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AMENDMENT TO COMMUNITY DECLARATION

OF

MORNING STAR RANCH

SANTA CRUZ COUNTY, ARIZONA

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AMENDMENT TO COMMUNITY DECLARATION  
OF  
MORNING STAR RANCH  
SANTA CRUZ COUNTY, ARIZONA

This Amendment to the Declaration of Covenants, Conditions and Restrictions of Morning Star Ranch dated February 7, 1997, and recorded February 18, 1997, in Docket 716, at page 990, in the records of Santa Cruz County (the "Community Declaration") is made by Morning Star Ranch Community Association, an Arizona nonprofit corporation (the "Association"). Capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Community Declaration.

RECITALS

A. Declarant has commenced the construction of a water system (defined below) in the Ranch which is intended to supply water to some or all of the Lots. Declarant may, in its sole discretion, transfer the water system (in its entirety or in phases) to the Association, which will then be responsible for its operation.

B. The Association has determined that it would be in the best interests of the Owners for the Association to accept these transfers, but no provisions were made in the Community Declaration for the Association to own and operate a water system. Therefore, the Board has unanimously agreed to amend the Community Declaration as provided below in order (i) to authorize the Association to own and operate a water system, (ii) to specify the Association's duties with regard to the water system, and (iii) to provide a method for payment of the expenses of the water system.

NOW, THEREFORE, pursuant to the authority granted in Section 14.1 of the Community Declaration the Community Declaration is amended by adding the following article thereto:

17. WATER SERVICE.

17.1. Definition of Water System. As used in this Community Declaration, the term "water system" shall mean all real and personal property which is used in connection with the supply of water to some or all of the Lots, including wells, pipes, tanks, pumps, and meters, if any, together with the real property on which such items are located, whether owned in fee simple or as an easement.

17.2. Acceptance and Operation of Water System. The Association is authorized to accept the transfer of title to a water system from Declarant, in such phases and at such times as Declarant may, in its sole discretion, decide to make such transfers, and thereafter to take all such actions as may be necessary to operate it. Once accepted, the water system shall be considered to be part of the Community Common Areas (but not subject to use by the Owners under Section 3.2), and Declarant shall have no further responsibility for it.

17.3. Additions to Water System. The Association is further authorized, at its expense, to acquire any additional real or personal property which it deems to be convenient or necessary to the operation of a water system within the Ranch, and may, in the exercise of its discretion, extend the water system received from Declarant to serve any Lots not then connected thereto. The Association shall have the right to use the Private Roads within the Ranch for any such additions.

17.4. Provision of Water Service to Lots. As long as it owns and operates the water system, the Association shall use reasonable efforts to deliver water to those Lots connected to the water system on a continuous basis. In providing water service as described herein, the Association shall operate the water system for the exclusive benefit of the Owners. If any Lot is not connected to the water system at the time it is transferred to the Association, the Board may, upon the request of such Lot Owner, extend the water system to serve his Lot. The Board, in its discretion, may require as a condition to extending the water system to such Lot that the Owner thereof advance to the Association all costs of extending the water system to his Lot and agree to reimburse the Association for any expenses incurred in connection with delivering water to his Lot which are not incurred in providing service to other Lots or which are substantially in excess thereof. Once constructed, any such addition shall thereafter be considered to be part of the water system.

17.5. Use of Water. The Owners shall be entitled to use the water delivered to their Lots for domestic purposes, including drinking, swimming, providing water to permitted animals, and watering permitted vegetation and gardens. The Owners of Special Amenity Lots shall also be entitled to use the water for such purposes as may be reasonably necessary in connection with the Special Amenities permitted thereon.

17.6. Interruption or Cessation of Delivery. The Association shall have the right to interrupt, limit, curtail, or cease delivery of water to Lots for purposes of maintaining, repairing, replacing or improving the water system. In addition, the Association shall have the right to permanently or temporarily cease delivery of water to the Lots upon the vote of two-thirds of

the Members to do so. If the Association ceases delivery of water, each Owner shall have the right to drill a well on his Lot or to otherwise obtain water by any legal means. The Association shall incur no liability to any Owner or Member for any damages or expenses of any kind that may be incurred as a result of an interruption or cessation of delivery pursuant to this section.

