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MAIL

AMOUNT PAID \$ 26.00

**DECLARATION OF ESTABLISHMENT OF
COVENANTS, CONDITIONS, RESERVATIONS
AND RESTRICTIONS FOR
RUBY STAR AIRPARK**

THIS DECLARATION, made this 06 day of March, 2000, by Denny Nolen Corp.

RECITALS

A. Whereas Declarant is the owner of the following described real property, situated within the County of Pima, State of Arizona, described more particularly as:

See Exhibit "A attached hereto and incorporated herein

hereinafter referred to as the "Property" or the "Subdivision".

B. Whereas Declarant is desirous of subjecting the Property to the conditions, covenants, restrictions, reservations and easements hereinafter set forth.

NOW, THEREFORE, DECLARANT DOES HEREBY ESTABLISH a general plan for the improvement and development of the Property and does hereby establish the provisions, conditions, easements, reservations, restrictions and covenants upon which and subject to which the Property and all portions thereof shall be improved or sold and conveyed by the owner or owners thereof; each and every one of said provisions, easements, reservations, restrictions and covenants is and all are for the benefit of each owner of said real property, and all portions thereof, and shall inure to and pass with each and every portion of the Property and shall bind the respective successors in interest of the present owner thereof; said provisions, conditions, easements, reservations, restrictions and covenants are and each thereof is imposed upon said real property, all of which are to be construed as restrictive covenants running with the title to the Property and with each and every portion thereof, pursuant to this DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR RUBY STAR AIRPARK ("this Declaration").

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ARTICLE 1

DEFINITIONS

1.1. ARTICLES OF INCORPORATION. "Articles of Incorporation" shall mean the Articles of Incorporation of Ruby Star Airpark Property Owners' Association, filed in the office of the Arizona Corporation Commission, as the same may be amended from time to time.

1.2. ASSESSMENT. "Assessment" shall mean the assessments made for the purpose of covering the portion of the annual costs of operating the Association, including expenses incurred in connection with the maintenance and repair of the Association's Properties, together with reasonable reserves, which are to be paid by each Owner to the Association for purposes provided herein and charged to such Owner and to the Lot or Lots owned by such Owner.

1.3. ASSOCIATION. "Association" shall mean Ruby Star Airpark Property Owners' Association, an Arizona nonprofit corporation, its successors and assigns.

1.4. ASSOCIATION PROPERTIES. "Association Properties" shall mean all real and personal property, now or hereafter owned or leased by the Association, held for the common use and enjoyment of all or certain of its Members as provided herein or designated as Common Area or area to be maintained by any association of individual lot owners pursuant to any Recorded subdivision and for other purposes as may be permitted by this Declaration.

1.5. BOARD OF DIRECTORS. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

1.6. BYLAWS. "Bylaws" shall mean the Bylaws of the Association which have been adopted by the Board of Directors of the Association, as the same may be amended from time to time.

1.7. DECLARANT. "Declarant" means the foregoing named Declarant, Denny Nolen Corp, an Arizona corporation, its successors or assigns.

1.8. GOVERNMENT MORTGAGE AGENCIES. "Government Mortgage Agencies" shall mean the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association and the Federal National Mortgage Association, or any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase mortgage loans.

1.9. IMPROVEMENTS. "Improvements" shall mean all structures and any appurtenances thereto of every type or kind, including, but not limited to, buildings, additions, drainage facilities, walkways, trails, sprinkler pipes, garages, roads, driveways, parking areas, fences, sewers, utilities, fixtures, landscaping, poles, signs, exterior tanks and equipment.

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1.10. LOT. "Lot" shall mean a parcel of land within the Subdivision having a contiguous area not less than the minimum permitted by the then applicable zoning imposed by the applicable governmental entity.

1.11. MANAGER. "Manager" shall mean any one or more Persons employed by the Association as hereinafter provided in this Declaration who is engaged to perform any of the duties, powers or functions of the Association.

1.12. MEMBER. "Member" shall mean the Person, or, if more than one, all Persons collectively, who constitute the Owner of a Lot.

1.13. MORTGAGE. "Mortgage" shall mean any realty mortgage or deed of trust or other such instrument, given voluntarily by the Owner of a Lot, encumbering the Lot to secure the performance of an obligation or the payment of a debt and which is required to be released upon performance of the obligation or payment of the debt. The term "Deed of Trust" when used herein shall be synonymous with the term "Mortgage".

1.14. MORTGAGEE. "Mortgagee" shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee.

1.15. MORTGAGOR. "Mortgagor" shall mean the Person who mortgages his or its property to another (i.e., the maker or grantor of a Mortgage). The term "Mortgagor" shall include a Trustor under a Deed of Trust.

