

BY-LAWS
OF
THE COURTS AT GAINNEY RANCH HOMEOWNERS ASSOCIATION

Article I

1. The corporation has been formed for the purpose of serving as the Council of Co-Owners/Association for **THE COURTS AT GAINNEY RANCH CONDOMINIUMS** (hereinafter referred to as the "Condominium"), a horizontal property regime/Condominium existing by virtue of the Declaration of Horizontal Property Regime/Condominium and Declaration of Covenants, Conditions & Restrictions for the Courts at Gainey Ranch Condominiums, recorded with the Recorder of Maricopa County, Arizona, as Document No. 85548750 (such document, as hereafter amended and in effect from time to time, being hereinafter called the "Declaration").

2. Definitions. Terms used herein which are defined in the Declaration shall have the same meanings as in the Declaration. Except as otherwise defined in the Declaration, terms used herein which are defined in A.R.S. §33-551 or A.R.S. §33-1201 shall have the definitions set forth in said statutes, whichever is applicable.

3. Application of By-Laws. All present and future owners, tenants, future tenants, or other employees or any other person that might use the facilities of the Condominium in any

manner are subject to the provisions of these By-Laws. The ownership or rental of the Units in the Condominium or the mere action of occupancy of any of said Units will signify that these By-Laws are accepted, ratified and will be complied with by the Occupant or Owner.

4. Priority of Declaration. The provisions of the Declaration shall have priority over these By-Laws, and any provision hereof which is contrary to or inconsistent with the Declaration (as amended from time to time) shall be void to the extent of such inconsistency.

Article II

1. Voting. Notwithstanding the number of Co-Owners who may jointly or otherwise own a Unit, voting on all matters shall be limited to ONE (1) of the Co-Owners. Where TWO (2) or more Persons own an interest in a Unit, they shall designate to the Board of Directors, in writing, one of ^{their} ~~there~~ number who shall have the power to vote. In the absence of such designation and until such designation is made, the Board shall make such designation.

2. Relative Voting Rights. The relative voting rights of the Class A and of the Class B members shall be as provided in the Declaration and the Articles of Incorporation.

3. Majority of Co-Owners. As used in these By-Laws, the term "Majority of Co-Owners" shall mean those Owners holding more than FIFTY PERCENT (50%) of the votes of all the Owners.

4. Quorum. Except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, or as may be required by law, the presence in person or by proxy of TWENTY FIVE PERCENT (25%) or more of members shall constitute a quorum for an Annual or duly noticed Special Meeting and a majority of those present either in person or by proxy shall be necessary to act upon any matter before such meeting. **

5. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting. Proxies shall be revocable unless otherwise stated therein and coupled with an adequate legal interest and, unless irrevocable, shall be terminated by a later proxy or if the Owner files a written notice of such termination prior to the meeting. An irrevocable proxy shall remain in full force and effect until terminated in accordance with its terms or as required by law or in this section, and the earliest given irrevocable proxy shall be recognized unless it has so terminated. Any proxy, whether revocable or irrevocable, shall automatically be revoked upon conveyance of a Unit by a new Owner.

** Amended at a Special Meeting of the members on December 16, 1991. Previous quorum requirements was more than 50%.

6. Election of Directors. Election of directors shall be by secret written ballot. At such election, the Members or their proxies may cast as many votes in the aggregate as each is entitled to vote under the Declaration and the Articles of Incorporation, multiplied by the number of directors to be elected. Each such person may cast the whole number of votes to which he is entitled for one candidate or distribute such votes in any manner he chooses among two or more candidates. The candidates receiving the largest number of votes shall be elected.

Article III

1. Council Responsibilities. The corporation will constitute the Council of Co-Owners (hereinafter referred to as the "Association") of the Condominium acting through its Board of Directors and its Members. The Board of Directors shall have the responsibility of administering the Condominium and exercising all powers and duties provided for by law or in the Declaration, the Articles of Incorporation or these By-Laws, except such matters as are reserved to the Members by law or by such Declaration, Articles of Incorporation, or By-Laws.

