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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
TOMBSTONE HERITAGE RANCH
Cochise County, Arizona**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TOMBSTONE HERITAGE RANCH

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
TOMBSTONE HERITAGE RANCH**

Cochise County, Arizona

THIS DECLARATION, is made by Arizona Land & Ranches, Inc., an Arizona corporation, to the development known as Tombstone Heritage Ranch, along with its successors, assigns and designees and shall replace and supercede any previous Declaration of Covenants, Conditions and Restrictions recorded against the Property.

This Declaration is being recorded to establish a general plan for the development, sale, lease and use of the Project in order to protect and enhance the value and desirability of the development. The Declarant declares that all of the property within the development shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for him/herself or itself, his/her heirs, personal representatives, successors, transferees and assigns, binds him/herself, his/her heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the property and hereby evidences his/her interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Parcels and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each membership shall be deemed to be conveyed or encumbered with its respective Parcel even though the description in the instrument of conveyance or encumbrance may refer only to the Parcel.

1. DEFINITIONS

As used herein, the following terms have the following meanings:

1.1 "Additional Property" means the real property owned by Declarant which is adjacent to or situated within the vicinity of the Property, together with all improvements situated thereon.

1.2 "Association" means the Tombstone Heritage Ranch Property Owners Association, an Arizona nonprofit corporation, as referred to in Section 2 of this Declaration.

- 1.3 **"Bona Fide First Deed of Trust"** means any deed of trust or realty mortgage, or agreement for sale made in good faith and for value and properly executed and recorded so as to create a lien on any Parcel or Parcels that is prior to the lien of any other deed of trust or realty mortgage.
- 1.4 **"Common Area"** means all easements and real property, along with any amenities, improvements or facilities located thereon, that are owned, leased or granted to the Association for the common use, maintenance, and enjoyment of its Members (the Owners). Common Areas may include, but are not limited to, interior roadways, easements, or any other areas or facilities designated by Declarant to be Common Area and granted to the Association herein or on the Recorded Plats of the Property for the benefit of its Members.
- 1.5 **"Declaration"** means this Declaration of Covenants, Conditions, and Restrictions.
- 1.6 **"Declarant"** means Arizona Land & Ranches, Inc., an Arizona corporation, as Owner and Developer of the Property.
- 1.7 **"Member"** means the Owner of record of any Parcel located within the Project as a member of the Tombstone Heritage Ranch Property Owners Association.
- 1.8 **"Owner"** shall mean and refer to the owner of record, whether one or more persons or entities, of fee or equitable or beneficial title to any Parcel, including Declarant. Owner shall include the purchaser of a Parcel under an executory contract for purchase. The foregoing definition does not include persons or entities that hold an interest in any Parcel solely as security for the performance of an obligation.
- 1.9 **"Parcel" or "Parcels"** means a portion of the Project intended for independent ownership and use and designated as a Parcel on the Recorded Plat, either individually or collectively as the case may be as such divisions maybe allowed by law.
- 1.10 **"Property" or "Project"** means the real property described on Exhibit "A", attached to this Declaration, together with all improvements located thereon, and all Additional Property, together with all improvements located thereon, which is annexed and subjected to this Declaration by the Declarant pursuant to Paragraph 3 of this Declaration. The Property is comprised of the "Tombstone Heritage Ranch" Property.
- 1.11 **"Recorded Plat"** means any recorded survey plat of Tombstone Heritage Ranch, as recorded in the official records of Cochise County, Arizona, and as thereafter may be amended or supplemented, together with all subsequent recorded plats for any Additional Property.

1.12 "Transition Date" means that date specified on or before which the Declarant transfers control of the Association to Owners or at such time as one hundred percent (100%) of the Parcels have been sold or earlier, at Declarant's option.

