmative vote of the Owners casting at least 51% of the votes then entitled to be cast at a duly called meeting shall be necessary to amend this Declaration. Except as provided in Section 4.2 of this Declaration, a Tract Declaration shall be amended in the same manner as this Declaration, but in addition to the approvals required to change this Declaration, the applicable percentage of the votes then entitled to be cast by the Owners within the affected Tract must also have voted affirmatively for the change.

14.3 Right of Amendment if Requested by Governmental Agency or Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration as may

be requested by the FHA, VA, FNMA or FHLMC and to further amend to the extent requested by any other federal, state or local governmental agency which requests an amendment as part of obtaining approval of this Declaration, or by any federally or state chartered lending institution as a condition to lending funds upon the security of any Parcel(s) or any portions thereof. Any amendment shall be effected by Declarant Recording a Certificate of Amendment duly signed by or on behalf of the partners, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally or state chartered lending institution requesting the amendment and setting forth the amendatory language requested by the agency or institution. The Recording of a Certificate shall be deemed conclusive proof of the agency's or institution's request for an amendment, and the Certificate, when Recorded, shall be binding upon all of Bensch Ranch and all persons having an interest therein. It is the desire of Declarant to retain control of the Master Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters Declarant's control, Declarant shall have the right to prepare, provide for and adopt, as an amendment hereto, other and different control provisions. Except as provided in this Section and in Section 14.4, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 14.2.

14.4 Declarant's Rights of Amendment. Notwithstanding anything in this Article to the contrary, Declarant shall, for so long as it possess a Class B Membership, be entitled to unilaterally amend this Declaration.

ARTICLE 15. MISCELLANEOUS

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

15.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

15.3 Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then the provision shall continue until 21 years after the death of the survivor of the now living descendants of the President of the United States on the date hereof.

15.4 Rules and Regulations. In addition to the right to adopt rules and regulations of the matters expressly mentioned elsewhere in this Declaration, the Master Association shall have the right to adopt rules and regulations with respect to all other aspects of the Master Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration. All owners are given notice that use of their property located in Bensch Ranch and the Common Area is limited by the Restrictions and Rules. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her their property located in Bensch Ranch can be affected by this provision and that the Restrictions and Rules may change from time to time and that the changes may not be reflected in a Recorded document. All purchasers of property within Bensch Ranch are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained form the Association.

15.5 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a Recorded plat or other instrument Recorded in the office of the County Recorder of Yavapai County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Bensch Ranch can, or will be, carried out, or that any land now owned or hereafter acquired by it is, or will be, subjected to this Declaration, or that any the land (whether or not it has been subjected to this Declaration) is, or will be, committed to, or developed for, a particular (or any) use, or that if the land is once used for a particular use, the use will continue in effect.

15.6 References to the Covenants in Deeds. Deeds to, and instruments affecting, any Parcel or any part of Bensch Ranch may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee/Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

15.7 Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder, provided that Declarant's rights and powers may only be assigned by a written, Recorded instrument expressly assigning the rights and powers.

15.8 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

15.9 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only

and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

15.10 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner, Tenant or Resident, then, unless otherwise specified herein or in the resolution of the Board, the notice requirement shall be deemed satisfied and shall be conclusively considered as complete if notice of the action or meeting is delivered by one of these methods:

15.10.1 Published once in any newspaper in general circulation within Yavapai County; or

15.10.2 If personally delivered, then notice is effective on the next business day following receipt; or

15.10.3 If delivered by mail, Notice is deemed given and delivered 72 hours after being deposited in any duly authorized United States mail depository, postage prepaid, registered or certified, return receipt requested; or

15.10.4 If sent by a reputable overnight courier service (e.g., Federal Express), addressed as set forth below, the Notice shall be deemed effective on the next business day following receipt, as evidenced by the receipt obtained by the courier service.

15.10.5 If sent by telecopier to the phone number listed below, then Notice shall be deemed delivered on the next business day following receipt, as evidenced by a successful transmission report.

15.10.6 All Notices shall be addressed as indicated in the regularly maintained business records of the Association. It is the responsibility of each Owner to be certain the Association has up to date mailing or other notice information. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner; provided however, that any notice sent to the Declarant is not effective until actually received by the Declarant.

15.11 FHA/VA Approval. If this Declaration has been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made which are insured or guaranteed by FHA or VA, then as long as there is a Class B Membership, the following actions will require the prior approval of the FHA or the VA, as applicable, unless the need for the approval has been waived by FHA or VA: (1) Dedications of Master Common Areas (except where the dedication is required as of the date hereof to the County of Yavapai or other applicable government subdivision); and (2) amendment of this Declaration.