2. Place of Meeting. Meetings of the Members shall be at the Condominiums development or at such other convenient place as may be designated by the Board of Directors.

3. Annual Meetings. Annual meetings of the Members shall be held on the FIRST DAY OF FEBRUARY of each year, commencing on Wednesday, February 1st, 1989. At such meetings there shall be elected by ballot of Board of Directors in accordance with the requirement of the Declaration and the Articles of Incorporation, and of these By-Laws. The Members may also transact such other business as may properly come before them at such annual meetings.

4. Special Meetings. Special meetings of the Members may be called by the President, by resolution of the Board of Directors or by a petition signed by a Majority of Co-Owners and presented to the Secretary or in such other manner as is required by law. The notice of any special meeting shall state the day, the hour and the place of such meeting and the purpose or purposes thereof. No business shall be transacted at a special meeting except as stated in the notice thereof.

5. Notice of Meeting. It shall be the duty of the Secretary, at the direction of the person or persons calling a meeting, to mail or deliver a notice of each annual or special meeting, stating the purpose or purposes thereof, the day, the hour and the place where it is to be held, to each Member of record, at least TEN (10) but not more than FIFTY (50) days prior to such meeting. If the Secretary fails or refuses to act promptly, the person or persons calling the meeting may do so.

The mailing of a notice in the manner provided in this section shall be considered notice served.

6. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time to a time not more than THIRTY (30) days from and after the time the original meeting was called, and no new notice shall be required for such adjourned session.

7. Order of Business. The order of business at all meetings of the Members shall be as follows:

- 7.1 - Roll call and verification of proxies
- 7.2 - Proof of notice of meeting
- 7.3 - Reading of minutes of preceding meeting
- 7.4 - Reports of officers
- 7.5 - Report of Board of Directors
- 7.6 - Reports of committees
- 7.7 - Appointment of inspectors of election when required
- 7.8 - Election of members of the Board of Directors when required
- 7.9 - Unfinished business
- 7.10 - New business

Article IV

1. Number and Qualification of Board of Directors.

The affairs of the corporation shall be governed by a Board of Directors composed of THREE (3) persons, all of whom must be owners of Units in the Condominium or the spouse of an Owner (or

if an Owner is a corporation, partnership, or trust, a Director may be an officer, partner or beneficiary of such Owner), except the original Board of Directors or any directors elected or appointed by the Declarant under the Declaration.

2. Powers and Duties. The Board of Directors shall have all powers necessary or convenient and shall be responsible for the administration of the affairs of the corporation and may do all such acts and things as are not by law, by the Declaration, or by the Articles of Incorporation, or these By-Laws directed to be exercised solely by the Owners or Members.

3. Other Duties. Without limiting the generality of Section 2 of this Article, the Board of Directors shall be responsible for the following:

- 3.1 Care, upkeep, and surveillance of the Condominium and the Common Elements and facilities;
- 3.2 Preparation of an annual budget and allocation of the budget to the various Units in accordance with the various percentage interests in the Common Elements appurtenant thereto;
- 3.3 Collection of monthly assessments from the Owners and the filing of liens and foreclosure thereof where necessary;
- 3.4 Employment and dismissal of the personnel necessary for the maintenance and the operation of the Condominium and the Common Elements and facilities;
- 3.5 Employment of a management agent at a compensation established by the Board of

Directors to perform such duties and services as the Board shall authorize. The duties conferred upon the management agent by the Board of Directors may at any time be revoked, modified or amplified by a majority of the Board of Directors at a duly constituted meeting;