2. PROPERTY OWNERS ASSOCIATION.

2.1 Purpose: The Property shall be subject to the Tombstone Heritage Property Owners Association. The purpose of the Association is: (1) To maintain, repair and improve; (a) the common roadways (including snow removal), gates, fences and roadway drainage facilities located on or within the Property; and (b) any other common areas benefiting the Property and designated by Declarant for maintenance by the Association. (2) To maintain, repair and improve roadways on land not within the Property that lie within public or private easements, but only if such roadways provide access to the Property from highways and roads maintained by public funds. Nothing stated in subpart 2.1(2) shall be construed to require the Association to maintain the roadways described in that subpart. (3) To enforce the provisions set forth in this Declaration.

DECLARANT SHALL MAINTAIN THE ROADWAYS UNTIL THE TRANSITION DATE OF THE ASSOCIATION.

2.2 Membership: Each and every Owner, in accepting a deed or contract for any Parcel, whether or not it shall be so expressed in such deed or contract, automatically becomes a Member of the Association, and agrees to be bound by the terms set forth in this Declaration and such reasonable rules and regulations as may, from time to time, be established by the Association. Membership shall be appurtenant and may not be separated from ownership of the Parcel. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Parcel, whether by intestate succession, testamentary disposition, foreclosure of a deed of trust or a mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Arizona. The Association shall be operated and conducted on a strictly cooperative and non-profit basis. Each Owner, as a Member, shall have such voting rights as set forth in this Declaration and in the Association Bylaws.

2.3 Voting: The total number of votes in the Association shall be on the basis of four (4) votes per original Owner, per Parcel, except that the Developer shall have ten (10) votes for each Parcel it owns. The total number of Parcels and therefore the total number of votes may also be increased or decreased from time to time by the annexation of Additional Property or the de-annexation of Property, pursuant to Sections 3 and 4 of this Declaration. Unless otherwise specifically provided herein or in the bylaws, all Association matters requiring a vote of the Members shall be determined by a majority vote (i.e., a majority of the votes cast) so long as the

quorum requirements are met. If more than one party is the Owner of a Parcel, there must be unanimous agreement among those who own an interest, otherwise the vote(s) attributable to that Parcel shall not be counted. Any action requiring a vote of the Members may take place one of three ways: **1)** In person at a meeting; **2)** By written proxy at a meeting; and/or **3)** By written mail-in ballot in accordance with the bylaws. Any division of a Parcel shall be considered a separate Parcel subject to a separate assessment and entitled to a separate vote in the Association.

At any time that a Parcel not owned by Declarant is legally further divided in accordance with this Declaration, the four (4) votes originally available to the original Parcel shall be reallocated as follows: **1)** If the original Parcel has been divided into two (2) Parcels, each Parcel shall be allocated two (2) votes, unless one of the resultant Parcels is at least 30 acres in area, in which event the larger Parcel shall be allocated three (3) votes and the smaller Parcel shall be allocated one (1) vote; **2)** If the original Parcel has been divided into three (3) Parcels, the largest Parcel shall be allocated two (2) votes and the remaining Parcels shall be allocated one (1) vote each; and **3)** If the original Parcel has been divided into four (4) Parcels, each Parcel shall be allocated one (1) vote each.

2.4 Quorum Requirement: Unless otherwise stated herein or in the Association's bylaws, the number of votes received by the Association for most voting matters must represent twenty-five percent (25%) of the total number of Members entitled to vote in order to constitute a quorum, whether the votes be cast in person or by proxy at a meeting, or received as written mail-in votes.

2.5 Management of the Association: Developer shall maintain control of the Association and act as its board of directors (the "Board") until the Transition Date when a new Board is elected by the Members. Thereafter, the Members shall elect the Board annually in accordance with the bylaws. Unless otherwise stated herein or in the bylaws, and with the exception of those matters requiring a vote of the Members, the Board and such officers as the Board may elect or appoint in accordance with the Articles and bylaws (as they may be amended from time to time), shall conduct all affairs and exercise the powers of the Association.

2.6 Estimated Costs: The Association, on an annual basis, shall make a determination of the estimated costs of insurance, operating costs and the repair and maintenance of roadways, easements and any other designated Common Areas shown on the Recorded Plat or otherwise so designated, including any reserves necessary for future capital expenditures and maintenance. The Association shall furthermore allocate the estimated costs for such insurance, operating costs maintenance and repairs to be included under Regular Assessments. The Association shall prepare an annual budget and also an annual accounting of monies received and disbursed in accordance with the Bylaws.

