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**AMENDED AND RESTATED  
DECLARATION AND ESTABLISHMENT OF PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS**

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This Amended and Restated Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements (this "Declaration") is made as of the 28<sup>th</sup> day of April, 2016 by and among DABDOUB ACQUISITIONS LLC, an Arizona limited liability company ("Declarant"), THE ACADEMY VILLAGE HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation (the "Association"), THE ARIZONA SENIOR ACADEMY, an Arizona non-profit corporation ("Academy"), and ACADEMY SERVICES CORPORATION, an Arizona non-profit corporation ("Academy Services Corporation").

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**RECITALS**

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A. The original Declaration and Establishment of Protective Covenants, Conditions and Restrictions and Grant of Easements, dated September 17, 1998, was recorded in the Pima County Recorder's Office at Sequence #19981770066, as amended from time to time (collectively, the "Original Declaration"). The original Declarant, Fidelity National Title Agency, Inc., was succeeded several times by assignments, and the current Declarant obtained such rights pursuant to an Assignment of Declarant's Rights, dated June 10, 2014, and recorded in the Pima County's Recorder's Office on June 10, 2014, at Sequence No. 20141610584.

B. The subject of this Declaration is the real property legally described on Exhibit A attached hereto and made a part hereof, which is known as "The Academy Village" and is also known and/or marketed as "Altura" (the "Subject Property").

C. The Blocks (defined herein) are constituents of the Subject Property, have been deeded to third parties, and are now owned in fee simple by the Academy, Academy Services Corporation and the Association, respectively.

D. The Owners of the Blocks, with the consent of the Declarant, desire to amend and restate the Original Declaration in its entirety pursuant to this Declaration.

E. Portions of Subject Property are owned by the Academy, which facilities are intended to be used for educational, literary, cultural and scientific purposes. Other portions of Subject Property have been and will continue to be developed, and will be known as the Altura residential subdivision. Portions of the Subject Property are also owned by Academy Services Corporation, and may be used for health care purposes or other uses permitted under the Rocking K Amended Specific Plan, passed by Ordinance #1997-69 on September 16, 1997.

G. The Plat (as herein defined) is for the mutual benefit of all of the Subject Property; and Declarant and Block Owners have and intend hereby to sell, lease, use, occupy, improve and convey the Subject Property, subject to the covenants, restrictions, uses, limitations, easements, equitable servitudes, charges and liens hereinafter set forth, each of which is intended for the benefit of the Subject Property and the subsequent owners of all and portions thereof.

H. The Subject Property is subject to the Residential Declaration (as defined below) and this Declaration. The Residential Declaration applies primarily to the Lots, and this Declaration applies primarily to the Blocks, although there are selected provisions within the Residential Declaration and this Declaration that affect both Block and Lot Owners.

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**COVENANTS**

In consideration of the foregoing recitals, which are incorporated herein and made a part hereof, Declarant and the Block Owners declare that the Subject Property is and shall be held, conveyed, encumbered, leased, improved and used subject to the covenants, agreements, conditions, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens in this Declaration, and the covenants, agreements, conditions, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens in the Residential Declaration, all of which are for the purpose of benefiting, enhancing and protecting the Subject Property and the value, desirability and attractiveness thereof. This Declaration and the Residential Declaration shall run with the land constituting the Subject Property, shall be binding upon all Persons having or acquiring any interest in Blocks A, B and C; the Common Area; and the Lots, and shall inure to the benefit of, be binding upon and enforceable as provided herein.

**ARTICLE 1  
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the meanings hereinafter assigned:

1.1 **"Academy"** shall mean The Arizona Senior Academy, an Arizona non-profit corporation, its successors and assigns.

1.2 **"Academy Services Corporation"** shall mean The Academy Services Corporation, an Arizona non-profit corporation, its successors and assigns.

1.3 **"Association"** shall mean The Academy Village Homeowners Association, Inc., an Arizona non-profit corporation, its successors and assigns.

1.4 **"Block"** shall mean any lettered parcel of real property within the property shown on the Plat, as may be amended, together with any improvements, if any, thereon and any subdivisions thereof, which as of the date hereof includes Blocks A, B and C. Block C was not created until after the filing of the original Plat dated 1998, and was split off from Block A in 2009, and is shown on the Development Plan, Revision No. 2, attached hereto as Exhibit B, and made a part hereof.

1.5 **"Block Owner"** shall mean the record owner of title to any Block in the Subject Property. Block Owner does not include Persons who hold an interest in any Block merely as security for the performance of an obligation; or a lessee, tenant, licensee, business invitee or guest of a Block Owner.

1.6 **"Building Area"** shall mean all areas on Blocks A, B and C subject to compliance with applicable Pima County development ordinances. With respect to the Lots, Building Area shall mean the area within the footprint of the homes built or to be built with respect to each individual Lot subject to the applicable building and zoning codes of Pima County, or as may be altered, modified or adjusted by permission of the Association or Declarant.

1.7 **"Common Area"** shall include all real property and improvements thereon designated on the Plat as "Common Areas A, B and C"; and expressly excludes Blocks A, B and C.

1.8 **"Declarant"** shall mean Dabdoub Acquisitions LLC, an Arizona limited liability company, and its successors or assigns who have been designated in writing by Declarant as successor to all or a portion of Declarant's rights hereunder, so long as it possesses a fee interest in all or a portion of the real property shown on the Plat.



1 commercial or other uses not inconsistent with the foregoing and as may now or in the  
2 future be allowed under applicable zoning restrictions.