- 3.6 To make repairs within the Units where such repairs are required for the welfare or safety of the Condominium or its residents;
- 3.7 To obtain and keep in full force and effect fire and hazard insurance on the building and all common elements in the Condominium, and public liability and other insurance as required by the Declaration or as permitted and deemed necessary and advisable by the Board;
- 3.8 To grant or relocate easements required for the benefit of the Condominium;
- 3.9 To adopt and amend rules and regulation and enforce the same covering the operation and use of all of the property and recreational areas in the Condominium;
- 3.10 To suspend, prohibit, and restrain any Owner who is delinquent in the payment of any assessments or who violates any of the rules, regulation, By-Laws, or Declaration, from using all or any part of the recreational facilities included within the Common Elements for the Condominium;
- 3.11 To open bank accounts on behalf of the Condominium and to designate the signatories required therefor;
- 3.12 To invest any excess funds held or controlled by the corporation;

The foregoing enumeration of specific responsibilities shall not be deemed to limit any other power or duty of the Board of Directors arising by laws or under the Declaration, Articles of Incorporation, or these By-Laws.

4. Election & Term of Office. The term of two directors shall be for two years each and shall expire on the date of the Annual Meeting which is two years succeeding the date of such election or re-election. The term of the third director shall expire at the next Annual Meeting following the date of such election or re-election. Thereafter, the term of each director elected or re-elected in succession of this director shall be for TWO (2) years each and shall expire on the date of the Annual Meeting which is TWO (2) years next succeeding the date of such election or re-election. **

5. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum or by a sole remaining director, and any director so chosen shall serve as a director until the next election of directors when and qualified.

6. Resignation and Removal of Directors. A director may resign at any time upon delivery of written notice to the President or Secretary of the corporation. Such resignation shall be in effect upon receipt or at any later time specified therein, and unless otherwise provided therein acceptance of such resignation shall not be necessary to make it effective. At any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by the vote of a sufficient number of Members that the votes cast against such

** Amended at a Special Meeting of the members on December 16, 1991. Previous Board members were elected for one year terms.

removal would not be sufficient to elect the director or directors so removed if cumulatively voted at an election of the entire Board of Directors; provided, however, that the entire Board of Directors may be so removed by affirmative vote of a Majority of Co-Owners. Successors may then and there be elected by the Members to fill the vacancy or vacancies thus created.

7. Compensation. No compensation shall be paid to directors or officers for their services as directors or officers.

No remuneration shall be paid to a director for services performed by him for the corporation in any capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. Neither a director nor any officer may be an employee of the corporation. Directors and officers, however, may be reimbursed for any actual expenses incurred in connection with their duties as such officers or directors.

8. Organization Meeting. The first meeting of a newly elected Board of Directors shall be called and held within TEN (10) days after the election thereof at such place as a majority of such directors shall be approved either before, at, or after such meeting.

9. Regular Meeting. Regular meeting of the Board of

Directors may be held at such time and place as shall be determined, from time to time, by a Majority of the Directors, but at least TWO (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telephone, or telegraph, at least THREE (3) days prior to the date set for such meeting.

10. Special Meetings. Special meetings of the Board of Directors may be called by the President, Secretary, or by a Majority of the Directors on THREE (3) DAYS notice to each director, given personally or by mail, telephone, or telegraph, which notice shall state the time, place (as hereinabove provided) and purposes of the meeting.

11. Waiver of Notice. Before, at, or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting unless the director attends for the sole and express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

12. Board of Directors Quorum. At all meetings of the Board of Directors, a majority of the number of directors fixed

in these By-Laws shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, any business which might have been transacted at a meeting as originally called may be transacted without further notice.

13. Fidelity Bonds. The Board of Directors shall require that all officers and employees handling or responsible for funds of the Condominium shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the corporation.

Article V

1. Designation. The principal officers of the corporation shall be a President, Secretary, and Treasurer, all of whom shall be elected by the Board of Directors, and, in the discretion of the Board, one or more Vice President(s) and such other officers as the Board may from time to time designate. A person may hold more than one office, except that the offices of President and Vice President, and President and Secretary shall not be held by the same person simultaneously.