2.7 Regular Assessments: Each Owner, other than Declarant, shall pay Regular Assessments for normal maintenance, repair, management and reserves for the Common Areas, along with insurance and operating costs for the Association. Such assessments shall be charged to each

Member on a uniform flat-fee basis per Parcel owned. The assessments may be collected on a monthly, quarterly or annual basis, or any combination of same as determined by the Board. The Association shall establish the amount of the regular assessments for the upcoming fiscal year at least thirty (30) days prior to the end of the existing fiscal year. Written notice of the assessments shall be sent to every Owner at least sixty (60) days prior to the due date established by the Board. The initial regular assessment shall be \$165.00 per Parcel annually.

2.8 Special Assessments: In addition to Regular Assessments, the Association may establish or levy Special Assessments. The Board may levy a Special Assessment to cover the cost of bringing a Parcel (or its Owner or lessee) into compliance with the requirements of this Declaration, the Bylaws, the Articles or rules and regulations established by the Association. The Association may also establish a Special Assessment for the construction, repair, reconstruction, or replacement of a capital improvement of the Common Area or for any other lawful Association purpose or expense, HOWEVER any Special Assessment established for the purpose of such capital expenditures must be approved by a two-thirds (2/3) majority vote of Members meeting a fifty percent (50%) quorum requirement. Special assessments shall be allocated and charged on the same basis per Parcel as Regular Assessments.

2.9 Proration of Assessments: Regular Assessments will be assessed as of the date of recordation of the deed wherein the Owner acquired legal title to the Parcel. All Owners acquiring interest in a Parcel during the calendar year shall be obligated for a pro rata portion thereof. Declarant shall not be responsible for comparable assessments on each Parcel owned by Declarant. However, Developer may be responsible for providing labor, material and/or monies in sufficient amounts, not to exceed the amount of the normal Parcel assessment for each Parcel owned by Declarant, if necessary in Developer's opinion, to properly fulfill the Association's maintenance responsibilities until the Transition Date or earlier, at Developer's option. Where the holder of a First Deed of Trust, including Declarant, obtains title to the Parcel as a result of trustee's sale, or deed in lieu of foreclosure, of said First Deed of Trust, such acquirer of title, its successors and assigns, shall not be liable for the share of the assessments by the Association chargeable to such Parcel which became due prior to the acquisition of title to such Parcel by such acquirer. Such acquirer shall be responsible, as any Owner, for assessments charged subsequent to the acquisition.

2.10 Assessment Liens: For each Parcel, the applicable Regular and any Special Assessments, late payment penalties and charges, if any, together with interest, (all as set by the Association), costs and reasonable attorney's fees, shall constitute a lien on the Parcel. Each Owner shall be personally responsible for his or her share of assessments imposed by the Association. This personal obligation or delinquent assessments shall not pass to the Owner's successor; PROVIDED, HOWEVER, the obligation to pay the same shall be a continuing lien on the applicable Parcel, excepting for the provisions of Section 2.9 above, relating to deed of trust beneficiaries and to realty mortgagees. Such lien shall be prior to all other liens excepting only ad valorem liens in favor of governmental assessing units or special assessment districts. The

Association lien may be foreclosed by the Association in a like manner as a foreclosure of a real property deed of trust or realty mortgage. The Association shall have the power to bid on the delinquent Parcel at a foreclosure sale, and acquire, hold, lease, encumber and convey the same. A suit to recover a money judgment for unpaid assessments and charges shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

2.11 Notice of Noncompliance : In the event the Association determines that any Owner has not complied with the provisions of this Declaration, the Association may, at its option, give written notice to the Owner of the conditions complained of. The Owner shall correct same or, if not readily correctable within fifteen (15) days after notice from the Association, the Owner shall submit corrective plans proposing its remedy to the condition complained of with fifteen (15) days after notice from the Association. The Association shall approve or disapprove any plans submitted by the Owner and set forth a reasonable time for correction of the condition complained of. In the event such condition is not corrected according to the approved plans, within the allotted time, the Association shall have the right to undertake to remedy such condition or violation complained of. The cost thereof shall be levied as a Special Assessment to such Owner and enforceable by the Association in the same manner any other unpaid assessment. The Association is hereby granted the right of entry on the affected Parcel to so correct the condition or violation complained of.