3  
4 2.1.5 Block C may be used and improved for educational, scientific, cultural, and  
5 literary purposes and specifically may be used for medical and healthcare purposes  
6 including, but not limited to, assisted-living facilities and related services.

7  
8 2.2 The foregoing permitted uses are subject to all matters of record as of and prior to the  
9 date this Declaration is recorded in the Office of the Pima County, Arizona Recorder, and also are subject  
10 to all applicable rules, regulations, ordinances and laws.

11  
12 2.3 The Common Areas within the Subject Property may be used only for the purposes for  
13 which they are improved from time to time.

14  
15 2.4 Notwithstanding the foregoing or any provision herein to the contrary, and subject to  
16 applicable rules, regulations, ordinances and laws, should the Declarant elect to reconfigure, combine,  
17 realign or adjust the boundaries of the Lots, or change the designated use of the Lots, Declarant may do so  
18 with the consent or approval of the Block Owners

19  
20 **ARTICLE 3**  
21 **DEVELOPMENT OF THE SUBJECT PROPERTY**

22  
23 3.1 No building, structure or other improvement shall be erected, placed or maintained on  
24 any Block, except as provided in this Declaration.

25  
26 3.2 Without the prior unanimous consent of the Declarant and the Owners of Blocks A, B  
27 and C, no building, improvement or other structure erected on a Block shall exceed three (3) stories in  
28 height; nor shall any such building, structure or other improvement on a Block exceed thirty-nine (39)  
29 feet in height.

30  
31 3.3 Except as otherwise provided in this Section, no Owner of Block A, B or C shall  
32 commence or permit the commencement of construction thereon of any building, structure or other  
33 improvement, including signs, unless the design, architecture, exterior elevations, configuration, height,  
34 canopy design, dimensions, landscape designs, location and other attributes thereof shall have first been  
35 approved in writing by all of the other Block Owners.

36  
37 3.3.1. Block Owner approval shall not be required for any changes or new facilities and  
38 improvements that are not a material alteration from the initial improvements on a Block,  
39 or from a previously-approved alteration. Thus, Block Owners do not need approval for  
40 the construction of additional improvements on their respective Blocks, provided that  
41 such subsequent construction complies in all material respects with the architectural  
42 design of the initial improvements on the Block and all applicable building and zoning  
43 laws and regulations.

44  
45 3.3.2. The Plat identifies certain future development on Blocks B and C, including an  
46 auditorium on Block B, and additional assisted living and medical uses on Block C. The  
47 exact configuration, location and size of the potential future development shown on the  
48 Plat may change during planning and construction, and such changes shall not require  
49 any additional approvals from the Block Owners provided that such changes comply with  
50 applicable codes and do not materially depart from the architectural design of the initial  
51 improvements already located on such Blocks.

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2 3.3.3. In instances where a Block Owner is providing and maintaining any required or  
3 optional parking on its own Block, approval of the other Block Owners is not required.  
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5 3.3.4. Any material changes, modifications or supplements to the Plat shall require the  
6 prior written approval of all Block Owners.  
7

8 3.3.5. In the event any Block Owner plans new construction or renovations to existing  
9 structures, which materially depart from the architectural design of the existing  
10 improvements, such Block Owner shall first obtain the prior written approval of all other  
11 Block Owners. Written approval shall also be obtained from Declarant, provided he owns  
12 at least 50 Lots at the time of the plan review.  
13

14 3.3.6. No Block Owner shall make or permit any material alteration to any  
15 improvements which have been previously approved without first obtaining the prior  
16 written approval of all Block Owners.  
17

18 3.3.7. Even if Block Owner approval is not required for an improvement or  
19 modification, all Block Owners may review proposed construction plans for said  
20 improvements, prior to any construction, to ensure that the architectural and site plans are  
21 consistent with existing building design and applicable building and zoning laws and  
22 regulations.  
23

24 3.4 During construction of any improvements on a Block, the construction area shall be  
25 fenced off or otherwise segregated so as not to interfere with the course of business of the remainder of  
26 the Subject Property and shall be maintained in a clean and dust-free condition. The Block Owners  
27 acknowledge that the various Blocks are currently used for educational, medical and assisted-living  
28 purposes, and shall conduct all construction in the vicinity of such specific uses in a manner to minimize  
29 noise and other interference with such adjoining uses. Once commenced, construction shall be  
30 continuously and diligently pursued until completion.  
31

32 3.5 All buildings, structures and improvements on, of or to the Lots and the development  
33 thereof shall be subject to the covenants, conditions, restrictions, limitations, obligations and other matters  
34 set forth in the Residential Declaration. However, the Association's Architectural Control Committee  
35 (the "ACC") has no jurisdiction or control over construction of any improvements on a Block, and the  
36 prior written approval of the ACC is not required for any such construction.  
37

#### 38 **ARTICLE 4** 39 **COMMON AREA AND EASEMENTS** 40

41 4.1 The record owner of the Common Area hereby grants, gives and conveys to each Lot and  
42 Block Owner, and to each Person who hereafter becomes a Lot or Block Owner, without further act  
43 required, and to their members, beneficiaries, licensees and invitees (collectively, "Grantees"), non-  
44 exclusive, irrevocable and perpetual easements over, across, upon and beneath the Common Area for the  
45 sole, exclusive and limited purposes for which they are initially improved, and as otherwise provided in or  
46 granted by the Plat. Nothing contained herein shall be deemed to be or constitute a gift or dedication of  
47 any portion of the Subject Property to the general public or for any public use or purpose whatsoever.  
48

49 4.2 No Lot or Block Owner or the record owner of the Common Area, except Developer or  
50 Declarant, shall materially alter any improvement now or hereafter located upon any portion of the  
51 Common Area without the prior written consent of a majority of the Block Owners and the Association

1 during any period that it is not a Block Owner. Notwithstanding the foregoing, a Lot or Block Owner  
2 shall have the right to excavate or conduct installation or construction activities upon the Common Area,  
3 if necessary, in connection with the installation, operation, maintenance, repair, replacement, relocation or  
4 removal of any utilities or public services facilities; provided, however, such excavation or construction  
5 activities shall be pursued diligently to completion. The Lot or Block Owner causing such excavation or  
6 construction activities to be made shall forthwith, after completion thereof, restore any portion of the  
7 Common Area affected thereby, to the same condition as existed prior to the commencement of such  
8 installation or construction activities, using the same type and quality of materials as previously used.