15.12 Minimum Size of Primary Residence. Unless otherwise provided herein, or unless written permission is received from the Declarant in its sole discretion as long it has at least eight votes, and thereafter, from the Design

Review Committee in the sole and absolute discretion of the Design Review Committee, **no residence shall be constructed in this Subdivision unless that residence has a minimum livable size of not less than 1600 square feet and which residence contains an enclosed garage capable of holding two passenger size vehicles.**

ARTICLE 16. Repurchase Rights

16.1 Option to Repurchase. It is the policy of the Declarant to encourage the development of residential structures on the Bensch Ranch Property by the Lot Purchasers as soon as reasonably possible. Toward that end, each of the persons who purchases a Lot on Bensch Ranch (a "Lot Purchaser") agrees to use reasonable diligence in beginning construction of a residence on the Lot not later than five years after the date of obtaining title to the Lot.

16.2 Grant of Option. Each Lot Purchaser for himself, his heirs, successors and assigns hereby grants to Declarant (and its heirs, successors, assigns or nominee) the right and option to repurchase the Lot if the Lot Purchaser (1) fails to procure a "Building Permit" for a single family dwelling from Yavapai County (or other appropriate agency) within five years after obtaining title to the Lot; or (2) fails to commence construction pursuant to the Building Permit within one year after obtaining the Building Permit.

16.3 Terms of Purchase. The terms of purchase shall be all cash in the original amount of the purchase price originally paid by the Lot Purchaser with the "Repurchaser" (i.e., the Declarant or its nominee) to pay all costs of escrow, title insurance and recording fees incurred by the Lot Purchaser in acquiring the Lot plus reasonable title and escrow fees in the repurchase of the Lot by Repurchaser.

16.3.1 To exercise this right, the Repurchaser shall provide not less than 60 days written notice and opportunity to cure to the Lot Purchaser. The notice shall specify the escrow agent, title company and the closing date which is at least 30 days after expiration of the notice and cure period.

16.3.2 Notice shall be given to the address currently on file with the Association or, if none, to the address for the Lot Purchaser listed with the Yavapai County Assessor.

16.3.3 The Lot Purchaser shall convey the Lot to the Repurchaser by general warranty deed, subject only to those encumbrances which were in effect on the date on which the Lot Purchaser acquired title in the first instance, unless otherwise approved in writing by Repurchaser. If there are other monetary lien or encumbrances, then the escrow agent may deduct the cost of removing them from the proceeds payable to the Lot Purchaser.

ARTICLE 17. Right to Create, Maintain, Sell, Lease and/or Discontinue Equestrian Facilities.

17.1 At the time of signing this Declaration, the Declarant was actively investigating the possibility of including "Equestrian Facilities" including corrals, horse barn, riding trails, watering troughs and the like. In order to facilitate this planning effort, the Declarant hereby reserves the right, but specifically does not take on any obligation, to construct Equestrian Facilities as part of the Master Common Area, or possibly in some other location on the Bensch Ranch or on adjacent land. Reservation of this right does not obligate the Declarant or the Board of Directors or any other party to construct, maintain or to provide Equestrian Facilities.

17.1.1 If Equestrian Facilities are constructed on the Master Common Areas, then the cost of construction, maintenance, repair or replacement may be levied against the Lot Owners, may be paid by the Declarant, or may be financed by bonds, loans or other financing or leasing arrangements.

17.1.2 If Equestrian Facilities are constructed on Bensch Ranch, there is neither an express nor an implied obligation to continue their operation for any specific period of time.

17.1.3 If Equestrian Facilities are constructed on Bensch Ranch, then they may be operated or leased by a third party or by the Master Association.

17.1.4 If equestrian trails are constructed, the Declarant and the Master Association are free to relocate, reconfigure, remove, reduce or enlarge them from time to time without notice.

ARTICLE 18. Mandatory Installation of Fire Sprinklers in Residential Properties.

All residential structures located on Bensch Ranch shall contain a fire sprinkler system which complies with the National Fire Protection Association designation of 13R (residential) or better; any exception to this policy must be obtained in writing from the Declarant or the Board of Directors. This fire standard may be amended from time to time by the Board of Directors as necessary to provide for the protection of the health, safety and welfare of the occupants of all residential structures located on Bensch Ranch.

IN WITNESS WHEREOF, the undersigned have signed this Declaration as of the Effective Date.

**BENCH RANCH ESTATES, L.L.C.,
an Arizona limited liability
company**

By: *Sister Schultz*
Its Member

By: *Carl Schuch for Wildwill INV. LLC*
Its Member

By: *M. W. Fain*
Its MEMBER

STATE OF ARIZONA)

)ss.

County of Maricopa)

On this the 20 day of February, 2002, before me, the undersigned Notary Public, personally appeared Lester Smith who acknowledged himself/herself to be the Manager of Bensch Ranch, L.L.C., an Arizona limited liability company, and that he/she, as the Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by himself/herself as the Manager.