1.16. OWNER. "Owner" shall mean the Person, including Declarant, or if more than one, all Persons collectively, who hold either fee simple title of Record to a Lot, including buyers under executed contracts for sale of real estate, excluding sellers thereunder.

1.17. PERSON. "Person" shall mean a natural person, a corporation, a partnership, an express trust, or any other entity.

1.18. RECORD OR RECORDED. "Record" or "Recorded" shall mean the filing or recording of any document or map in the Office.

ARTICLE 2

USE RESTRICTIONS

2.1. TOP PRIORITY. Let it be known in Ruby Star Airpark aviation has number one priority.

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2.2. TEMPORARY STRUCTURES. No temporary residence, garage or structure of any kind shall be placed or erected upon any Lot. No one shall be allowed to reside in their airplane hanger.

2.3. NEW CONSTRUCTION. All buildings or structures erected on the Property shall be of new construction. No mobile, manufactured, prefabricated or modular homes are allowed. Each dwelling unit shall have a liveable floor area of not less than 1,500 square feet. All structures on any Lot shall be constructed of the same type of materials. For insurance, an adobe home requires an adobe hanger, a stucco home requires a stucco hanger, etc.

2.4. HEATING, VENTILATING AND AIR CONDITIONING UNITS. No heating, air conditioning or evaporative cooling units or equipment shall be placed, constructed or maintained upon the roof of any structure.

2.5. SOLAR COLLECTING PANELS OR DEVICES. Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential uses. At the same time, Declarant desires to promote and preserve the attractive appearance of the Property and the improvements thereto, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owner's respective investments therein. Therefore, solar collecting panels and devices may be placed, constructed or maintained upon any Lot (including upon the roof of any structure), so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment to limit, to the extent possible, the visual impact of such solar collecting panels or devices when viewed from any other Lot.

2.6. ANTENNAS, POLES, TOWERS AND DISHES. No television, radio, short-wave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon the Property (including, but not limited to, upon the roof or exterior walls of any dwelling unit or other structure) unless said antenna, pole, tower or dish is fully and attractively screened or concealed from view.

2.7. VEHICLES.

2.7.1 No private automobiles or pickup or 4x4 trucks shall be parked upon the Property or any roadway adjacent thereto except within a garage, or on a private driveway apartment to a dwelling unit.

2.7.2 No other vehicles (including, but not limited to, mobile homes, motor homes, boats, recreation vehicles, trailers, trucks, campers, permanent tents or similar vehicles or equipment) shall be kept, placed or maintained upon the Property or any roadways adjacent thereto, except within a fully enclosed garage or screened enclosure appurtenant to a dwelling unit.

2.7.3 No vehicle (including, but not limited to, those enumerated in Subsections 2.7.1 and 2.7.2) shall be constructed, reconstructed or repaired upon the Property or any roadway adjacent thereto except within a fully enclosed garage or in a driveway within 100 feet of a dwelling unit.

2.7.4 No motor vehicles of any kind which are not in operating condition shall be parked in any unenclosed parking areas (including, but not limited to, private driveways appurtenant to a dwelling unit) for over two weeks.

2.7.5 The provisions of this Section 2.7 shall not apply to vehicles of Declarant or of builders specifically authorized in writing by Declarant or their employees.

2.8. SANITATION. Garbage and refuse facilities, containers and the like shall be attractively screened or placed in such manner as to conceal them from the view of neighboring Lots, dwelling units, property, roads or streets (except during reasonable periods to allow for collection by the appropriate sanitation service). All storage or disposal of garbage or other waste shall be only in containers meeting applicable governmental sanitation requirements, shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

2.9. DRIVEWAYS, WALKS, FENCES, INTERFERENCES AND OBSTRUCTIONS. All walls and fences shall be wrought iron, block, stucco, wood, stone or adobe construction. No other fences are allowed, except corrals which may be pipe or chain link. All walls and fences shall be painted or colored to match the exterior of the structure(s) enclosed by or upon the same Lot as such wall or fence. No wall or fence shall exceed six and one-half (6 1/2) feet in height. No fence shall be permitted to interfere with existing Recorded restrictions, drainageways or easements.

2.10. NUISANCE. No rubbish or debris of any kind shall be placed or permitted to accumulate for any unreasonable length of time on any portion of the Property, and no odors shall be permitted to arise therefrom, so as to render the Property or any portion thereof unsanitary, unsightly or offensive or detrimental to any other portion of the Property in the vicinity thereof. No noxious, destructive or offensive activity, or any activity constituting unreasonable source of annoyance, shall be conducted on any portion of the Property. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices used exclusively for security purposes, shall be located, used or placed on any parcel. Each Owner or occupant shall refrain from any act on or use of his, her or its Lot which could reasonably cause embarrassment, discomfort or annoyance to other Owners or occupants.

