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**DECLARATION OF ADDITIONAL COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
VILLAGE AT POWER RANCH**

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**DECLARATION OF ADDITIONAL COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
VILLAGE AT POWER RANCH**

This Declaration of Additional Covenants, Conditions, Restrictions and Easements for Village at Power Ranch is made this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by Richmond American Homes of Arizona, Inc., a Delaware corporation ("Richmond").

**ARTICLE 1**

**DEFINITIONS**

- 1.1 Alley Easements means the Alley Access Easements established pursuant to Section 4.6.
- 1.2 Areas of Association Responsibility means all Common Area, together with (a) all land, and the Improvements situated thereon, within the Property in which the Master Association (as defined in Section 1.10) has a leasehold interest, easement or license, or with respect to which the Master Association has maintenance obligations pursuant to requirement imposed by the Town of Gilbert, for as long as the Master Association holds such leasehold interest, easement or license, or has such maintenance obligations, (b) all land, and the Improvements situated thereon, within the Property which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be conveyed to the Master Association for the benefit and use of the Members, (c) all land, the Improvements situated thereon, including the Alley Easements and the Open Space Easements, which is situated within the boundaries of a Lot and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Master Association as land which is to be improved, maintained, repaired and replaced by the Master Association, (d) all land, the Improvements situated thereon, including the Alley Easements and the Open Space Easements, within or adjacent to the Property which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be used for landscaping, drainage or water retention or flood control for the benefit of the Property or the general public, and (e) all real property, and the Improvements situated thereon, within or adjacent to the Property located within dedicated rights-of-way with respect to which the Town of Gilbert has not accepted responsibility for the maintenance thereof, but only until such time as the Town of Gilbert has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Master Association pursuant to this clause (e) have been expressly approved by either the Declarant or the Master Association.

- 1.3 Board of Directors means the Board of Directors of the Master Association.

- 1.4 CBU means any cluster box unit installed within or adjacent to the Property to receive mail delivery from the United States Postal Service to Owners and Occupants of Lots within

the Property. Any CBU shall be deemed an Improvement, and except as otherwise provided in this Declaration, shall be deemed to be a part of the Areas of Common Responsibility.

1.5 Declarant means Richmond American Homes of Arizona, Inc., a Delaware corporation, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.6 Declarant Affiliate means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.7 Declaration means this Declaration of Covenants, Conditions, Restrictions and Easements, as amended from time to time.

1.8 Improvement means: (a) any Residential Unit, building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot); and (e) any other structure of any kind or nature.

1.9 Lot means a portion of the Property intended for independent ownership and residential use and designated as a lot on any Recorded subdivision plat executed or approved by the Declarant (including, without limitation, the Plat), and, where the context indicates or requires, includes any Residential Unit, building, structure or other Improvements situated on the Lot.

1.10 Mailbox means any individual mailbox contained within a CBU, any individual mailbox located on a Lot, or any individual mailbox located, as one of a pair of individual mailboxes, on a single post shared by two adjacent Lots (and by the Owners or Occupants thereof).

1.11 Master Association means the Power Ranch Community Association, an Arizona nonprofit corporation.

1.12 Master Declaration means the Declaration of Covenants, Conditions and Restrictions, Assessments, Charges, Servitude, Liens, Reservations and Easements for Power Ranch Recorded on October 1, 1999, as Instrument No. 99-0916566, as amended from time to time.

1.13 Occupant means any Person other than an Owner who occupies or is in possession of a Lot, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and includes, without limitation, a Resident).

1.14 Open Space Easement means the Open Space Access Easements established pursuant to Section 4.6.

1.15 Owner means the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), but: (a) the Declarant (and not the fee title holder) will be deemed to be the "Owner" of each Lot with respect to which fee title is held by a Declarant Affiliate

or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) if and for so long as the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots (other than by exercise of a right of first refusal or right of first offer), the Declarant will also be deemed to be the "Owner" of each Lot with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes, the owner of the trustor's interest under the deed of trust will be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots "owned by" a Person, such phrase will be deemed to refer to Lots of which that Person is the Owner, as determined pursuant to this Section.

1.16 Person means a natural person, corporation, business trust, estate, trust, partnership, subassociation, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.17 Plat means the plat Recorded on May 3, 2005 for Power Ranch Neighborhood 10 Parcel D & E in Book 745 of Maps, page 46, Instrument No. 2005-0579229, official records of Maricopa County, Arizona, and any amendments or supplements thereto.

1.18 Property means the real property described on Exhibit A.

1.19 Resident means each individual who resides in any Residential Unit.

1.20 Residential Unit means any building, or portion of a building, situated upon a Lot and designed and intended for separate, independent use.

1.21 UBE Easements means the Use and Benefit Easements established pursuant to Section 4.6.

1.22 USPS means the United States Postal Service, or its successors and assigns having general authority and responsibility for providing delivery service of the United States mail, and the branch office thereof that provides United States mail service to the Property.

1.23 Village Special Service Area means the Special Service Area (as defined in the Master Declaration), but limited only to such areas within the Property.