2. Election of Officers. The officers of the

corporation shall be elected annually by the Board of Directors at the first meeting of each new Board and shall hold office at the pleasure of the Board. If the Board of Directors shall fail to act at any such meeting, each current officer shall continue to hold office until his successor is elected and shall qualify or until his earlier death, resignation or removal.

3. Resignation and Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause. Any officer may resign at any time by delivering written notice of such resignation to the Board, the President or the Secretary. Such resignation shall take effect upon receipt or at any later time specified therein, and unless otherwise provided therein acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office may be filled at any regular meeting of the Board of Directors or at any special meeting of the Board called for such purpose.

4. President. The President shall be the chief executive officer of the corporation. He shall preside at all meetings of the Members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power to appoint committees from among the Members from time to time as he may in his

discretion decide is appropriate to assist in the conduct of the affairs of the corporation.

5. Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If neither the President nor Vice President shall be able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors.

6. Secretary. The Secretary shall have the responsibility for keeping the minutes of all meetings of the Board of Directors and the Members, such correspondence as shall be necessary, the official minute book of the corporation, and such other duties as shall from time to time be imposed by the Board of Directors.

7. Treasurer. The Treasurer shall have the responsibility for funds and securities of the corporation and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the corporation and such depositories as may from time to time be designated by the Board of Directors.

Article VI

1. Assessments. All Owners shall be obligated to pay monthly assessments for Common Element expenses under and in accordance with the Declaration. Without limiting the foregoing, the assessments shall include the cost of maintenance and repair of the Common Elements, and all other items necessary for the maintenance and operation of the Common Elements. Any assessments levied or collected which are in excess of the amount required for proper purposes shall be refunded to the Owner(s) who paid such assessments.

2. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the Owners to meet the Common Expenses of the Condominium and allocate and assess such charges among the Owners according to the interests in the Common Elements appurtenant to their respective Units. The Board of Directors shall advise all Owners promptly in writing of the amount of such charges payable by each of them respectively and shall furnish copies of the budget on which such common charges are based to all Owners, and to their mortgagees, if requested in writing. The Board of Directors may levy a late penalty charge on any Owner who fails to pay all or any part of his assessment on or before the due date as set by the Board of Directors.

3. Maintenance and Repair.

3.1 Each Owner shall perform promptly all maintenance, repair, and upkeep work within his own Unit, which, if omitted, would affect the Condominium in its entirety or in a part belonging to other Owners. In the event any Owner fails to maintain, upkeep, or repair his own Unit, and in the event the Board of Directors shall determine that it is necessary to perform such repairs, the Board of Directors may enter such Owner's Unit and make such repairs as are necessary, provided, however, that such Owner shall first have been given THIRTY (30) DAYS notice of the intention of the Board of Directors to make such repairs. In the event that the Owner fails to make such repairs within said THIRTY (30) day period, the Board of Directors through its agent may make such repairs and levy an assessment for the costs thereof against the Owner and shall have a lien for all costs incurred against the Owner's Unit as provided in the Declaration.

3.2 All the repairs of internal installations within any Unit, such as water, light, gas, power, sewage, telephone, air conditioning, doors, windows, lamps and all other accessories belonging to and located within the Unit shall be at the Owner's expense. Any such repairs required which are outside of the Unit to be served thereby shall be at the expense of the Condominium as Common Elements maintenance costs.

3.3 An Owner shall reimburse the Condominium for any expenditures incurred in repairing or replacing any Common Element damaged through his own fault.

3.4 An Owner shall not make structural modifications or alterations in his Unit without previously securing written approval therefor from the Board of Directors.

4. Use of General Common Elements and Facilities. An Owner shall not place or cause to be placed in any Common Element

any furniture, packages or objects of any kind, except as incidental to use of a Limited Common Element appurtenant to such Owner's Unit. Such areas shall be used for no purpose other than for normal transit and, in the case of recreational facilities, for the normal use of such recreational facilities.