2.11. PETS. No animals, livestock or poultry, except horses, of any kind shall be raised, bred or kept on the Property, except that four (4) horses, four (4) chickens (no roosters), three (3) dogs, three (3) cats, one (1) pig, one (1) cow, one (1) goat, one (1) sheep, and one other farm animal may be kept on any Lot, provided they are not kept, bred or maintained for commercial purpose. In addition, any Owner may have the same number of animals, livestock or poultry set forth above for each additional 4.13 acres within such Owner's Lot, provided that the total number

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of animals, livestock or poultry on each Lot does not exceed a total of ten (10) horses, four (4) dogs, four (4) cats, twenty (20) chickens (no roosters), two (2) cows, two (2) goats, two (2) pigs, two (2) sheep, and two (2) of any other farm animal, whether penned or not. Notwithstanding the foregoing, no animals may be kept which result in any annoyance of which are obnoxious to residents in the vicinity and none of these animals, except for horses, may be kept for any commercial purposes. Continuous dog barking will not be tolerated.

2.12. LEASING: OBLIGATIONS OF TENANTS AND OTHER OCCUPANTS.

2.12.1 All leases of any Lot or portion of any Lot shall be in writing and shall be subject in all respects to the provisions of this Declaration. All tenants shall be subject to the terms and conditions of this Declaration. Each Owner shall cause his, her or its tenants or other occupants to comply with this Declaration, and to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or occupants are also fully liable for any violation of this Declaration.

2.12.2 In the event that a tenant or other occupant violates any provision of this Declaration, any Owner shall have the power to bring an action of suit against such tenant or other occupant to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity.

2.13. STORAGE AND TOOL SHEDS OR STRUCTURES. Any storage shed, tool shed, tack room, barn or similar structure placed, erected or maintained on any Lot shall be of the same type materials as the dwelling unit on such Lot. For instance, an adobe home requires an adobe building, a stucco home requires a stucco building, etc.

2.14. BUSINESSES. The only business allowed in Ruby Star Airpark is business pertaining to airplanes.

ARTICLE 3

ASSOCIATION

3.1. ASSOCIATION. The Association has been formed, or will be formed by Declarant prior to the sale of any Lots in the Subdivision by Declarant, as an Arizona nonprofit corporation. The Association shall have the duties, powers and rights set forth in this Declaration and in its Articles of Incorporation and Bylaws. As more specifically set forth hereinafter, the Association shall have a Board of Directors to manage its affairs. The Board of Directors shall be elected by the Members of the Association.

3.2. BOARD OF DIRECTORS. The affairs of the Association shall be managed by a Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the

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Articles of Incorporation and Bylaws. Action by or on behalf of the Association may be taken pursuant to the rights, powers and authority set forth in the Articles of Incorporation and the Bylaws by the Board, or by any duly authorized officer, agent or employee, without a vote of Members, except as otherwise specifically provided in this Declaration.

3.3. MEMBERSHIP IN ASSOCIATION. Each Owner of a Lot shall be a Member of the Association. The Person or Persons who constitute the Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and the Membership appurtenant thereto shall automatically pass with title (fee simple or ground leasehold, as the case may be) to the Lot. Declarant shall hold a Membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from title to a Lot, except that an Owner may assign some or all of his rights as an Owner and as a Member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owner's obligations as provided in his Declaration. However, no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration.

3.4. VOTING RIGHTS OF MEMBERS. Each Member shall be entitled to one (1) vote for each Lot owned by such Member. The Member may cast one (1) vote with respect to each Lot owned by such Member only during such periods as the Owner is a Member in good standing with the Association at the time the vote or votes are cast by the payment of all Assessments and Special Assessments, if any, levied by the Association on all of the Lots owned by such Member before the same are delinquent and such Member is not otherwise in default of any applicable provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations.

3.5. PROPERTY AND FACILITIES TRANSFERRED BY DECLARANT. The Association shall accept title to any property, including personal property transferred to the Association by Declarant, and equipment, if any, related thereto, provided that such property is not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use.

3.6. DUTY TO MANAGE AND CARE FOR PROPERTY. The Association shall manage, operate, care for, maintain and repair all Association Properties and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members.

3.7. DUTY TO PAY TAXES. The Association shall pay all taxes and assessments levied upon the Association Properties and all taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments, provided that the Association shall contest the same by appropriate legal proceedings which shall have the same effect of preventing the collection of the tax or assessment or the payment of same under written protest, and the sale or foreclosure of any lien for such tax or assessment and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments,

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together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

3.8. DUTY TO MAINTAIN INSURANCE. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable:

A. Casualty, fire and extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association, including coverage for vandalism and malicious mischief, and, if available and if deemed appropriate, coverage for flood, subsidence, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable Improvements shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost.