1.24 Village Special Service Area Assessment means the Special Service Area Assessment (as defined in the Master Declaration), but limited only to assessment charged with respect to the Village Special Service Area and levied solely against the Owners of Lots within the Property.

## ARTICLE 2

### PROPERTY SUBJECT TO THIS DECLARATION AND VILLAGE SPECIAL SERVICE AREA ASSESSMENT

2.1 Property Subject to this Declaration. This Declaration is being Recorded to establish certain easements and restrictions affecting the Property in order to protect and enhance the value and

desirability of the Property. All of the property within the Property will 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, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, easements, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing evidences his, her or its intent that all the restrictions, conditions, covenants, easements, rules and regulations contained in this Declaration will run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof, subject to the Master Declaration, the Tract Declaration recorded March 10, 2005 in the office of the Maricopa County Recorder as document number 2005-0296680 (the "Tract Declaration"), the Power Ranch Rules (as defined in the Master Declaration) and the jurisdiction of the Master Association. Furthermore, each such Person fully understands and acknowledges that this Declaration will be mutually beneficial, prohibitive and enforceable by the Owners, or any of them.

**2.2 Rate of Village Special Service Area Assessment.** The amount of any Village Special Service Area Assessment ("VSSAA") against each Lot shall be fixed at a uniform rate per Lot within the Property, except that with respect to Lots owned by Richmond, Declarant Affiliate, or any successor Developer of Lots (collectively "Developer"), the VSSAA per Membership shall be equal to 25% of such uniform rate. If a transfer of title to a Lot results in a change in the rate at which the VSSAA is assessed against that Lot, the VSSAA attributed to the Lot shall be prorated based upon the number of days in the Assessment Period (as that term is defined in the Master Declaration) that the Lot was assessed under each rate. In the event that the total VSSAAs collected by the Master Association are insufficient to meet the operating expenses of the Master Association relating to the Village Special Service Assessment Area during the time that Developer is paying 25% of the otherwise applicable VSSAA, Developer shall subsidize the difference. The Master Association shall send an invoice to Developer setting forth the amount of the deficit. Developer shall pay such amount to the Master Association within thirty (30) days of the invoice date. If the Master Association determines during any Assessment Period that the funds budgeted for are, or will become, inadequate to meet all expenses for any reason, including, without limitation, nonpayment of VSSAA by Members, then the Master Association may increase the VSSAA for that Assessment Period, limited by the greater of (a) 20% of the maximum VSSAA in effect during the immediately preceding fiscal year; or, (b) the percentage increase, if any, for the immediately preceding year over the year before that in the Consumer Price index, All Items, All Urban Consumers (1982-84 = 100) published by the United States Department of Labor, or its successor or other similar index, and the revised VSSAA shall commence on the date designated by the Association. Any increase in the VSSAA greater than that permitted under the immediately preceding sentence shall require approval by a vote of two-thirds (2/3rds) of the votes of each class of Member of the Lots who are voting in person, by absentee ballot, or by proxy (as permitted until the Class B Memberships cease or are converted to Class A Memberships) as those terms are defined in the Master Declaration.

## **ARTICLE 3**

### **RESTRICTIONS**

**3.1 Parking.** The Property shall be subject to such parking rules as may be established and amended from time to time by the Board of Directors of the Master Association, which shall have the

right, power and authority to enforce same, and except as otherwise provided therein or in the Master Declaration, any violations thereof shall be deemed violations by the Owner of the Lot the vehicle is associated with and not to a specific vehicle. Without limiting the generality of the foregoing, an Owner's guest or visitor shall be permitted to park overnight on a clearly marked and designated street in the Property; however, at no time shall parking be allowed in an alley, Alley Easement, Open Space Easement, sidewalk or any landscaped area in the Property. Owners are prohibited from parking a disabled vehicle (defined as a vehicle without a current license tag, obviously inoperable, or with flat tire(s) or any other sign of non-use) in any area of the Property except for inside the Owner's garage.

**3.2 Declarant's Exemption.** Nothing contained in this Declaration may be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property, including, without limitation, construction trailers or offices, Models and parking related to any of the foregoing.

## ARTICLE 4

### EASEMENTS

**4.1 Creation and Maintenance of Common Open Space Access Easements (“Open Space Easements”), Alley Access Easements (“Alley Easements”), and Use and Benefit Easements (“UBE Easements”).** A series of perpetual easements (collectively, the “Easements”) are hereby declared, created, granted and established over certain portions of Lots within the Property, as more particularly provided in this Article 4, and upon and subject to the terms, conditions, provisions, restrictions, covenants and obligations set forth in this Section 4.6 and elsewhere in this Declaration. There are three types of easements: (a) an Open Space Easement; (ii) an Alley Easement, and a (iii) UBE Easement. Open Space Easements and Alley Easements shall be deemed a part of the Areas of Common Responsibility and shall be maintained by the Master Association. A UBE Easement (and the Easement Area subject thereto) shall be maintained by the Owner of the Benefited Lot (as defined below).