9  
10 4.3 Except as specifically approved by Developer or Declarant and depicted on final  
11 construction plans for work to be performed or as otherwise permitted or provided herein, no fence, wall,  
12 division, rail or obstruction of any type or kind and no signs shall ever be placed, kept, permitted or  
13 maintained on the Common Area except:

14 4.3.1 Such as may be necessary to protect members of the public from  
15 construction or excavation activities.

16 4.3.2 Such as may be required by governmental authorities, rules, regulations,  
17 laws or ordinances.

18 4.3.3 Light standards, parking and traffic control devices and signs, retaining walls,  
19 drainage and utility facilities, fountains, landscaping, walls, planters, planting boxes and  
20 edgers.

21 4.3.4 The signage as approved by Developer or Declarant on final construction  
22 drawings submitted to Pima County for approval from time to time.

23 4.3.5 Temporary barriers or fences erected in connection with permitted installations or  
24 construction activities in the Common Area which are necessary or appropriate to provide  
25 security or to insure the safety of persons and property within the Subject Property.

26 4.4 No charge, fee, toll, levy or expense shall ever be required, assessed or made of or  
27 received by or from any Lot or Block Owner or other Person for any use of the Common Area, except for  
28 costs and expenses incurred by the record owner of the Common Area in maintaining, insuring, repairing  
29 and operating such properties which are passed through to Lot Owners as members of the Association in  
30 the form of assessments and fees or otherwise provided for in the Residential Declaration or any  
31 document referred to therein.

32 4.5 The improvement or use of any portion of a Building Area for parking or service shall not  
33 be construed as an inclusion of such portion within the Common Area, and such portion may, at any time  
34 thereafter, be improved with buildings and appurtenances as herein permitted.

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37 **ARTICLE 5**  
38 **OPERATION AND MAINTENANCE OF BUILDING AREA AND COMMON AREA**

39 5.1 Each Block Owner and the record owner of the Common Area shall maintain, or cause to  
40 be maintained, in a safe, clean, attractive and tenantable condition, all improvements located within the  
41 Subject Property owned or controlled by such owner and shall comply with applicable laws, ordinances,  
42 rules and regulations established or adopted from time to time by all governmental departments and  
43 agencies having jurisdiction over the Subject Property and property located therein. Each Block Owner  
44 and the record owner of the Common Area shall keep and maintain the exterior of their respective

1 improvements, including its grounds and landscaping, in a clean and attractive condition including such  
2 repairs and replacements as are necessary.

3 5.1.1 In the event any Block Owner or the record owner of the Common Area shall be  
4 in default under the terms of this Declaration by reason of its failure to perform or  
5 observe any of the material terms, conditions, covenants or restrictions contained herein,  
6 after fifteen (15) days' notice to such Block Owner or the record owner of the Common  
7 Area by any other Block Owner, the other Block Owner(s) shall have the right, but not  
8 the obligation, to proceed to take such action as shall be necessary to cure such default  
9 including, without limitation, the right to enter upon the site where said default exists and  
10 correct the same, all in the name and for and on behalf of the Block Owner or the record  
11 owner of the Common Area in default hereunder. The defaulting Block Owner or the  
12 record owner of the Common Area shall, on demand, reimburse the curing Block  
13 Owner(s) for their expenses incurred in curing a default, together with interest thereon at  
14 the rate of the greater of eighteen percent (18%) per annum or the Prime Rate assessed by  
15 Wells Fargo Bank from time to time plus four percent (4%), provided such rate shall not  
16 exceed the maximum rate then allowed by law;

17  
18 5.1.2 Any such claim for reimbursement, together with interest as provided above,  
19 shall be a secured right and a lien therefor shall attach to that portion of the Subject  
20 Property and the improvements thereon owned by the defaulting Block Owner or the  
21 record owner of the Common Area. Said lien shall become effective upon the recording  
22 of a Notice of Claim of Lien in the Recorder's Office of Pima County, Arizona, which  
23 shall be signed and certified, stating the amount due, the name of the defaulting Block  
24 Owner or the record owner of the Common Area and the legal description of the property  
25 owned by such defaulting Block Owner or the record owner of the Common Area. The  
26 lien, when recorded against the property described therein, shall be prior and superior to  
27 any right, title, interest, lien or claim which may be acquired or attached to such property  
28 after the date of recording of such Notice of Claim of Lien. Said lien shall be for the use  
29 and benefit of the party filing the same and may be enforced and foreclosed in a suit or  
30 action brought in any court of competent jurisdiction.