B. Broad form comprehensive liability insurance covering public liability for bodily injury and property damage, arising from any cause whatsoever. Public liability insurance shall, to the extent reasonably obtainable, have limits of not less than One Million Dollars (\$1,000,000) per person and Two Million Dollars (\$2,000,000) per occurrence.

C. Such other insurance as may be required by law, including worker's compensation insurance, and shall have the power to obtain such other insurance (such as business interruption insurance, papers and records insurance, advertisers' liability, medical payments insurance, theft insurance and stop-loss endorsements) and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Association, each Member and any Person claiming by, through or under such Member and as against any officer, director, agent or employee of any of the foregoing. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Association Properties and property of Declarant.

3.9. FIDELITY BONDS. The Association may obtain and keep in force at all times a fidelity bond or bonds for any Person handling funds of the Association including, but not limited to, employees of the Manager in amounts determined by the Board of Directors. Each such bond shall name the Association as obligee. The Association shall not be obligated to maintain any fidelity bond or bonds.

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3.10. POWER TO ADOPT RULES AND REGULATIONS. The Association may adopt, amend, repeal and enforce rules and regulations ("Rules and Regulations") as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Association Properties and each of the Lots. The Rules and Regulations shall be reasonable and uniformly applied. The Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment or repeal of any Rule or Regulation shall be given in writing to each Member at the address for notices of Members as elsewhere provided in this Declaration or the Bylaws, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with the Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

3.11. POWER TO ENFORCE DECLARATION AND RULES AND REGULATIONS. The Association shall have the power to enforce the provisions of this Declaration and of Rules and Regulations by any lawful remedy or means, and shall take such action as the Board deems necessary or desirable to cause such compliance by each Member and any employee, agent or tenant of such Member.

3.12. POWER TO BORROW MONEY AND MORTGAGE PROPERTY. The Association shall have the power to borrow money and, with the approval of the Members having at least a majority of the voting power of the Association, to encumber Association Properties as security for such borrowing, subject to provisions elsewhere in this Declaration with respect to required approvals and consents to such action.

3.13. POWER TO EMPLOY MANAGERS, EMPLOYEES, AGENTS AND CONSULTANTS. The Association shall have the power to hire and discharge a Manager or Managers, employees and agents and to retain and pay for legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

3.14. TITLE TO ASSOCIATION PROPERTIES ON DISSOLUTION OF ASSOCIATION. If the Association is dissolved, then the Association Properties shall, to the extent reasonably possible, be conveyed or transferred to an appropriate public or governmental agency or agencies or to a nonprofit corporation, association, trust or other organization, to be used, in any such event, for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association. To the extent the foregoing is not possible, the Association Properties shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Members in proportion to the Assessments levied against each Member, as determined in Article 5 of this Declaration.

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ARTICLE 4

DECLARANT'S RIGHTS AND RESERVATIONS

4.1. PERIOD OF DECLARANT'S RIGHTS AND RESERVATIONS. Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Association Properties from the date hereof, until the last Lot has been sold and conveyed by Declarant. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association whether or not specifically stated therein and in each deed or other instrument by which any Lot is conveyed by Declarant. The rights and reservations hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other or subsequent amendment.

4.2. RIGHT TO CONSTRUCT ADDITIONAL IMPROVEMENTS ON ASSOCIATION PROPERTIES. Declarant shall have the right, but shall have no obligation, to construct additional Improvements on the Association Properties at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners. If Declarant conveys or transfers such Improvements to the Association, the Association must accept title to, care for and maintain the same as elsewhere provided in this Declaration.

4.3. DECLARANT'S RIGHTS TO USE ASSOCIATION PROPERTIES IN PROMOTION AND MARKETING ASSOCIATION AREA. Declarant shall have and hereby reserves the right to reasonable use of Association Properties and of services offered by the Association in connection with the promotion and marketing of property within the boundaries of the Subdivision. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Association Properties such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of real property within the Subdivision; may use vehicles and equipment on Association Properties for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Subdivision, who are not Owners or Members of the Association, to use Association Properties at reasonable times and in reasonable numbers; and may refer to the Association and to the Association Properties and services offered by the Association in connection with the development, promotion and marketing of property within the boundaries of the Subdivision.

4.4. DECLARANT'S RIGHTS TO COMPLETE DEVELOPMENT OF SUBDIVISION. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete development of property within the boundaries of the Subdivision; to construct or alter Improvements on any property owned by Declarant within the Subdivision; to maintain model homes, model offices, offices for construction, sales, resales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within the Subdivision;

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or to post signs incidental to developing, constructing, promoting, marketing, selling, reselling or leasing of property within the boundaries of the Association Area. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals (a) to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant; or (b) to alter its construction plans or designs or to rezone, or (c) to require Declarant to seek or obtain the approval of the Association for any such activity or Improvement on property by Declarant on any property owned by Declarant.