**4.2 Easement Areas.** A Lot may be both a Burdened Lot (as defined below) subject to an easement in favor of an adjacent Benefited Lot and a Benefited Lot benefited by an easement over a portion of the same adjacent Lot (and/or over a portion of another adjacent Lot). Those portions of a Lot which are subject to an Open Space Easement, an Access Easement or an UBE Easement will be referred to herein as “Easement Areas,” and the actual location and dimension of each Easement Area is further described below. Attached hereto as Exhibit B is a diagram depicting typical, fictional Lots marked as Lots 5 through 16, identifying the location on such fictional Lots of Easement Areas for Alley Easements and Open Space Easements, and identifying the manner in which the Easement Areas for the UBE Easements on Lots are to be determined.

**4.3 Location and Purpose of Alley Easements.** Alley Easements shall exist upon, over and across a portion of the rear yard of each Burdened Lot (defined below) for the purposes of providing vehicular and pedestrian ingress and egress for all Lots within the Property (and the Owners and Occupants thereof, and their invitees, licensees and visitors). In general, the Easement Area of an Alley Easement across a Lot will be that portion of that Lot from the rear property line of that Lot up to the exterior wall of the Residential Unit on that Lot or the fence wall that is

attached to the rear or side wall of that Residential Unit (and which is built for the purposes of creating and enclosing a side yard for the Owner of that Residential Unit or an adjacent Residential Unit). A Lot which is burdened or encumbered by such an Alley Easement will be referred to herein as a “Burdened Lot.” All Lots within the Property will be deemed to be “Benefited Lots” with respect to all Alley Easements throughout the Property. The Master Association may use Alley Easements (and the Easement Area subject thereto) for drainage conveyance, landscaping and maintenance purposes, and performance of any other duties and exercise of any other rights imposed upon or granted to the Master Association pursuant to this Declaration. Public utility easements may exist within each of the Alley Easements (and the Easement Area subject thereto) for the purpose of installing, operating, replacing, repairing, maintaining and improving public utility services. Nothing herein is intended to, or shall be deemed to, dedicate the Alley Easements (or any of them), or any Easement Area subject thereto, to the public.

**4.4 Location and Purpose of Open Space Easements.** Open Space Easements shall exist upon, over and across a portion of the front yard of each Burdened Lot for the purposes of providing pedestrian ingress and egress for all Lots within the Property (and the Owners and Occupants thereof, and their invitees, licensees and visitors). In general, the Easement Area of an Open Space Easement across a Lot will be (i) that portion of that Lot from the front property line of that Lot up to the exterior wall of the Residential Unit on that Lot or the fence wall that is attached to the front or side wall of that Residential Unit (and which is built for the purposes of creating and enclosing a side yard for the Owner of that Residential Unit or an adjacent Residential Unit), and (ii) for a Lot that abuts Common Area on one side of the property line of that Lot as depicted on the Plat, the Easement Area of an Open Space Easement across that Lot also includes that portion of that Lot from the front property line of that Lot to the rear property line of that Lot, and extends from the exterior wall of the Residential Unit on that Lot or the fence wall of the Residential Unit on that Lot adjacent to the Common Area of the Residential Unit to the property line separating that Lot from the Common Area. Notwithstanding the foregoing, no porch or patio attached to the front of a Residential Unit shall be subject to an Open Space Easement or a part of the Easement Area thereto. All Lots within the Property will be deemed to be Benefited Lots with respect to all Open Space Easements throughout the Property. The Master Association may use Open Space Easements (and the Easement Area subject thereto) for drainage conveyance, landscaping and maintenance purposes, and performance of any other duties and exercise of any other rights imposed upon or granted to the Master Association pursuant to this Declaration. Public utility easements may exist within each of the Open Space Easements (and the Easement Area subject thereto) for the purpose of installing, replacing, repairing, maintaining and improving public utility services. Nothing herein is intended to, or shall be deemed to, dedicate the Open Space Easements (or any of them), or any Easement Area subject thereto, to the public.

**4.5 Location and Purpose of Use and Benefit Easements.** UBE Easements shall exist upon, over and across a portion of the side yard of each Burdened Lot, including any part of the Burdened Lot which is enclosed by a common fence wall or a common wall between two Residential Units. Only those Lots listed on Exhibit C are subject to such UBE Easements. In general, the Easement Area of a UBE Easement across a Burdened Lot will be that portion of that Burdened Lot from its shared property line with the adjacent Benefited Lot extending to the nearest exterior wall of the Residential Unit on that Burdened Lot, and bounded at either end by fence walls connecting the Residential Unit on the applicable Burdened Lot to the Residential Unit on the applicable adjacent Benefited Lot (and which front and rear fence wall is built for the purpose of creating and enclosing a side yard for the Owner of that Burdened Lot). UBE Easements may be

used by the Owner of the applicable Benefited Lot (and such Owner's Occupants) for drainage purposes, maintenance of the side yard return wall and the exterior portion of the residence and garage, subject to the restrictions contained in this Declaration. Without limiting the generality of the foregoing, rainwater may drain from the roof of the Residential Unit on the Benefited Lot onto the Easement Area of the Easements benefiting such Lot. Subject to the other provisions of this Declaration, UBE Easements shall be nonexclusive, and the Easement Area subject to UBE Easements may be used by the Owner and Occupants of the Burdened Lot containing such Easement Area for maintenance purposes of any wall or other portion of the Residential Unit (or any other structure) on the Burdened Lot not otherwise reasonably accessible from other portions of the Burdened Lot, so long as such use does not (a) interfere with the flow of drainage water or otherwise impair the uses for which the UBE Easement is established pursuant to this Declaration; or (b) otherwise modify in any way the drainage pattern as originally constructed by Declarant.

