

This is the proposed arbitration provision referenced in the Fall newsletter article **“Should Arbitration to Resolve Disputes be Resorted to the Protective Covenants?”**

All claims, disputes and causes of action arising from or related to the Governing Documents shall be subject to Arbitration. Unless the parties agree upon an Arbitrator within thirty (30) days of notice of a claim from one party to the other, the Arbitrator shall be chosen by the presiding Judge of the Pima County Superior Court with Arbitration to occur in Pima County, Arizona. The Arbitrator shall have no authority to conduct “class” arbitration with a party representing multiple parties similarly situated. Arbitration shall be pursuant to A.R.S. §12-3001 et seq. The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. The Arbitrator shall have the authority to try all issues, whether of fact or law.

All papers, documents, briefs, written communication, testimony and transcripts shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall be required to agree in writing to keep such information confidential. Notwithstanding the foregoing, either party may confirm a final award in the Pima County Superior Court or record any necessary document reflecting a final award.

The Arbitrator shall promptly (but in no event later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the Claims of the parties and render a final award in writing. The Arbitrator shall award the prevailing party in the proceeding all or part of such party's reasonable attorneys' fees and expert witness fees taking into account the final result of the arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by, the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

All statutes of limitations applicable to Disputes shall apply to the commencement of arbitration proceedings under this Section. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the dispute, the Dispute shall forever be barred.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS **SECTION**, AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED HEREIN. THE ASSOCIATION AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN HEREIN, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION AND EACH OWNER FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH OWNER VOLUNTARILY ACKNOWLEDGES THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM. THE REQUIREMENT THAT ALL CLAIMS BE RESOLVED THROUGH ARBITRATION SHALL CONSTITUTE' AN ABSOLUTE DEFENSE TO ANY COURT ACTION FILED BY ONE OF THE PARTIES HERETO AGAINST THE OTHER, AND SHALL ENABLE THE PARTY AGAINST WHOM SUCH ACTION IS FILE TO CAUSE SUCH ACTION TO BE DISMISSED OR SET ASIDE AT ANY TIME.

**To provide feedback to the Board, please attend an upcoming Board meeting or contact, via email, the Board Secretary. Board meeting information and contact information for the Board Secretary can be found on the Association website, [www.cfe7.org](http://www.cfe7.org).**