2.12 Legal Costs: The Declarant, and/or the Board may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce the payment of any delinquent assessment or to enforce any other pertinent provision of this Declaration. Any judgment rendered in any such action shall include the amount of the delinquency, interest at the rate of twelve percent (12%) per annum from the date of delinquency, the amount of damages proven, court fees, and reasonable attorney's fees which are incurred by the Association as fixed by the court.

2.13 Variances: So long as Declarant maintains control of the Association, or owns any Parcel in the Project, Declarant, in its sole and absolute discretion, may grant a variance to any restriction contained herein, and approve or disapprove any proposed improvement or alteration for any reason, including, but not limited to, aesthetics or potential negative impact on its ability to sell any remaining Property. After the Transition Date, the Board may grant reasonable variances where strict adherence to these restrictions would cause undue hardship or in cases where the Members of the Association would, in the Board's opinion, benefit from said variance.

2.14 Transition Date: At such time as 100% of the Parcels are sold or earlier, at Declarant's discretion, Declarant shall turn control of the Association over to a Board elected by the Members. The Declarant shall notify the Members in writing of the Transition Date not less than thirty (30) days prior to said Transition Date. Declarant, as the Association's initial Board, shall call a meeting of the Members for the purpose of taking over the operation and control of the Association. Prior to said meeting the Members shall elect, by a majority of the votes cast by

Members meeting a twenty-five percent (25%) quorum, a minimum of three (3) and a maximum of five (5) persons to the Board. The election results shall be announced at the meeting. So long as Declarant owns any Parcel in the Project, it may exercise its voting rights by casting the number of votes it retains at the time. Immediately following the transition meeting, the newly elected Board may hold their first meeting for the purpose of electing officers and conducting any other business of the directors. Following the Board meeting, the Association may hold its first annual meeting of the Members. Thereafter, all affairs of the Association shall be conducted by the Board and such officers that the Board may elect or appoint in accordance with the Articles and Bylaws, as they may be amended from time to time.

3. ANNEXATION OF ADDITIONAL PROPERTY.

3.1 Declarant's Right to Annex Additional Property: At any time the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Property without the consent of any other Owner or person. Declarant, its successors and designees reserve all present and future rights to utilize all Common roadways and easements within the Project to comparably develop lands within or adjacent to the Project and to grant use of said easements to additional subsequent individuals or entities. Any such expansion to be included within this Declaration shall be subject to the terms and conditions of this Declaration, but may include reasonable variances.

3.2 Annexation of Additional Property: Declarant may annex and subject Additional Property to this Declaration by recording an amendment to Exhibit "A" of this Declaration describing the property being annexed. Common Area, as shown on the Recorded Plat of the Additional Property, shall be subject to the provisions set forth in this Declaration with the maintenance, repair and replacement of the Common Area being the responsibility of the Association as set forth herein. The voting rights of the Owners of Parcels annexed pursuant to this section shall be effective as of the date of the annexation. The Owner's obligation to pay assessments shall commence as provided in Section 2.10 of this Declaration.

3.3 Sequence of Annexation: The Additional Property may be annexed as a whole, at one time or in one or more portions or phases at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. The Additional Property annexed by the Declarant, need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any portion of the Additional Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property.

3.4 Disclaimer: DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER THAT: (1) The Project will be completed in accordance with the plans

for the Project as they exist on the date this Declaration is recorded; (2) Any Property subject to this Declaration will be committed to or developed for a particular use or for any use; (3) The use of any Property subject to this Declaration will not be changed in the future; or (4) All or any portion of the Additional Property will be annexed, or the exact number of Parcels to be added in the event of annexation.