**4.6 Restrictions on Uses of Alley Easements, Open Space Easements and UBE Easements.** Alley Easements, Open Space Easements and UBE Easements and the uses thereof by the Owner of the applicable Benefited Lot (and such Owner's Occupants, guests, invitees, licensees, agents or contractors) shall be subject to the following conditions, restrictions and limitations:

4.6.1 no excavation shall be permitted anywhere within the Easement Area.

4.6.2 no materials shall be placed or stored within the Easement Area which might attract insects or other pests.

4.6.3 no swimming pools, spas, hot tubs, concrete pads, cool decking or other structures or pavements of any kind, whether temporary or permanent, shall be placed wholly or partly within the Easement Area.

4.6.4 no water shall be discharged (including, without limitation, backwash or discharge of water from a swimming pool or spa) within or into the Easement Area.

4.6.5 no wood, gasoline, propane or other combustible materials, barbecue grills, outdoor "pot belly" or other type of fireplaces, outdoor space heaters or dangerous chemicals of any kind shall be placed, stored or used within the Easement Area.

4.6.6 no shrubs, ground cover, landscape materials, perennial or annual flowers, or grasses of any type, sprinklers or irrigation system shall be placed or used within three (3) feet of the Burdened Lot Residential Unit wall or common fence wall, and no other activity shall be conducted within the Easement Area which does or might cause water to pool next to such wall or which does or might otherwise damage, degrade or otherwise impair any such walls or the foundation of such Residential Unit. Further, no plants listed on Exhibit D shall be planted, placed or maintained anywhere within the Easement Area.

4.6.7 no owner of a Burdened Lot or a Benefited Lot may modify in any way the grading design or the drainage patterns within the UBE Easement Area as constructed by Declarant.

4.6.8 the Benefited Lot Owner shall have the exclusive right to use the Easement Area on the Burdened Lot except as provided in this Declaration and the Burdened Lot Owner shall not block, obstruct or restrict access or use of or permit anyone to block, obstruct or restrict access

or use of the Easement Area by the Owner of a Benefited Lot, or its Occupants, guests, invitees, licensees, agents or contractors or other Persons.

4.6.9 No parking is permitted within or upon the Alley Easement or the Open Space Easement (and the Easement Area subject thereto).

4.7 Additional Restrictions on Uses of UBE Easements. In addition to the restrictions listed in Section 4.7, UBE Easements and the uses thereof by the Owner of the applicable Benefited Lot (and such Owner's Occupants, guests, invitees, licensees, agents or contractors) shall be subject to the following conditions, restrictions and limitations:

4.7.1 the Owner of the Burdened Lot (or such Owner's Occupants, agents or contractors) shall have the right, at reasonable times and on prior notice to the Owner of the Benefited Lot (except in the case of an emergency, where no such prior notice shall be required), and with as little interference with the activities and privacy of the Owner of the Benefited Lot and such Owner's Occupants and guests as is reasonably possible, to enter upon the UBE Easement side yard of the Benefited Lot for purposes of painting, repairing, maintaining and inspecting the exterior wall and roof of the Residential Unit on such Burdened Lot, as well as periodic spraying for insects and other pests.

4.7.2 no tree shall be placed such that the center of such tree is within five (5) feet of any fence wall or exterior wall of a Residential Unit or other structure on either the Burdened Lot or the adjacent Benefited Lot.

4.7.3 neither the Owner of the applicable Benefited Lot nor such Owner's Occupants, guests, invitees, licensees, agents or contractors shall attach anything, either permanently or temporarily, to the exterior wall of the Residential Unit on the adjacent Burdened Lot, or do anything which would otherwise damage or alter such exterior wall or the fence wall attached thereto.

4.7.4 no permanent hardscape structures, such as but not limited to, pools, spas, bar-be-que structures, or similar structures, shall be placed within the Easement Area.