4.5. DECLARANT'S RIGHTS TO GRANT AND CREATE EASEMENTS. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements, for access, utilities, drainage, water and other purposes incident to development and sale of Lots in the Subdivision, located in, on, under, over and across (a) Lots owned by Declarant, and (b) Association Properties.

4.6. DECLARANT'S RIGHTS TO CONVEY ADDITIONAL PROPERTY TO COMMUNITY ASSOCIATION. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and Improvements to the Association at any time and from time to time in accordance with this Declaration.

4.7. DECLARANT'S RIGHT TO SUBJECT ADDITIONAL REAL PROPERTY TO THIS DECLARATION. Declarant shall have the right from time to time, to subject additional real property owned by Declarant to this Declaration and all provisions hereof by an appropriate amendment of this Declaration.

4.8. ASSIGNMENT OF RIGHTS. The rights or any portion of the rights of Declarant hereunder and elsewhere in this Declaration may be assigned by Declarant to the Association by an express written assignment which specifies the right of Declarant so assigned and is duly Recorded.

4.9. RIGHTS AND POWERS OF DECLARANT IN ASSOCIATION. Notwithstanding any other provision of this Declaration, all of the rights, powers and responsibilities of the Association shall be vested in and exercised directly by Declarant, until such time as Declarant no longer owns any Lots ("Sell-Out Date"); provided, however, that Declarant may in writing assign, in whole or in part, such rights, powers and responsibilities to the Association at any time prior to the Sell-Out Date ("Assignment Date"), and the Association shall thereafter assume all of the rights, powers and responsibilities as are set forth in this Declaration. Until the Sell-Out Date or Assignment Date, as the case may be, all of the voting rights of the Owners in the Association and otherwise shall be suspended, and all voting rights in the Association shall be reserved to Declarant.

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Article 5

Funds and Assessments

5.1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS. Declarant hereby covenants and each Owner of any Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association (i) annual Assessments and (ii) Special Assessments; such Assessments and Special Assessments to be established and collected as hereinafter provided. Except as provided in this Article 5, Section 1, the Assessments and Special Assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on each Lot as to which it is levied by the Association, and shall be a continuing lien upon such Lot. The Association may from time to time Record an instrument which notifies prospective purchasers of Lots, prospective creditors of Owners and the public generally by constructive notice that the Lots are subject to assessment by the Association and may become subject to foreclosure for collection of unpaid assessments. All Assessments and Special Assessments, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment or Special Assessment fell due, as well as a lien against such Owner's Lot. This personal obligation cannot be avoided by abandonment of a Lot or otherwise. The personal obligation of the Assessments and Special Assessments shall not pass to the successive Owners of a Lot unless expressly assumed by such successive Owner. Monies received by the Association from Assessments and Special Assessments shall be deposited in one or more separate savings or checking accounts at any financial institution in which deposits are insured by an agency of the federal government.

5.2. ASSESSMENTS. For each calendar year, the Association shall levy Assessments against Owners of Lots. Each Owner shall be obligated to pay the Assessments levied against, and allocated to, such Owner and the Lot of such Owner as hereinafter more particularly set forth. The total amount of the Assessments for each calendar year shall be sufficient to provide for the operation of the Association, to repair and maintain all Association Properties, and to provide for reasonable reserves to take care of contingency and foreseeable expenses, but shall not include amounts for capital improvements.

5.3. APPORTIONMENT OF ASSESSMENTS. Each Lot shall be assessed by the same amount for Assessments and Special Assessments; provided, however, any Lot on which no residence has been constructed shall be assessed twenty-five percent (25%) of the amount of the Assessments and Special Assessments on Lots on which a residence has been constructed.

5.4. LIMITATION ON INCREASES OF ASSESSMENTS. After the first full calendar year in which Assessments have been levied, the Board of Directors shall not levy an Assessment, in any calendar year, which is greater than one hundred fifty percent (150%) of the Assessment in the preceding calendar year, except with the approval of Members representing at least a majority of the voting power of the Association.

5.5. COMMENCEMENT OF ASSESSMENTS. Assessments shall commence as to each Lot on the date of recordation of the first deed conveying such Lot from Declarant.

5.6. PAYMENT OF ASSESSMENTS. Assessments shall be due and payable in advance to the Association by the assessed Member during the calendar year in such manner and on such dates as the Board of Directors may designate in its sole and absolute discretion. Notice of the amount of the Assessments shall be given to each Member prior to each calendar year.