4. DE-ANNEXATION

4.1 Declarant's Right to De-Annex Property: Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any Owner or any other person, to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, so long as (1) The portion of the Property to be removed and deleted is owned by Declarant, or the Owner of such portion of the Property executes and records an instrument approving such deletion and removal; and (2) Such deletion and removal would not deprive Owners of other parts of the Property of easements or rights-of way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of way). Declarant may exercise its rights of de-annexation in each case by executing and causing to be recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each Owner of such portion of the Property to be so deleted and removed (if other than Declarant). The deletion and removal of such portion of the Property shall be effective upon the date such instrument is recorded; whereupon, the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal. Each portion of the Property deleted and removed pursuant hereto shall thereafter be deemed to be a part of the Additional Property unless otherwise expressly provided to the contrary in the instrument recorded to effect such deletion and removal.

5. GENERAL RESTRICTIONS APPLICABLE TO ALL PARCELS

5.1 Single Family Residential and Recreational Use Only: All Parcels shall be used for residential and recreational purposes only provided, however, livestock may be kept pursuant to paragraph 5.11. Notwithstanding anything contained in this paragraph this restriction shall not prohibit home offices in a residential property where business is conducted through telephone, computer, or other electronic means and where the business is not apparent from the exterior of the residence; does not create noise or congestion from traffic or parking; and preserves the

residential nature of the Property. All uses shall be in compliance with Cochise County zoning regulations and permitted uses.

5.2. Dwelling Type: A site built structure can be no more than two stories in height. The finished exterior shall be in harmony with its' natural surroundings. Septic permits must be obtained and the septic system installed and completed prior to placement of home. Building permits will be required by Cochise County and the State of Arizona. Construction must be completed within twelve (12) months from beginning.

Mobile Homes are not permitted. New manufactured homes are allowed so long as placed permanently on a concrete slab. All residences shall be a minimum of 800 square feet.

5.3. Travel Trailers, RV's : No travel trailer or recreational vehicle may be used as a permanent residence on a Parcel. One travel trailer or recreational vehicle may be used for temporary use only if the use extends for not more than three (3) consecutive months during a calendar year, unless the occupant has been issued a building permit by Cochise County and is diligently proceeding to construct a permanent residence on a Parcel, so long as permitted by county regulations.

5.4 Sanitary Facilities: All dwelling's and/or living quarters shall be self-contained, connected to an operational septic system, waterless toilet, or other alternative waste disposal system which has been approved by the appropriate governmental agency

5.5. Additional Subdivisions: No original Parcel(s) may be resold by an Owner until after eighteen (18) months from the date of initial conveyance or until after the Transition Date, which ever is sooner. Any subdivision of Parcels must be done in strict accordance with all applicable laws including required approvals by Cochise County and the State of Arizona, which is the sole responsibility of the Owner. Subject to state and county regulations, original Parcels may be subdivided up to three (3) times creating a maximum of four (4) Parcels, with a minimum Parcel size of ten (10) acres each. All Parcels newly created by an Owner through subdividing an original Parcel must contain a minimum of 150' feet of road frontage along roads which have been previously dedicated to the Tombstone Heritage Ranch Property Owners Association on the Recorded Plat OR along a thirty foot (30') wide roadway easement created by Owner on the original Parcel for the purpose of ingress / egress, emergency vehicle access and utility line construction and maintenance to the new Parcel. A ten foot (10') wide easement shall be created along and adjacent to all other Parcel boundary lines. All easements created shall be appurtenant and of a perpetual term. Additionally, all easements shall state the party responsible for maintenance and must be recorded by Owner in the Office of the Cochise County Recorder prior to conveyance of either Parcel to a subsequent party. Declarant may grant a written variance to the required waiting period to subdivide a Parcel under the following circumstances: 1) For the purpose of constructing a primary residence on the Parcel and/or newly created Parcels; and 2) The original Parcel and any newly created Parcels may not be sold by original Owner(s) until

after the Transition Date UNLESS the Parcel offered for sale has a primary residence constructed on it.