17.7. Transfer to a Water Company. In the event a water company qualified to act as a public utility by the State of Arizona is willing to add the Ranch to its certificated area, the Association shall be authorized to transfer title of the water system to such company for no or nominal consideration other than its agreement to provide water to the Lots.

17.8. Payment of Water System Operating Expenses. Water system operating expenses shall include the following items: (a) all costs incurred by the Association to operate, maintain, repair or provide ordinary replacements to the water system; (b) all attorney's fees, inspection fees, operator's fees, government permit fees or insurance premiums necessary to accomplish the foregoing; and (c) all other costs and expenses reasonably related to the operation of the water system. All water system operating expenses shall be deemed to be Common Expenses to be paid from the Regular Assessments. Alternatively, upon a vote of two-thirds of the members of the Board, such expenses may be apportioned among only those Owners connected to the water system in one of the following two ways: (i) on the basis of the amount of water used (as determined by meter); or (ii) on the basis of the number of Lots owned. If either alternative is chosen, the Association shall bill such Owners for their share of such expenses on either a monthly or quarterly basis. In addition, if the first alternative is chosen, each Owner shall be responsible to reimburse the Association for the cost of purchasing and installing a meter to measure the quantity of water delivered to his Lot or Lots. Amounts owing under this section shall be deemed to be Assessments for purposes of the lien and collection provisions of Article 4 of this Community Declaration.

17.9. Payment of Capital Expenses. Capital expenses shall include: (a) all costs to deepen or improve any wells included in the water system and to drill any new wells determined to be necessary for its continued operation; (b) all costs to extend the water system to any lot not then served; and (c) all other capital repairs, maintenance or replacement of water system improvements. Capital expenses shall be assessed and collected as either Capital Improvement Assessments or Reconstructions Assessments, depending upon the type of expense involved. Alternatively, upon a vote of two-thirds of the members of the Board, the expenses in subsections (a) and (c) of this section may be apportioned among all of the Owners on the basis of the total amount of water delivered to each Owner's Lot or Lots since the installation of meters up to the time

the Association incurs such expenses, and the expenses in subsection (b) of this subsection may be charged to the Owner or Owners of the Lot or Lots served by such extension. Amounts owing under this section shall be deemed to be Assessments for purposes of the lien and collection provisions of Article 4 of this Community Declaration.

Dated December 9, 1997

MORNING STAR RANCH COMMUNITY ASSOCIATION,  
an Arizona nonprofit corporation

By Philip M. McLaughlin  
Philip M. McLaughlin, President

STATE OF MASSACHUSETTS )  
COUNTY OF Suffolk ) ss:

The foregoing instrument was acknowledged before me this 9 1997 day of December, 1997, by Philip M. McLaughlin, President of Morning Star Ranch Community Association, an Arizona nonprofit corporation, on behalf of the corporation.

Ellen P. McLaughlin  
Notary Public

My Commission Expires:

10/26/2001

Ellen P. McLaughlin  
NOTARY PUBLIC  
My Commission expires Oct 26, 2001

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CONSENT

The undersigned, as the Declarant under the Community Declaration referred to above, hereby gives its consent to the foregoing Amendment, as required by Section 14.4(b) of the Community Declaration.

MORNING STAR RANCH DEVELOPMENT, L.L.C.,  
an Arizona limited liability company

By Philip M. McLaughlin  
Philip M. McLaughlin, Manager

STATE OF MASSACHUSETTS )  
COUNTY OF Suffolk )  
                          ) ss:

The foregoing instrument was acknowledged before me this 9th  
day of December, 1997, by Philip M. McLaughlin, Manager of Morning  
Star Ranch Development, L.L.C., an Arizona limited liability  
company, on behalf of the company.

Ellen P. McLaughlin  
Notary Public

My Commission Expires:

10/26/2001

Ellen P. McLaughlin  
NOTARY PUBLIC  
My Commission expires Oct 26, 2001