## ARTICLE 5

### CBUs AND MAILBOXES

#### 5.1 CBUs and Mailboxes.

5.1.1 If required or requested by the USPS, or if Declarant or the Master Association deems it necessary or appropriate, Declarant or the Master Association may install one or more CBUs within or adjacent to the Property for purposes of providing mail delivery service to Owners and Occupants of Lots within the Property. Unless required by the USPS, Declarant or the Master Association may elect not to install CBUs at all or, if CBUs are installed, those installed CBUs may serve fewer than all Lots within the Property (and the Owners and Occupants thereof); any Owner or Occupant not served by a CBU shall be responsible for installing (if not already installed) and maintaining an individual Mailbox on his, her or its Lot or on a single post shared by two adjacent Lots and the Owners and Occupants thereof, in accordance with the rules and regulations of the USPS and in accordance with the provisions of Article 3 and the Master Association Rules. Any CBU shall be deemed an Improvement, and except as otherwise provided

in this Declaration, shall be deemed to be a part of the Areas of Common Responsibility. The Master Association shall be responsible for managing, maintaining, repairing and replacing any CBU, with the costs thereof to be a Common Expense, except as otherwise provided in this Declaration. The Master Association may retain the services of a mailbox contractor or other agent or independent contractor for purposes of performing some or all of such duties. For safety and security reasons, no management, maintenance, repair or replacement of any CBU shall be performed by any person or entity other than the Master Association or its designated mailbox contractor, agent or independent contractor. In no event shall more than one Mailbox in a CBU be assigned or allocated to a single Lot, regardless of the number of Occupants thereof. Likewise, any Mailbox not contained within a CBU shall be deemed an Improvement and shall be maintained, repaired and otherwise kept in good condition and repair in accordance with rules and regulations of the USPS and with the provisions of this Declaration and the Master Association Rules; in the case of an individual Mailbox situated entirely on and serving any Owner or Occupant of a single Lot, the Owner of such Lot shall be responsible therefor, and in the case of an individual Mailbox situated as a pair of Mailboxes on a single post shared between the adjacent Lots, the Owner of the Lot to which the individual Mailbox is assigned shall be responsible therefor, and the Owners of the two adjacent Lots served by the Mailboxes on such single post shall be jointly responsible for such post and related supports and the like, provided, however, that if either such Owner (or any of such Owner's Occupants or any other Persons for whom such Owner is legally responsible) causes any damage to such post or related supports and the like, or to the other Mailbox on such post assigned to the adjacent Lot, such Owner shall be responsible, at such Owner's costs and expense, for making all necessary repairs and replacements.

5.1.2 Generally, the key(s) to a Mailbox (whether or not contained in a CBU) will be delivered by the USPS or its duly delegated representative, or by the Declarant or its duly delegated representative, to the first retail purchaser of a Lot from the Declarant. Subject to any rules or regulations adopted from time to time by the USPS, and subject to any Master Association Rules, upon subsequent transfers of ownership or occupancy rights with respect to any Lot, the parties to such transfer shall be responsible for arranging for the transfer of any and all keys to the Mailbox assigned to such Lot. Neither Declarant nor the Master Association shall have any responsibility for any such subsequent transfers of keys, failure to transfer keys, or misdelivery or theft of mail resulting from subsequent transfers of keys or failure to transfer keys.

5.1.3 Each Owner shall be responsible for reporting to and obtaining from the USPS any lost or damaged keys to the CBU Mailbox assigned to such Owner's Lot, and shall be responsible, at such Owner's sole cost and expense, for obtaining a replacement key, rekeying of the Owner's CBU Mailbox, and any necessary related repairs to the CBU. No locksmith or other person (including, without limitation, the Owner of the Lot to which the CBU Mailbox at issue is assigned), other than the USPS or its designated mailbox contractor, agent or other independent contractor shall do any work on or with respect to the CBU or any Mailbox therein, including, without limitation, rekeying any CBU Mailbox, making replacement or additional keys for any CBU Mailbox, or repairing or servicing the CBU or any Mailbox therein.

5.1.4 For the security of all Owners and Occupants, each Owner shall report promptly to the USPS any and all mail theft discovered by such Owner and any vandalism or other damage to the Owner's CBU Mailbox or to the CBU to the USPS. The Master Association shall have no responsibility for any mail theft or misdelivery of mail, nor shall the Master Association have any responsibility with respect to vandalism or other damage to an Owner's CBU

Mailbox or to the CBU, and the Master Association's responsibility shall be limited to repair or replacement as necessary, in the Master Association's sole discretion (but subject to applicable USPS rules and regulations), to restore the CBU and any applicable CBU Mailbox to its condition immediately prior to the vandalism or other damage. To the extent that the need for any repair, replacement, maintenance or other work is attributable to the actions of any particular Owner or Occupant, the Master Association may, in its sole discretion, seek to recover from such Owner (or the Owner of such Occupant's Lot) all costs suffered or incurred by the Master Association in performing such repair, replacement, maintenance or other work, which costs shall bear interest at the rate of twelve percent (12%) per annum from the date incurred by the Master Association until such costs and interest have been fully repaid by the applicable Owner (or Occupant), and which costs and interest shall be secured by the Special Service Assessment lien against the applicable Owner's Lot.

## ARTICLE 6

### GENERAL PROVISIONS

6.1 Enforcement. The Master Association, any Owner, or the Master Association has the right to enforce the Project Documents.