5.7. FAILURE TO FIX ASSESSMENT. The failure by the Board of Directors to levy an Assessment for any calendar year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent calendar year. No abatement of the Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to Association Properties or from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

5.8. SPECIAL ASSESSMENT FOR CAPITAL EXPENDITURES. In addition to Assessments, the Board of Directors may levy Special Assessments for the purpose of raising funds, not otherwise provided from Assessments, to construct or reconstruct or replace capital Improvements upon Association Properties, including necessary personal property related thereto; to add to the Association Properties; to provide for necessary facilities and equipment to offer the services authorized in this Declaration; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. The Board of Directors shall not levy Special Assessments without the vote of Members representing at least a majority of the voting power of the Association. Special Assessments for capital improvements shall be levied and apportioned in the same manner as Assessments.

5.9. LATE CHARGES AND INTEREST. If any Assessment or Special Assessment or any installment thereof is not paid within thirty (30) days after it is due, the same shall be deemed delinquent and the Member obligated to pay the Assessment or Special Assessment may be required to pay a reasonable late charge to be determined by the Board. Any Assessment or Special Assessment or installment of an Assessment or Special Assessment which is not paid within thirty (30) days after it is due shall bear interest from the due date at the legal rate of interest then established by statute in Arizona.

5.10. NOTICE OF DEFAULT AND ACCELERATION. If any Assessment or Special Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Board of Directors may mail a notice of default to the Owner and to each first Mortgagee of the Lot who has requested a copy of the notice. The notice shall specify (a) the fact that the Assessment or Special Assessment or installment thereof is delinquent; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is mailed to the Member, by which such default must be cured; and (d) that failure to cure the default on or before the date

specified in the notice may result in acceleration of the balance of the Assessment or Special Assessment or the installments of the Assessment or Special Assessment and the sale of the Lot of the Member. The notice shall further inform the Member of any right to cure the default after acceleration. If the delinquent Assessment and any late charges or interest thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance to be immediately due and payable without further demand and may enforce the collection of the full Assessment and Special Assessment and all charges and interest thereon in any manner authorized by law in this Declaration, subject to the protection afforded to Mortgagees under this Declaration.

5.11. LAWSUIT TO ENFORCE ASSESSMENTS. The Board may bring a suit at law to enforce any Assessment or Special Assessment obligation. Any judgment rendered in such action shall include any late charge, interest and other costs of enforcement including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Member.

5.12. LIEN TO ENFORCE ASSESSMENTS OR SPECIAL ASSESSMENT. The Board may also elect to file a claim of lien against the Lot of the delinquent Owner or Member by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency; (b) the interest and costs of collection which have accrued thereon; (c) the legal description and street address (if any) of the Lot against which the lien is claimed; and (d) the name of the Record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien created by the Notice of Lien shall be prior to any declaration of homestead rights with respect to any Lot. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the cost of preparing and recording the release of the lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of Mortgages in the State of Arizona.

5.13. ESTOPPEL CERTIFICATES. Prior to the conveyance of a Lot, the prospective new Owner, upon request and for a reasonable fee, shall be entitled to a statement executed by any two (2) officers of the Association or the Manager, as the case may be, setting forth the amount of any Assessment or Special Assessment levied against such Lot which is not yet due and payable and the amount of any unpaid Assessments or Special Assessments against such Lot which is past due to the Association. Such Lot conveyed shall not be liable or subject to a lien for any unpaid Assessments or Special Assessments levied by the Board against such Lot in excess of the amount set forth in the statement, provided, however, that the new Owner and the conveyed Lot shall be liable for all Assessments and Special Assessments becoming due after the date of any such statement.

5.14. SUBORDINATION OF THE LIEN TO FIRST MORTGAGES. The lien for Assessments and Special Assessments provided for in this Declaration, including, without limitation, any fees, costs, late charges or interest that may be owed to the Association in connection therewith, shall be subordinate to the lien of any first-priority Mortgage encumbering a Lot. An Owner's sale or transfer of a Lot shall not affect a lien in favor of the Association securing Assessments and Special Assessments. The foreclosure of a first-priority Mortgage, whether accomplished by a judicial foreclosure or any proceeding in lieu of foreclosure, including a deed in lieu of foreclosure, or by the cancellation or forfeiture of an executory land sales contract, shall relieve the new Owner of liability for any unpaid regular dues or special assessments and shall extinguish the Association's lien as to assessments that became due before such sale, transfer, foreclosure or proceeding in lieu of foreclosure. Any such delinquent assessment charges, including interest, late charges, costs and reasonable attorneys' fees that are extinguished as provided in this Article 5, Section 14, and not collected from the delinquent former Owner may be reallocated and assessed to all Lots as an additional Assessment to be proportioned among the Lots as set forth above. No such sale, transfer, foreclosure or proceeding in lieu of foreclosure shall relieve the new Owner of a Lot of his responsibility for any Assessments or Special Assessments thereafter becoming due nor extinguish the Association's lien for any such regular dues or special assessments.