Lorrie J. Buerkle
Notary Public

My Commission Expires:

Nov. 14, 2002

SEAL



STATE OF ARIZONA)

)ss.

County of Maricopa)

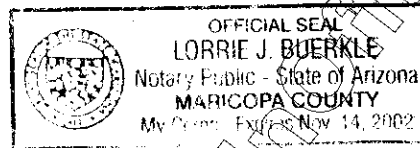
On this the 20 day of February, 2002, before me, the undersigned Notary Public, personally appeared Earl Petznick who acknowledged himself/herself to be the Manager of Bensch Ranch, L.L.C., an Arizona limited liability company, and that he/she, as the Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by himself/herself as the Manager.

Lorrie J. Buerkle
Notary Public

My Commission Expires:

Nov. 14, 2002

SEAL



STATE OF ARIZONA)

)ss.

County of Maricopa)

On this the 20 day of February, 2002, before me, the undersigned Notary Public, personally appeared William W. Fain who acknowledged himself/herself to be the Manager of Bensch Ranch, L.L.C., an Arizona limited liability company, and that he/she, as the Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by himself/herself as the Manager.

Lorrie J. Buerkle
Notary Public

My Commission Expires:

Nov 14, 2002

SEAL

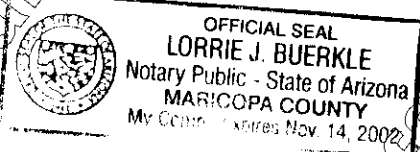


Exhibit A

Attach Legal Description of Bensch Ranch



M • HAYWOOD • ASSOCIATES • INC
LAND SURVEYING • G.P.S. • LAND PLANNING

BOUNDARY DESCRIPTION
BENSCH RANCH

A parcel of land lying within a portion of Section 6, Township 11 North, Range 2 East, and a portion of Section 31, Township 12 North, Range 2 East, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

BEGINNING at a found G.L.O. brass cap at the Northeast corner of said Section 6, being the Northeast corner of G.L.O. Lot 1 of said Section 6 (the Northeast quarter of the Northeast quarter of said Section 6 as recorded in Book 2810 of Official Records, Page 683 in file in the office of the Yavapai County Recorder, Yavapai County, Arizona;

Thence, South 0°00'47" West, along the East line of said Section 6, a distance of 2662.89 feet to a found B.L.M. brass cap at the East quarter corner of said Section 6;

Thence, South 0°00'16" East, along the East line of said Section 6, a distance of 2649.22 feet to a found B.L.M. brass cap at the Southeast corner of said Section 6;

Thence, North 89°18'10" West, along the South line of said Section 6, a distance of 2644.22 feet to a found B.L.M. brass cap at the South quarter corner of said Section 6;

Thence, North 89°15'39" West, along the South line of said Section 6, a distance of 1322.82 feet to the Southwest corner of the Southeast quarter of the Southwest quarter of said Section 6;

Thence, North 0°06'50" West, 2642.94 feet to the Northwest corner of the Northeast quarter of the Southwest quarter of said Section 6;

Thence, North 0°07'17" West, 1322.23 feet to the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 6;

Thence, North 89°25'38" West, 1226.20 feet to the Southwest corner of G.L.O. Lot 4 of said Section 6;

Thence, North 0°01'07" West, along the West line of said G.L.O. Lot 4, a distance of 1321.21 feet to a found B.L.M. brass cap at the Northwest corner of said Section 6, said

Bensch Ranch - Page 1 of 2

Bensch Ranch
Page 2 of 2

B.L.M. brass cap also being the Southwest corner of said Section 31;

Thence, North 0°04'35" East, along the West line of said Section 31, a distance of 1185.84 feet to the Northwest corner of G.L.O. Lot 5 of said Section 31;

Thence, South 89°54'33" East, 2435.98 feet to the Northeast corner of G.L.O. Lot 6 of said Section 31;

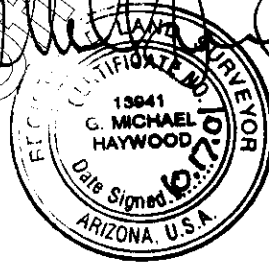
Thence, South 89°46'40" East, 2647.94 feet to the Northeast corner of G.L.O. Lot 8 of said Section 31;

Thence, South 0°00'04" West, along the West line of said Section 31, a distance of 1206.63 feet to a found G.L.O. brass cap at the Southeast corner of said Section 31;

Thence, South 89°35'12" East, 116.32 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within State Highway 69.

Containing 643.58 total acres total, more or less (660.43 ac. less 16.85 ac. for highway right-of-way = 643.58 ac.).



10/16/01
MH #99180
SS #99025
LGL-Boundary.doc