6.2 Term; Method of Termination. Unless terminated in accordance with this Section, this Declaration (as amended from time to time) will continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded, after which time this Declaration will be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Members holding ninety percent (90%) or more of the votes in the Master Association. If the necessary votes and consents are obtained, the Board of Directors will cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Master Association, with their signatures acknowledged. Thereupon this Declaration will have no further force and effect, and the Master Association will be dissolved pursuant to applicable law.

#### 6.3 Amendments.

6.3.1 This Declaration may be amended at any time and from time to time during the original term of this Declaration or any extensions of that term, but, except for amendments made pursuant to Subsections 6.3.2 or 6.3.3 of this Declaration, this Declaration may only be amended by a Recorded instrument approved by at least two-thirds (2/3) of the Lots and approved by the Board of Directors as required by the Master Declaration.

6.3.2 Either the Board of Directors or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant.

6.3.3 So long as the Declarant and/or one or more Declarant Affiliates own, in the aggregate, fee title to at least two-thirds (2/3) of the Lots, the Declarant may amend this Declaration

without the consent or approval of any other Owner or other Person, other than the approval of the Board of Directors as required by the Master Declaration. Any amendment made by the Declarant pursuant to this Subsection 6.3.3 must be executed by the Declarant and must be Recorded.

6.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, no amendment to this Declaration will be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments) and is approved by and consented to by the Master Association prior to recordation.

6.4 Interpretation. Except for judicial construction, the Master Association has the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Master Association's construction or interpretation of the provisions hereof will be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

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

6.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration are determined by a court of competent jurisdiction (upheld on appeal) to be unlawful, void or voidable for violation of the rule against perpetuities, then the covenants, conditions, restrictions or other provisions so determined to be unlawful, void or voidable will continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

6.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances will operate to extinguish, terminate or modify any of the provisions of this Declaration.

6.8 Laws, Ordinances and Regulations. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be in violation of this Declaration.

6.9 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Property may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration, but whether or not any such reference is made in any deed or instrument, each and all of the provisions of this Declaration are and will be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

6.10 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders includes each of the other genders, words in the singular include the plural, and words in the plural include the singular.

6.11 Captions and Title; Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles,

Sections or Subsections, or to lettered Exhibits, will be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

6.12 Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) may be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

6.13 Subordination to Master Declaration. The Property is subject to, and this Declaration is subject and subordinate to, the Master Declaration, the articles of incorporation and bylaws of the Master Association, the Tract Declaration, and the Power Ranch Rules (as defined in the Master Declaration), and the Property and all Owners (including without limitation the Declarant) are subject to the jurisdiction of the Master Association.

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

[SIGNATURE ON FOLLOWING PAGE]

RICHMOND AMERICAN HOMES OF ARIZONA, INC.,  
a Delaware corporation

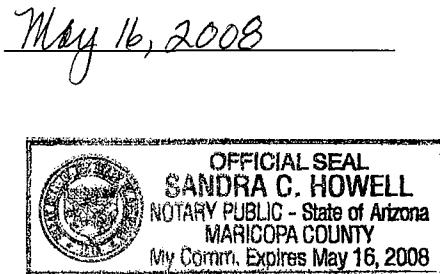
By Jill J. Lewis  
Its VP

STATE OF ARIZONA      )  
                            )  
                            ) ss.  
County of Maricopa      )

Acknowledged before me this 24<sup>th</sup> day of April, 2006, by  
JILL J. LEWIS, the VP of Richmond  
American Homes of Arizona, Inc., a Delaware corporation, on behalf of such entity.

Sandra C. Howell  
Notary Public

My Commission Expires:



## CONSENT OF POWER RANCH COMMUNITY ASSOCIATION

POWER RANCH COMMUNITY ASSOCIATION, an Arizona non-profit corporation (the "Master Association"), acting by and through its Board of Directors, hereby approves of the foregoing Declaration, and declares that: (i) the foregoing Declaration shall be subject and subordinate in all respects to the provisions of the Master Declaration, the Power Ranch Rules (as defined in the Master Declaration), and the articles of incorporation and bylaws of the Master Association (collectively, the "Power Ranch Master Documents"), and in the event of any conflict or inconsistency between the terms or provisions of the foregoing Declaration and the terms or provisions of the Power Ranch Master Documents, the Power Ranch Master Documents shall control unless the conflicting or inconsistent provision in the foregoing Declaration is more restrictive; and (ii) the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to the Power Ranch Master Documents and to the jurisdiction of the Master Association, and further subject to any applicable Tract Declaration(s) and Supplemental Declaration(s) Recorded prior to the Recordation of the foregoing Declaration.

POWER RANCH COMMUNITY ASSOCIATION, an  
Arizona non-profit corporation

By: Sean Walters

Its: PRESIDENT.

STATE OF ARIZONA )  
 ) ss  
County of Maricopa )

Sean T. Walters The foregoing instrument was acknowledged before me this 24 day of April, 2006, by  
the President of Power Ranch Community Association, an  
Arizona non-profit corporation, on behalf of the corporation.