ARTICLE 6

EASEMENTS

6.1. BLANKET EASEMENT. An easement and right-of-way in perpetuity is reserved by this Declaration for the benefit of all Lots in the Subdivision, over, under, along, across, upon and through the easements as shown on the Recorded Plat of the Subdivision for (i) the erection, construction, maintenance and operation of underground electric, telephone and cable television facilities; (ii) for the laying and maintaining of pipes, mains and conduits for the furnishing of water, gas, sewer service or for other utility purposes; (iii) for the purpose of installing, maintaining and reading electric, water and other utility meters; and (iv) for the right to the Association to convey or lease the whole or any portion of such easement, right-of-way and right of entry to any Person or governmental authority.

When any Lot with the Subdivision is conveyed there shall be deemed to have been reserved and/or excepted from such Lot, without so stating in the deed or other instrument by which such conveyance is made, the following:

- A. All utility and cable television services installations within the Subdivision, wherever situated;
- B. An easement and right of way in, on, over and across the Lot conveyed and in, on, over and across all streets and roads, whether public or private, within the Subdivision, whether abutting upon the Lot conveyed, or not, for maintaining, operating,

repairing, replacing, relocating, enlarging and constructing new or existing utility and cable television installations.

ARTICLE 7

GENERAL PROVISIONS

7.1. TERM OF DECLARATION. Unless amended as provided herein, each provision contained in this Declaration shall continue and remain in full force and effect until January 1, 2024, or until this Declaration is terminated as hereinafter provided, whichever first occurs. Unless amended as herein provided, this Declaration after January 1, 2024, shall be automatically extended for successive periods of ten (10) years each unless terminated by the vote, by written ballot, of at least two-thirds (2/3) of the voting power of Members of the Association. The termination of this Declaration shall be effective upon the Recording of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association stating that this Declaration has been terminated by the vote of Members as provided herein.

7.2. AMENDMENT OF DECLARATION BY DECLARANT. Until the Sell-Out Date or the Assignment Date as defined above, whichever first occurs, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant at any time by the Recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.

7.3. AMENDMENT OF DECLARATION BY MEMBERS. Subject to the provisions of Article 7, Section 2 and except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time, with or without a meeting upon the vote or written consent, approving the amendment or repeal by Members of the Association holding at least two-thirds (2/3) of the voting power of the Association. The amendment or repeal shall be effective upon the Recordation of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the requisite vote of the Members.

7.4. AMENDMENT REQUIRED BY GOVERNMENT MORTGAGE AGENCIES. Notwithstanding the provisions of Article 7, Section 3 hereof, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Government Mortgage Agency requires to be amended or repealed may be amended or repealed by vote of the Members holding at least a majority of the voting power of the Association at a duly constituted meeting of the Members. Any such amendment or repeal shall be effective upon the Recordation of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the

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Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the requisite vote of the Members as herein set forth.

7.5. REQUIRED CONSENT OF DECLARANT TO AMENDMENT. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration containing rights reserved by Declarant shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate at the Declarant no longer owns any Lot in the Subdivision as evidenced by the last Recordation of a deed of a Lot from Declarant has occurred.

7.6. AMENDMENT OF ARTICLES AND BYLAWS. The Articles of Incorporation and Bylaws may be amended in accordance with the provision set forth in such instruments or, in the absence of such provisions, in accordance with the applicable provisions of the Arizona Nonprofit Corporation Act; provided that neither the Articles of Incorporation or the Bylaws may be amended if such amendment conflicts with the provisions of this Declaration as the same may be amended from time to time.

7.7. SPECIAL RIGHTS OF OWNERS OF GOOD FAITH MORTGAGES. The breach of any of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any Mortgage made in good faith for value as to any portion of said real property, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any such Mortgagee or Owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure, trustee's sale or otherwise.

7.8. WAIVER. No delay or omission on the part of the Declarant or the Owners of any Lots in exercising any rights, power or remedy herein provided, in the event of any breach of the conditions, restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein.

7.9. NOTICES. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail or telefacsimile. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Lot owned by such Person if no address has been given to the Association and shall be deemed given, if not actually received earlier, at 5:00 P.M. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

7.10. PERSONS ENTITLED TO ENFORCE DECLARATION. The Association, acting by authority of the Board, any Member of the Association, and the Declarant so long as it owns any Lot in the Subdivision shall have the right to enforce any or all of the provisions, covenants,

conditions, restrictions and equitable servitudes contained in this Declaration against any property within the Subdivision and the Owner thereof. The right of enforcement shall include the right to bring an action for damages as well as an action to enjoin any violation of any provision of this Declaration.

7.11. VIOLATIONS CONSTITUTE A NUISANCE. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

7.12. VIOLATIONS OF LAW. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Subdivision is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

7.13. REMEDIES CUMULATIVE. Each remedy provided under this Declaration is cumulative and not exclusive.

7.14. COSTS AND ATTORNEYS' FEES. In any action or proceeding under this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith including reasonable attorneys' fees.