31  
32 5.2 If any single building or other improvement on Blocks A, B or C shall be damaged by  
33 fire or other casualty, the Block Owner of the affected property may, at its own expense, cause such  
34 damage to be repaired. If the Block Owner elects not to repair the affected property, such Block Owner  
35 shall promptly raze and landscape the Building Area or damaged portion thereof, and maintain the  
36 landscaping in an attractive condition until the Block is improved. Any rebuilding, repair or restoration  
37 undertaken pursuant to this Section shall be completed forthwith but, in any event, within twelve (12)  
38 months from the time when such rebuilding, repair or restoration is commenced; subject, however, to  
39 delays caused by strikes, labor difficulties, governmental restrictions on building activity, fire, war, acts  
40 of God or other causes (other than financial inability) beyond the reasonable control of the Block Owner  
41 responsible for such rebuilding, repair or restoration.

42  
43 5.3 Except as otherwise provided herein, the record owner of the Common Area shall operate  
44 and maintain, repair or replace, or cause to be operated and maintained, repaired or replaced at all times,  
45 the Common Area, including (but not limited to) the following:

46 5.3.1 Resurfacing of walks, drives and parking areas;

47  
48 5.3.2 Cleaning, painting, striping, disposal of rubbish and debris, removal of soil and  
49 stone that have been washed into the Common Area drainage facilities, and all other tasks  
50 necessary to maintain the Common Areas in a clean, safe and orderly condition;  
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2 5.3.3 Maintenance of all curbs, parking dividers, landscape enclosures, fences and  
3 retaining walls in good condition and repair;

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5 5.3.4 Placing, keeping in repair and replacing any necessary and appropriate  
6 directional signs, markers and lines; and keeping in repair and replacing when necessary,  
7 such artificial lighting facilities and lighting fixtures as shall be reasonably required;

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9 5.3.5 Maintenance of all landscaped areas and all sprinkler systems pertaining to such  
10 areas, the taking of reasonable measures to prevent the spread of insects throughout the  
11 Subject Property, making such replacements of shrubs and other landscaping as is  
12 necessary, and keeping such landscaped areas at all times adequately weeded, fertilized,  
13 irrigated and watered;

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15 5.3.6 Maintenance of all utility lines within the Common Area which are not the  
16 responsibility of a utility company; and

17  
18 5.3.7 Compliance with all maintenance and operating requirements with respect to the  
19 Common Areas as set out in the Residential Declaration.  
20

21 5.4 As part of the operation of the Common Area, the record owner thereof shall obtain and  
22 maintain general public liability insurance insuring all Lot and Block Owners and such other Persons who  
23 now or hereafter own or hold portions of the Subject Property or any leasehold estate or other interest  
24 therein, as their respective interests may appear, against all claims for personal injury, death or property  
25 damage occurring in, upon or about the Common Area. Such insurance shall be written with an insurer  
26 licensed to do business in the State of Arizona. The limits of liability of all such insurance shall be at least  
27 One Million Dollars (\$1,000,000.00) combined single limit, and may be increased by such record owner  
28 in its discretion from time to time. Such record owner shall cause to be kept available at the offices of the  
29 Association certificates of insurance providing that such insurance shall not be canceled or amended  
30 without ten (10) days' prior written notice to each of the Lot or Block Owners. Each such policy shall  
31 provide that it is specific and not contributory and shall name the Lot or Block Owners as additional  
32 insureds as their interests may appear.  
33

34 5.5 The record owner of the Common Area may promulgate reasonable rules and regulations  
35 of general application for the supervision, control and use of the Common Area, in which event such  
36 record owner shall make and use its best efforts to enforce the same or cause the same to be enforced.  
37

38 5.6 In the event of damage to or destruction of the Common Area, the record owner thereof  
39 shall promptly restore, repair and rebuild the Common Area to its former condition to the extent  
40 reasonably practicable.  
41

42 5.7 Until such time as buildings or improvements are constructed on any Lot or Block, the  
43 Lot or Block Owner shall take such measures as may be necessary to control weeds and the erosion of dirt  
44 and sand by wind or water with respect to the undeveloped portion thereof, and shall keep such Lot or  
45 Block free of all debris.  
46

47 5.8 The owners of Blocks A, B and C have granted easements to each other for the purposes  
48 set out in Article 9 of this Declaration, including easements for parking contained on Blocks A, B and C.  
49 Each Block Owner agrees to maintain, repair and replace, as necessary, such easements including the  
50 parking areas located within such Owner's Block. To the extent one Block is disproportionately burdened  
51 with parking to serve the needs of another Block Owner, the affected Block Owners shall work



1 cooperatively and in good faith to determine a fair and equitable contribution to the burdened Block  
2 Owner to contribute to the maintenance, repair and replacement of the parking areas located within such  
3 Owner's Block.

4  
5 5.9 Any additional parking required as a result of any development on the Blocks shall be  
6 constructed and paid for by the Owner of the Block. Notwithstanding any other provision of this  
7 Declaration, such Block Owner may designate the foregoing additional parking as reserved for its guests,  
8 invitees and residents.