Christie Petersen  
Notary Public



My Commission expires: December 1, 2008

## **EXHIBIT A**

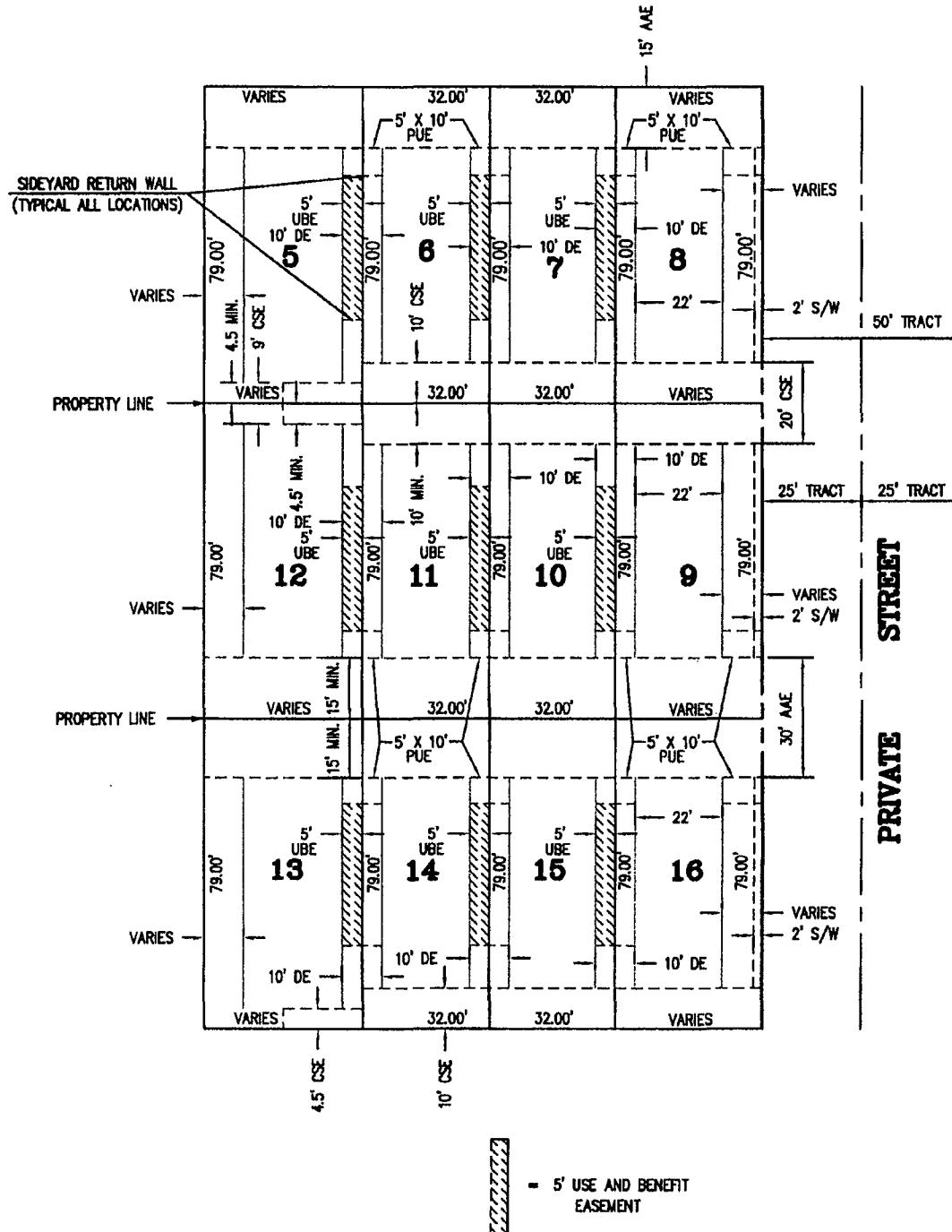
### **LEGAL DESCRIPTION**

Lots 1 through 184, inclusive, and Tracts 1 through 31, inclusive, according to the plat recorded in Book 745 of Maps, page 46, and Instrument No. 05-0579229, official records of Maricopa County, Arizona.

**EXHIBIT B**

**TYPICAL FICTIONAL LAYOUT OF ALLEY, OPEN SPACE AND UBE EASEMENTS**

Diagram Attached



## **A.A.E. C.S.E. AND U.B.E. EASEMENT DETAILS**

N.T.S.