5.6. No Medical Facilities: Hospitals, clinics, and other facilities for the treatment or care of the physically or mentally ill or disabled are prohibited.

5.7. Churches or Clubs: or other institutions organized for religious worship or discussion are prohibited as are buildings used primarily as clubhouses or meeting facilities.

5.8 Vehicles: Any motor vehicle under repair or inoperable may not be parked on any roadway, driveway, or other easement. When said vehicles are parked on a Parcel, such motor vehicles must be hidden by walls, fences, screens, or foliage, so as the vehicle is not to be visible from roadways or other Parcels. All vehicles, engines, or motors must be operated with a muffler and/or spark arrestor.

5.9 Trash: No Parcel may be used for temporary or permanent storage of rubbish or trash (collectively, garbage). No garbage may be kept on any Parcel except in covered containers and screened from view from adjacent Parcels.

5.10 Junkyards, Auto Repair, Second-Hand Business, Material Storage: No junkyards, auto repair, second-hand businesses or other commercial uses that create a negative visual impact, excessive noise or congestion from traffic or parking shall be conducted on any Parcel. No storage of trucks, cars, buses, machinery, equipment or building materials shall be stored on any Parcel unless enclosed in a proper structure to not be visible from an adjoining Parcel or passing on the roadway.

5.11 Livestock: No swine shall be raised, bred, or kept on any Parcel. A Parcel may be used for ranching, including the use of keeping a reasonable number of horses and cattle thereon, provided the Parcel has been fenced in accordance with the fencing guidelines and setbacks set forth in Paragraph 5.18 "Fencing Setbacks". Under no circumstances shall a stockyard, dairy, riding stable, kennel, poultry farm or any other commercial activity (other than ranching) involving animals be permitted.

5.12 Nuisance Activities: The unusual, unnecessary, prolonged, or indiscriminate creation of noise, dust, fumes, odors or any other offensive activity is prohibited, including but not limited to excessive gunfire, road racing and loud music.

5.13 Signs: No signs will be permitted (including but not limited to For Sale or For Rent signs) on Parcels until after the Transition Date: EXCEPT for address signs that identify the address and/or the Owner of the Parcel, which signs will not exceed 4 square feet. All signs are to be in strict conformance with the laws and ordinances set forth by Cochise County. Permits may be required. Declarant reserves the right to remove any and all signs that are in violation of the

provisions in this Declaration. None of the sign restrictions in this Declaration apply to the Declarant or its' assigns or successors, for the purpose of selling Parcels, including but not limited to locational, directional or street signs. Nothing in this provision shall prohibit an Owner from attempting to sell their Parcel in accordance with the provisions stated in this paragraph and in paragraph 5.5.

5.14 Structure Setbacks: All structures shall be built at least fifty (50) feet from the front, and thirty (30) feet from the sides and rear, of any Parcel boundary. If local governmental regulations provide for more restrictive setbacks, those regulations shall govern. In any event, any construction on a Parcel shall comply with all applicable Cochise County building regulations. With the exception of "pre-existing" ranch fencing, any fences constructed on a Parcel shall not be closer than thirty (30) feet to any Parcel line for the purpose of grazing animals and/or utility easements as stated on the Record of Survey.

5.15 Easements: Subject to Paragraph 5.18, no structure including fencing shall be constructed on the recorded easements as they are shown on the Recorded Plat, however, cattle guards may be used. Any fence constructed by an Owner inside a Parcel boundary easement will be required to be relocated off the easement at Owner's expense. Owners will provide access to subject easements whenever requested by utility companies. Subject to Paragraph 5.5 there shall be no further granting of easements by Parcel Owners without the express written approval of either Declarant or the Association

5.16 Declarant's Exemption: Nothing herein shall be construed as prohibiting Declarant from maintaining a sales or development office on any Parcel owned by it or engaging in activities which Declarant deems appropriate to its development or sales program.