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10 **ARTICLE 6**  
11 **INSURANCE**

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13 6.1 All Block Owners and the record owner of the Common Area are required to carry and  
14 keep in force adequate insurance. Each Block Owner shall make a written report to all other Block  
15 Owners, stating insurance coverage in force for each Block, as well as the name of and contact  
16 information for the carrier or agent, and the dollar amount of coverage. This report shall be made  
17 annually, during the first two weeks in January. All Block Owners shall assure the following insurance  
18 coverage is in place:

19  
20 6.1.1 Commercial general liability coverage with combined single limits for bodily  
21 injury and property damage of not less than One Million Dollars (\$1,000,000.00) per  
22 occurrence; and on an occurrence policy form. Such coverage shall at a minimum contain  
23 the following additional coverages and endorsements:

- 24  
25 (a) Premises operations coverage;  
26  
27 (b) Products and completed operations coverage;  
28  
29 (c) Independent contractors' protection;  
30  
31 (d) Personal and advertising injury coverage;  
32  
33 (e) Liquor liability coverage if any liquor is sold or distributed;  
34  
35 (f) Broad form blanket contractual liability coverage for both oral and  
36 written contracts;  
37  
38 (g) Waiver of subrogation in favor of any other Block Owner and record  
39 owner of the Common Area, specifically setting forth that the insurance company shall  
40 waive its rights of subrogation against all other Block Owners and record owner of the  
41 Common Area;  
42 (h) Each Block Owner and record owner of the Common Area shall name  
43 the other Block and record owner of the Common Area as additional insureds with  
44 respect to liability arising from their respective operations and such coverage shall  
45 provide to any other owner as additional insured that it is primary coverage; and  
46  
47 (i) Severability of interest or separation of insureds clause.

48  
49 6.1.2 Fire and other hazard insurance covering any improvements constructed or  
50 placed on Blocks A, B and C or constructed and placed in or on the Common Areas and  
51 any other areas for which a Block Owner has responsibility. Such policy or policies shall

1 consist, at a minimum, of a multi-peril type policy covering the subject improvements,  
2 providing, at a minimum, fire and extended coverage and all other coverage in the  
3 amounts commonly required by private institutional mortgage lenders in Tucson,  
4 Arizona.

5  
6 6.1.3 Block Owners shall maintain automobile liability insurance, medical malpractice  
7 insurance, workers' compensation insurance, and directors and officers' liability  
8 insurance to the extent required for their activities on their respective Blocks.

9  
10 6.2 Each Block Owner and record owner of the Common Area shall, upon request therefor  
11 from any other Block Owner or record owner of the Common Area, furnish the requesting party with  
12 certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this  
13 Article.

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15 **ARTICLE 7**  
16 **ARIZONA SENIOR ACADEMY**  
17 **MANDATORY MEMBERSHIP AND DUES**  
18

19 7.1 Since inception, the development of the Subject Property has included the Academy as an  
20 integral component of the development. The Academy is a public charity and was formed and is operated  
21 to provide a variety of charitable services to the general public, including specifically the southern  
22 Arizona and Tucson areas. The Lot Owners and each of the individuals not holding an ownership interest  
23 in a Lot but who reside on or occupy a Lot, shall each automatically become "Members" of the Academy  
24 at sixty (60) years of age. All Members of the Academy shall become part of the human resources  
25 necessary to develop and support the Academy's programs and deliver the charitable services supporting  
26 education, culture and the arts. The Members of the Academy are entitled to use its resources and have  
27 the right to participate in its programs as determined by the Academy from time to time.

28  
29 7.2 The purchase of a Lot in the Subject Property and the acceptance of a deed therefor  
30 constitutes an express agreement that the Lot Owner shall make, or cause to be made, all payments of  
31 dues and other membership fees and charges imposed by the Academy for each individual sixty (60)  
32 years of age or older who resides on or occupies its Lot during the term of his or her residency or  
33 occupancy. Each Lot Owner shall be liable, jointly and severally if more than one Owner, for the  
34 payments assessed by the Academy as determined by its Board of Directors from time to time. When a  
35 Lot is owned by an entity, including a trust, partnership, corporation, limited liability company or other  
36 form of entity, only those individuals, beneficiaries, partners, shareholders, members, or other individuals  
37 sixty (60) years of age or older and actually residing or occupying the Lot shall be considered as Members  
38 who are entitled to use the Academy resources and participate in its programs. Prospective purchasers  
39 may obtain a current copy of the Academy's dues policy at the address set forth in Section 9.16.

40  
41 7.3 The Owner of Block C shall make, or cause to be made, all payments of dues and other  
42 membership fees and charges to the Academy for each individual sixty (60) years of age or older who  
43 resides on Block C, and each such person shall automatically become a Member of the Academy during  
44 such residency. For purposes of this Article, residents shall not include persons residing on Block C as  
45 part of a skilled nursing, memory care or other specialized healthcare services. Residents of independent  
46 living and assisted-living facilities shall be considered as residents for purposes of the membership  
47 provided herein.

48  
49 7.4 Notwithstanding Section 9.18 below, the foregoing membership requirement may be  
50 amended by the affirmative vote of at least two-thirds (2/3) of the Members of Academy. Upon such  
51 affirmative vote the Academy's Board of Directors shall record a memorandum of such amendment.

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**ARTICLE 8**  
**BLOCK OWNERS AGREEMENTS**

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8.1 The Block Owners shall cause the improvements and modifications on each Block to be completed in such a way to facilitate pedestrian and motor vehicle movement between the different facilities constructed on such Blocks, to enhance the effective, safe and efficient use of such facilities by users thereof. The Block Owners shall operate and maintain their respective improvements in a manner that preserves the harmony in appearance of related facilities with a common architectural theme and, accordingly, shall be bound by the additional restrictions set forth in this Article 8. The Block Owners' development of their respective Blocks in accordance with the Plat and the provisions of Section 3.3 shall be evidence of compliance with this provision. Development of Blocks may proceed in one or more phases, if at all.