## **DRAINAGE EASEMENT**

DRAINAGE CONVEYANCE IS PROVIDED BETWEEN ADJACENT  
INTERIOR LOTS BY A 10' DRAINAGE EASEMENT (5' ON  
EACH SIDE OF THE LOT LINE) EXTENDING FROM THE  
LIMITS OF THE PAE TO THE LIMITS OF THE CSE

## **EASEMENTS NOTES**

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### **USE AND BENEFIT EASEMENT**

1. LOTS 2-7, 10-15, 18-23, 26-31, 34-39, 42-47, 50-55, 57-59, 62-67, 70-75, 78-83, 86-91, 94-96, 98-103, 105-107, 110-115, 118-123, 126-131, 134-136, 138-143, 146-151, 154-159, 162-167, 169-171, 173-175 & 178-183 SHALL HAVE A PRIVATE "USE AND BENEFIT EASEMENT" (UBE) OF NOT LESS THAN FIVE (5) FEET IN WIDTH, MEASURED FROM THE COMMON PROPERTY LINE TO THE EXTERIOR BUILDING WALL OF THE AFFECTED LOT, WITHIN THE ENTIRE LENGTH BETWEEN THE SIDEYARD RETURN WALLS. (AS DEPICTED BY HATCHED AREA, DETAIL THIS SHEET 2.)
2. THE UBE MAY BE USED BY THE BENEFITED LOT FOR LANDSCAPING, DRAINAGE CONVEYANCE AND MAINTENANCE PURPOSES AND BY THE AFFECTED LOT FOR DRAINAGE CONVEYANCE AND FOR MAINTENANCE OF THE SIDE YARD RETURN WALL AND THE EXTERIOR PORTION OF THE RESIDENCE AND GARAGE.
3. PERMANENT HARDSCAPE STRUCTURES (SUCH AS POOLS, SPAS, BAR-BE-QUE STRUCTURES, FENCES AND SIMILAR STRUCTURES) ARE PROHIBITED WITHIN THE UBE.
4. ADDITIONAL USES, TERMS AND CONDITIONS GOVERNING THE UBE'S ARE SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THIS PLAT, TO BE RECORDED HEREAFTER.

### **ALLEY ACCESS EASEMENT**

1. VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS FOR ALL LOTS IS PROVIDED BY A THIRTY (30') FOOT WIDE "ALLEY ACCESS EASEMENT" (AAE), EXTENDING FIFTEEN (15') FEET INTO THE REAR OF THE EACH LOT, AS SHOWN ON THE ALLEY ACCESS EASEMENT DETAIL.
2. THE AAE MAY BE USED FOR VEHICLE AND PEDESTRIAN INGRESS AND EGRESS, DRAINAGE CONVEYANCE, LANDSCAPING AND MAINTENANCE ACCESS.
3. PUBLIC SEWER AND WATER EASEMENTS EXIST WITHIN EACH OF THE AAE'S.
4. PARKING IS PROHIBITED WITHIN THE AAE.
5. PUBLIC UTILITY EASEMENTS (PUE), MAY CROSS PORTIONS OF THE AAE, AS SHOWN ON THE PLAT.
6. ADDITIONAL USES, TERMS AND CONDITIONS GOVERNING THE AAE'S ARE SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THIS PLAT, TO BE RECORDED HEREAFTER.

### **COMMON OPEN SPACE ACCESS EASEMENT**

1. PEDESTRIAN INGRESS AND EGRESS FOR ALL LOTS IS PROVIDED BY A TEN (10', 5' IN SOME CASES) FOOT WIDE "COMMON OPEN SPACE EASEMENT" (CSE), EXTENDING TEN (10') FEET INTO THE FRONT OF EACH LOT, AS SHOWN ON THE COMMON OPEN SPACE EASEMENT DETAIL. ADDITIONAL COMMON OPEN SPACE EASEMENT LOCATED WITHIN EACH LOT IS FURTHER DEFINED AND ESCRIBED IN THE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THIS PLAT, TO BE RECORDED HEREAFTER.
2. THE CSE MAY BE USED FOR PEDESTRIAN INGRESS AND EGRESS, DRAINAGE CONVEYANCE, LANDSCAPING AND MAINTENANCE ACCESS.
3. PARKING IS PROHIBITED WITHIN THE CSE.
4. PUBLIC UTILITY EASEMENTS (PUE), MAY CROSS PORTIONS OF THE CSE, AS SHOWN ON THE PLAT.
5. ADDITIONAL USES, TERMS AND CONDITIONS GOVERNING THE CSE'S ARE SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THIS PLAT, TO BE RECORDED HEREAFTER.

**EXHIBIT C**

**LOTS SUBJECT TO UBE EASEMENTS**

LOTS:

2-7, 10-15, 18-23, 26-31,  
34-39, 42-27, 50-55, 57-59,  
62-67, 70-75, 78-83, 86-91,  
94-96, 98-103, 105-107, 110-115,  
118-123, 126-131, 134-136,  
138-143, 146-151, 154-159,  
162-167, 169-171, 173-175,

AND 178-183

## EXHIBIT D

### LIST OF CERTAIN PROHIBITED PLANTS

The following tree species listed below are trees that are readily available throughout the Phoenix Metropolitan area at commercial and wholesale nurseries. This is a comprehensive list of tree species which commonly have shallow and up heaving root systems.

<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
Eucalyptus ssp.	Eucalyptus tree
Ulmus spp.	Elm tree
Acer spp.	Maple tree
Poplar spp.	Poplar tree
Salix babylonica	Weeping willow
Magnolia grandiflora	Southern magnolia
Ficus spp.	Fig
Cacti	Cactus