7.15. LIMITATION OF LIABILITY. The Association, the Board of Directors, Declarant, and any Member, agent or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

7.16. NO REPRESENTATIONS OR WARRANTIES. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Subdivision, or any improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

7.17. LIBERAL INTERPRETATION. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

7.18. GOVERNING LAW. This Declaration shall be construed and governed under the laws of the State of Arizona.

7.19. SEVERABILITY. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial

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enforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

7.20. NUMBER AND GENDER. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

7.21. CAPTIONS FOR CONVENIENCE. The titles, headings and captions used in this Declaration as intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date set forth above.

DECLARANT

Denny Nolen Corp., an Arizona corporation

By *Dennis E. Nolen*
Its *Pres.*

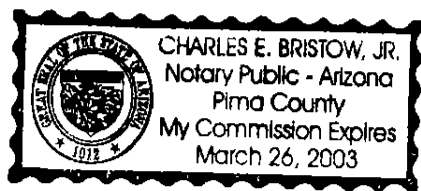
STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

The foregoing instrument was acknowledged before me this 6th day of MARCH, 2000, by DENNY NOLEN CORP., an Arizona corporation, by _____, as _____, of DENNY NOLEN CORP.

Charles E. Bristow, Jr.
Notary Public

My Commission Expires:

3-26-2003
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LEGAL DESCRIPTION

PARCEL:

That portion of Section 33, Township 17 South, Range 12 East of the Gila and Salt River Meridian as recorded in Book 19 of Surveys, Page 15 of Pima County Records, County of Pima, State of Arizona,

EXCEPT those portions described as follows:

Beginning at the southwest corner of said Section 33;

Thence N00 59'06"W, along the West line of said Section 33, a distance of 297.64 feet;

Thence S89 13'51"E distance of 2788.53 feet;

Thence S00 10'29"W a distance of 225.56 feet to a point on the South line of said Section 33;

Thence S89 17'15"W, along said South line, a distance of 102.73 feet to the South quarter corner;

Thence continuing S89 17'15"W, along said South line, a distance of 2679.96 feet to the **POINT OF BEGINNING** and

FURTHER EXCEPT a triangular portion as follows:

Beginning at the southeast corner of said Section 33;

Thence S89 17'15"W, along the South line of said Section 33, a distance of 51.56 feet;

Thence N68 56'50"E a distance of 54.59 feet to a point on the East line of said Section 33;

Thence S01 50'13"E, along said East line, a distance of 18.98 feet to the **POINT OF BEGINNING**.

AND including that portion of the northeast quarter of Section 4, Township 18 South, Range 12 East of the Gila and Salt River Meridian as recorded in Book 19 of Surveys, page 15 of Pima County Records, County of Pima, State of Arizona, described as follows:

Commencing at the northeast corner of said section 4;

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Thence S89 17'15"W, along the North line of said Section 4, a distance of 51.56 feet to the **POINT OF BEGINNING**;

Thence S68 56'50"W a distance of 24.23 feet to a point of curvature of a tangent curve concave to the northwest;

Thence westerly, along the arc of said curve, to the right, having a radius of 564.53 feet, a central angle of 09 16'45" for an arc distance of 91.43 feet;

Thence S78 13'35"W a distance of 185.81 feet to a point of curvature of a tangent curve concave to the North;

Thence westerly, along the arc of said curve, to the right, having a radius of 708.15 feet, a central angle of 07 55'41" for an arc distance of 97.99 feet to a point of compound curve concave to the North;

Thence westerly, along the arc of said curve, to the right, having a radius of 2682.62 feet, a central angle of 03 56'13" for an arc distance of 184.33 feet;

Thence N89 54'31"W distance of 56.81 feet to a point of curvature of a tangent curve concave to the South;

Thence westerly, along the arc of said curve, to the left, having a radius of 360.00 feet, a central angle of 24 54'29" for an arc distance of 156.50 feet;

Thence S65 11'00"W distance of 526.90 feet to a point of curvature of a tangent curve concave to the North;

Thence westerly, along the arc of said curve, to the right, having a radius of 1732.00 feet, a central angle of 15 04'03" for an arc distance of 456.49 feet;

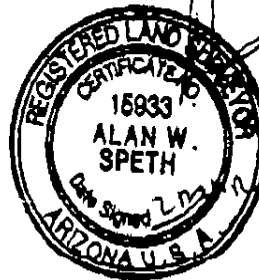
Thence S80 17'03"W distance of 845.20 feet;

Thence N00 10'29"E distance of 592.36 feet to a point on the North line of said Section 33;

Thence N89 17'15"E, along said North line, distance of 2525.66 feet; to the **POINT OF BEGINNING**;

Prepared by:
Jones & Associates, Inc.
Job # 00024

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