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8.2 Except as otherwise provided in this Section, the parking areas and easements for ingress and egress shown on the Plat for Blocks A, B and C, including any additions thereto, shall be available at all times to the Block Owners for the parking of passenger vehicles and pedestrian access. The number of parking spaces available for the Blocks shall comply with all applicable laws and codes. The Block Owners hereby grant, give and convey to each other, their successors and assigns, and each of their tenants, employees, licensees and invitees, a non-exclusive, irrevocable and perpetual easement over, upon and across the paved driveways and parking areas of their respective parcels as are shown on the Plat as amended from time to time, for the sole, exclusive and limited purpose of motor vehicle and pedestrian access to their respective parcels. In the event any of the Block Owners plan to make a material change in size, shape or location of such driveway or parking areas, the requirements in Section 3.3.5 apply. Notwithstanding any other provision in this Declaration (including, but not limited to, the cross-easements in this Article), the Owner of Block C may restrict parking on its Block, provided that said parking is constructed and maintained by the Block Owner, and is limited to assisted living or other medically related purposes. In addition, with the unanimous agreement of the Block Owners, parking areas may be restricted or reserved on a Block for such uses as staff parking.

8.3 Each of the Block Owners hereby grants to the other Block Owners non-exclusive, irrevocable and perpetual easements on and over their respective Blocks for ingress and egress. All Block Owners shall cooperate in the granting of appropriate and proper easements to each other or to common utility companies and governmental authorities for the installation, operation, maintenance, repair, replacement, relocation and removal of utility facilities.

8.4 The Block Owners hereby grant to each other non-exclusive, irrevocable and perpetual easements for ingress and egress on and to the loading dock facilities on Blocks A, B and C, as shown on the Plat, for delivery and service trucks and vehicles to and from Common Areas and their respective properties for the delivery of goods, wares, merchandise and the rendering of services.

8.5 The Block Owners hereby grant to each other non-exclusive, irrevocable and perpetual easements for access to and use of trash, refuse and garbage receptacles and storage areas on Blocks A, B and C, as shown on the Plat; and the right to use such facilities contained in such areas for the purpose of storing trash, refuse and garbage. Such easements may be subject to limitations concerning cost-sharing and categorization of trash for recycling, dry, wet, or medical purposes.

8.6 The parking presently located on Blocks A, B and C has been approved by Pima County for the existing improvements on the Blocks and the proposed additional development on Block B, which will add an auditorium requiring seventy-five (75) parking spaces. Any additional development on any of

1 the Blocks, which require additional parking spaces, shall be constructed and provided at the expense of  
2 the Block Owner undertaking such additional development.

3 8.7 Whenever a vote of the Block Owners is required pursuant to this Declaration, each  
4 Block Owner shall be entitled to one (1) vote. In the event the ownership of a Block shall be vested in  
5 more than one Person, such Persons shall act in compliance with Section 9.12 of this Declaration.

6  
7 **ARTICLE 9**  
8 **GENERAL PROVISIONS**  
9

10 9.1 Binding Effect. Each and all of the restrictions contained herein shall be appurtenant to  
11 and for the benefit of all portions of the Subject Property and shall be a burden thereon, and shall run with  
12 the land. This Declaration and the restrictions created hereby shall inure to the benefit of and be binding  
13 upon Declarant and its successors, transferees and assigns; provided, however, that if any Block Owner or  
14 the record owner of the Common Area transfers all of its property in the Subject Property, the purchaser  
15 thereof shall automatically be deemed to have assumed and agreed to be bound by this Declaration, and  
16 the transferor shall thereupon be released and discharged from any and all obligations under this  
17 Declaration accruing after the date of consummation of the transfer.

18  
19 9.2 Term. The restrictions contained in this Declaration shall run with the land and be  
20 binding upon Declarant and its successors, transferees and assigns and each Lot and Block Owner, as the  
21 case may be, and upon all Persons claiming under any of them, for a period of fifty (50) years from the  
22 date hereof, unless sooner terminated or amended as provided herein. From and after such time, this  
23 Declaration, as amended from time to time, shall be automatically extended for successive periods of ten  
24 (10) years each. Any provision contained herein to the contrary notwithstanding, the easements granted  
25 herein shall be perpetual and shall survive any amendment to or cancellation or termination of this  
26 Declaration, unless otherwise agreed to by all Block Owners.

27  
28 9.3 No Dedication Intended. Nothing herein contained shall be deemed to be a gift or  
29 dedication of any portion of the Subject Property to the general public or for the general public or for any  
30 public purposes whatsoever, it being the intention of Declarant that this Declaration shall be strictly  
31 limited to and for the purposes herein expressed.

32  
33 9.4 Effect of Breach. No breach of this Declaration shall entitle any Lot or Block Owner to  
34 cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner  
35 any other rights or remedies which such Lot or Block Owner may have by reason of any breach of this  
36 Declaration.

37  
38 9.5 Severability. In the event this Declaration or any one or more provisions herein shall for  
39 any reason be held to be invalid, illegal or unenforceable in any respect, or as to any Person hereto or  
40 referred to or described herein, such invalidity, illegality or unenforceability shall not affect any other  
41 provisions of this Declaration or its application to any other Person, but this Declaration shall be  
42 construed as if such invalid or illegal or unenforceable provision had never been contained herein, or such  
43 Person had never been a party hereto or referred to or described herein, and this Declaration shall remain  
44 binding upon and enforceable against all other Persons.

45  
46 9.6 Mortgagee Protection and Obligation. Breach of any of the restrictions contained in this  
47 Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith  
48 and for value as to the Subject Property or any part thereof, but all of the foregoing provisions, restrictions  
49 and covenants shall be binding upon and effective against any Lot or Block Owner whose title thereto is  
50 acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

1           9.7    Enforcement. Any Block Owner and record owner of the Common Area may prosecute  
2 any proceedings at law or in equity against any other Block Owner or record owner of the Common Area  
3 or other Person violating or attempting to violate this Declaration, to prevent it, him or them from so  
4 doing and to recover damages from or on account of such violation. The prevailing party is entitled to an  
5 award of its reasonable attorney fees and costs for any such suit or proceedings. All rights and remedies  
6 set forth herein and otherwise available at law or in equity shall be cumulative.