5.17 Mineral Rights: In no event shall any Owner or lessee use or cause to be used any portion of the Property, including his or her own Parcel, for the purposes of drilling, exploring, mining, or otherwise developing any deposits of oil, minerals, or other natural resources lying above, on, or under said Property, with the exception of such drilling and exploration by the Declarant or the Owner as may be necessary to produce an adequate water supply for the development of the Parcel involved.

5.18 Fencing Setbacks: Subject to easement and setback requirements Owner may fence off all or any part of Owner's Parcel. All fencing must be set back at least 10' from side and rear Parcel lines or forty-five feet (45') from front Parcel lines (along and adjacent to, or within the common roadways). Fencing may not encroach upon any easement referred to in the title report (with the exception of "blanket easements"), the Recorded Plat, or this Declaration. Subject to any easements Owner, at his/her expense, shall have the right to move or remove any "pre-existing" ranch existing fence that bi-sects Owner's Parcel. Any fences moved and/or installed by Owner, shall be at Owner's sole expense. All perimeter fencing shall be constructed using "wildlife friendly" techniques as follows: Wherever barbed wire fencing is constructed, it shall

have smooth wire on the bottom strand, which shall be 18 inches above the ground and fence height shall not exceed 60 inches. Additionally, when barbed wire fencing is used it shall be constructed with the following minimal requirements: a) with posts not more than 15' apart; b) not less than three stays between posts; c) with four continuous strands of wire and; d) such fence is adequate, in accordance with normal ranch standards to contain horses and other livestock.

For fencing purposes, when one Owner purchases two or more contiguous Parcels, Declarant may revoke any easements granted along the common boundary lines of the contiguous Parcels, PROVIDED said easements do not provide physical or necessary utility access to other Parcels. Declarant shall execute and record a unilateral "Declaration of Easement Revocation" which shall be effective only so long as one Owner owns all of the affected Parcels, HOWEVER if one or more of the subject Parcels are subsequently conveyed to separate, individual Owners, the "Revocation" shall terminate with regard to the affected Parcel(s) and the 30' easement originally created along each side of the common boundary lines, shall be reinstated and thereafter run with the land. **Nothing in this paragraph shall be construed as to allow for the construction of any structures, including fencing (other than perimeter fencing of the combined Parcels) within the original easement area of the common boundary lines.**

5.19 Utility Lines: In order to preserve the beauty and character of the Property, Owners are strongly encouraged to install any utility lines leading from Parcel lines to their dwelling underground.

6. GENERAL PROVISIONS

6.1 Enforcement: The covenants, conditions, and restrictions contained in this Declaration shall run with the land and shall be binding upon all persons owning, leasing, subleasing or occupying any Parcel after the date on which this instrument shall have been recorded in the Office of the Recorder of Cochise County, Arizona. This Declaration may be enforced by the following; Declarant, the Association, the holder of a First Deed of Trust on any Parcel, any Owner or lessee of a Parcel, or by any one or more of said persons acting jointly; PROVIDED HOWEVER, that any breach by reason thereof shall not defeat or adversely affect the lien of a First Deed of Trust upon any Parcel, but each and all said covenants, conditions, and restrictions shall be binding upon and effective against any Owner, lessee or occupant of said Parcel whose title thereto is acquired by foreclosure, or otherwise; and FURTHER PROVIDED that the breach of any said covenants, conditions, and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such First Deed of Trust. All instruments of conveyance or assignment of any interest in all or any part of the Property may refer to this Declaration and shall be subject thereto as though this Declaration were therein set forth in full.

EXHIBIT "A"
Legal Description

**TOMBSTONE HERITAGE RANCH, PHASE 1, LOTS 1 – 70 INCLUSIVE, A
SUBDIVISION OF PORTIONS OF SECTIONS 20, 21 & 22 AND SECTION 27 IN
TOWNSHIP 21 SOUTH, RANGE 25 EAST OF THE GILA AND SALT RIVER BASE AND
MERIDIAN, COCHISE COUNTY, ARIZONA, AS RECORDED AT FEE NUMBER 0412-
41024 IN THE OFFICIAL RECORDS OF THE COCHISE COUNTY RECORDER'S OFFICE.**