7  
8           9.8    Licenseses & Invitees. Except as specifically provided herein, no rights, privileges or  
9 immunities set forth herein shall inure to the benefit of licensees or invitees of any Lot or Block Owner,  
10 nor shall any licensee or invitee of such Lot or Block Owner be deemed to be a third party beneficiary of  
11 any of the provisions contained herein.

12  
13           9.9    Condemnation. In the event of condemnation (or sale under threat of condemnation) by  
14 any duly constituted authority for a public or quasi-public use of all or any part of the Subject Property,  
15 the portion of the award attributable to the value of the land and improvements so taken shall be payable  
16 only to the owner(s) thereof. No claim for any portion of the condemnation award shall be made by any  
17 other owner of any part of the Subject Property; provided, however, that the other owners may file  
18 collateral claims with the condemning authority over and above the value of the land and improvements  
19 of the area to be taken, if any such collateral claim does not conflict with any mortgage or deed of trust of  
20 record against the land and improvements so taken. The owner of any portion of the Subject Property to  
21 be condemned shall promptly repair and restore the remaining portion of the area owned by such owner  
22 as nearly as practicable to its condition immediately prior to the condemnation without contribution from  
23 any other owner.

24  
25           9.10   Headings. The headings of this Declaration are inserted as a matter of convenience and  
26 reference only and in no way define, limit or describe the scope or intent of this Declaration or in any way  
27 affect the terms and provisions hereof. Words used in the masculine, feminine or neuter shall apply to  
28 either gender or the neuter, as appropriate.

29           9.11   Voting Rights of Lot Owners. In the event the Lot Owners are entitled to a vote on a  
30 specific issue in this Declaration, the aggregate of the Lot Owners of all or any portion of the Lots shall  
31 be entitled to a maximum of one vote under this Declaration, which vote shall be determined and cast by  
32 the Association's Board of Directors. All Lot Owners in the Subject Property are members of the  
33 Association. For purposes of this Declaration, the Association's Board of Directors shall act for and on  
34 behalf of the Association's members. The Association's Board of Directors shall determine the manner  
35 and method of determining such vote.

36  
37           9.12   Voting Rights of Block Owners. Whenever a vote of the Block Owners is required  
38 pursuant to any provision of this Declaration, each Block Owner shall be entitled to one (1) vote. In the  
39 event the ownership of a Block is vested in more than one Person, such Persons shall act in compliance  
40 with Section 9.13 of this Declaration.

41  
42           9.13   Designated Representative of Owner. In the event that title to the same portion of  
43 property within the Subject Property is vested in more than one Person or in an entity, such  
44 Persons shall designate one of them to act on behalf of all such Persons in the observance and  
45 performance of the provisions of this Declaration. Any such designation shall be in writing, duly  
46 executed and acknowledged by each Person and a copy of such designation shall be given to the  
47 Association and all other Block Owners in accordance with the notice provisions of this  
48 Declaration.

49

1           9.14 Rules on Approval or Consent. Unless otherwise specified herein, any approval or  
2 consent required to be obtained hereunder by a Lot or Block Owner shall be given or withheld within  
3 thirty (30) days after delivery of the request therefor. In the event an Owner whose approval or consent is  
4 sought, fails to respond within the applicable time period, such Lot or Block Owner shall be deemed to  
5 have approved of, or consented to, the matter in question. Unless otherwise expressly set forth herein, no  
6 consent or approval required to be given hereunder by any Lot or Block Owner(s) shall be unreasonably  
7 withheld. Approval and consent of the Lot Owners shall be obtained by submitting such request to the  
8 Association's Board of Directors, which shall grant or deny such request.

9  
10           9.15 Assignment, Transfer or Conveyance. Except as otherwise expressly set forth herein, no  
11 Lot or Block Owner shall have the right to assign all or any portion of its rights, benefits, duties or  
12 obligations under this Declaration, except in connection with a transfer or conveyance by such party of its  
13 ownership interest in property within the Subject Property. Any conveyance made by deed of trust,  
14 mortgage or other security instrument as security for any obligation or indebtedness shall not be deemed  
15 to be a transfer or conveyance within the meaning of the foregoing.

16  
17           9.16 Notices. Any notice, demand, request or other communication required or desired to be  
18 given by an Owner or occupant of a portion of the Subject Property to another Owner or occupant shall be  
19 in writing, signed by the party giving the notice and shall be given by personal delivery or by depositing  
20 the same in the United States mail, registered or certified, return receipt requested, and first class postage  
21 prepaid. Personal service will be deemed to be complete upon receipt, and service by mail will be deemed  
22 complete on deposit of said notice in the United States mail. Until advised otherwise in writing, notices  
23 shall be sent as follows:

|    |                                     |  |
|----|-------------------------------------|--|
| 24 |                                     |  |
| 25 | if to Developer:                    | Dabdoub Acquisitions LLC               |
| 26 |                                     | 55 East Calle de Felicidad             |
| 27 |                                     | Tucson, Arizona 85716                  |
| 28 |                                     |  |
| 29 | if to Association:                  | Academy Village Homeowners Association |
| 30 |                                     | 13701 E. Langtry Lane                  |
| 31 |                                     | Tucson, Arizona 85747                  |
| 32 |                                     |  |
| 33 | if to Academy:                      | Arizona Senior Academy                 |
| 34 |                                     | 13715 E. Langtry Lane                  |
| 35 |                                     | Tucson, Arizona 85747                  |
| 36 |                                     |  |
| 37 | if to Academy Services Corporation: | Academy Services Corporation           |
| 38 |                                     | 13701 E. Langtry Lane                  |
| 39 |                                     | Tucson, Arizona 85747                  |
| 40 |                                     |  |
| 41 | if to Declarant:                    | Dabdoub Acquisitions LLC               |
| 42 |                                     | 55 East Calle de Felicidad             |
| 43 |                                     | Tucson, Arizona 85716                  |
| 44 |                                     |  |

45           9.17 Choice of Law. This Declaration and the rights and duties herein shall be construed and  
46 enforced in accordance with the laws of the State of Arizona, both statutory and decisional. Venue for  
47 any dispute resolution, court proceeding or any other enforcement action shall be Pima County,  
48 Arizona.

1 9.18 Amendment. Except as otherwise provided herein, this Declaration may be amended or  
2 terminated only by a recorded instrument executed and acknowledged by all of the then Block Owners  
3 and the record owner of the Common Area, and by the Association in the case of termination or if a  
4 proposed amendment adds to or increases the Association's obligations under this Declaration.

5  
6 9.19 Parties. This Declaration shall be solely for the benefit of the parties hereto and, where  
7 applicable, to any party given enforcement rights hereunder, and no other Person shall have any right of  
8 action to enforce the terms of this Declaration. No Person not a party hereto shall be deemed a third party  
9 beneficiary of this Declaration.

10  
11 9.20 Waiver. No delay or omission on the part of any party hereto to assert or attempt to  
12 enforce any right or privilege hereunder shall be deemed to be a waiver of such right or privilege or any  
13 other right or privilege for any purpose or to any extent whatsoever. No provision hereof shall be or shall  
14 be deemed or considered to have been waived by any party hereto unless such waiver is in writing and  
15 executed by the party sought to be charged with such waiver; and no waiver of any provision hereof with  
16 respect to any instance, matter or circumstance shall be deemed or considered to be a waiver of such  
17 provision with respect to any other instance, matter or circumstance, or a waiver of any other provision  
18 hereof.

19  
20  
21 IN WITNESS WHEREOF, the parties have executed this Declaration the day and year first above  
22 written.  
23  
24

**DECLARANT:**

Dabdoub Acquisitions LLC, an Arizona limited liability company

By: [Signature]  
Name: MARCEA DABDOUB  
Its: MANAGER

**ASSOCIATION:**

The Academy Village Homeowners Association, Inc., an Arizona non-profit corporation

By: [Signature]  
Name: CARL GENTHWET  
Its: PRESIDENT

**ACADEMY:**

Arizona Senior Academy, an Arizona non-profit corporation

By: [Signature]  
Name: JAMES EDWIN KEE  
Its: PRESIDENT

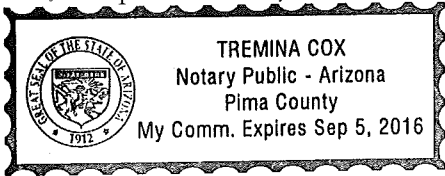
**ACADEMY SERVICES CORPORATION:**

Academy Services Corporation, an Arizona non-profit corporation

By: [Signature]  
Name: GARY D. FENSTERMACHER  
Its: PRESIDENT

1 STATE OF ARIZONA )  
2 ) ss.  
3 County of Pima )

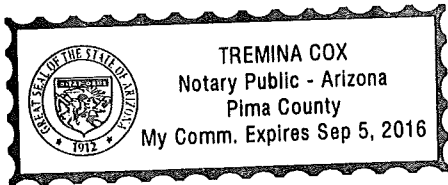
4  
5 The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of  
6 April, 2016, by Marcel Dabdoub, as manager of  
7 Dabdoub Acquisitions LLC, an Arizona limited liability company.



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10  
11 [Signature]  
12 Notary Public

13  
14 STATE OF ARIZONA )  
15 ) ss.  
16 County of Pima )

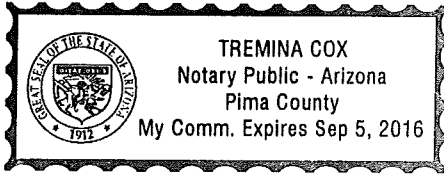
17  
18 The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of  
19 April, 2016, by Carl Genthner, as President of  
20 The Academy Village Homeowners Association, Inc., an Arizona non-profit corporation.



21  
22  
23  
24 [Signature]  
25 Notary Public

26  
27  
28 STATE OF ARIZONA )  
29 ) ss.  
30 County of Pima )

31  
32 The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of  
33 April, 2016, by Grady Fenstermacher, as President of  
34 Academy Services Corporation, an Arizona non-profit corporation.



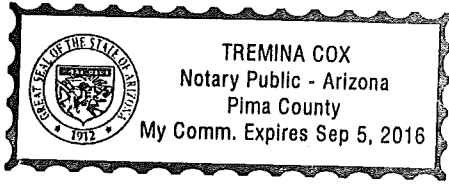
35  
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38 [Signature]  
39 Notary Public

40  
41 STATE OF ARIZONA )  
42 ) ss.  
43 County of Pima )

44  
45 The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of  
46 April, 2016, by James Kee, as President of  
47 Arizona Senior Academy, an Arizona non-profit corporation.



1  
2



*Tremina Cox*  
\_\_\_\_\_  
Notary Public