5. Right of Entry. The management agent or any other person authorized by the Board of Directors shall have the right to entry into any Unit for purposes of inspection and making necessary repairs, alterations, installations and maintenance to the Common Elements, including mechanical or electrical services, provided that request for such entry is made in advance and such entry is at a time reasonably convenient to the Owner. In case of an emergency, the right of entry shall be immediate.

Article VII

The corporation may appoint committees of its Members and/or directors as deemed appropriate in carrying out its purposes.

Article VIII

The Board of Directors may adopt a seal for the corporation. The use of a seal shall not, however, be necessary to the validity of any corporate act or signature.

Article IX

These By-Laws may be amended by vote of a Majority of Co-Owners at any regular or special meeting where notice of the proposed amendment is included in the call or notice of meeting, provided, however, that these By-Laws shall not be amended to contain any terms or provisions which would be contrary to the Declaration or the Articles of Incorporation as amended from time to time; and further provided that so long as there is a Class B Member no such amendment shall be effective without the prior written consent of the United States Veterans Administration.

Article X

Any Owner who mortgages his Unit shall notify the corporation through the Secretary of the Board of Directors of the name and address of his Mortgagee, and the Board shall maintain a record of such information in a book entitled "Book of Mortgages". The Owner shall also inform the Secretary of any assignments of Mortgagee's interest or release of such Mortgage.

Article XI

The Board of Directors may promulgate and adopt rules and regulations for the management, operation, and use of the Condominium, and said rules and regulations shall apply to and

govern the occupation of the various Units and of the Common Elements by the Owners and lessees, tenants and guests and all other persons.

Article XII

1. Maintenance of Books of Account and Other Records.

The Board of Directors shall cause to be maintained complete books of account concerning all funds, assets and liabilities of the corporation. The corporation shall also keep complete minutes of the meetings of its Members, Board of Directors and any committees thereof and a list of the names and addresses of all Members entitled to vote and all irrevocable proxies of which the corporation has received proper notice. All such relevant books of account and other records shall be open to inspection upon the written demand, delivered to the President or Secretary, stating the purpose of such examination, by any Owner or Mortgagee recorded in the Book of Mortgages for any proper purpose reasonably related to his interest as such Owner or Mortgagee. Such books and records shall be kept at the Condominium in a location or locations known to its Members. Such inspection may be made in person or by agent or attorney, and the right of inspection includes the right to make copies of or extracts from, or to perform audits of such books and records.

2. Annual Report to Owners. Annually, at least TEN

(10) DAYS prior to the annual meeting, the Board of Directors shall cause to be prepared and sent to every Owner an annual report of the affairs of the corporation. Said report shall contain a complete accounting of receipts and disbursements of all funds of the corporation during the preceding calendar year and a balance sheet setting forth all assets and liabilities of the corporation as of the end of the preceding calendar year. Upon written demand of Owners holding FORTY PERCENT (40%) or more of the total vote, given at least SIXTY (60) DAYS prior to the date of the annual meeting, an independent audit of the books and records of the corporation shall be performed in accordance with generally accepted auditing standards by a duly licensed certified public accountant at the corporation's expense. A copy of the report of such audit shall then be rendered to each Owner in lieu of the annual report hereinabove required.

Article XIII

The fiscal year of the corporation shall begin on the FIRST (1st) DAY OF JANUARY and end on the THIRTY-FIRST (31st) DAY OF DECEMBER of every year, except that the first fiscal year shall begin on the date of incorporation.

THE COURTS
SUN CONTROL DEVICES STANDARD

All sun control devices require Gainey Ranch Architectural Committee approval prior to any construction or installation. Additional information regarding submittal/approval can be obtained at the Gainey Ranch Community Association office. No other sun control devices are approved.

- A. FIXED AWNINGS are reviewed on an individual basis. Awnings over square or rectangular windows must be square or rectangular, respectively. Valances, if used, must be straight (not scalloped) and edge binding must match the awning color.

Approved Fabric: Sunbrella

Approved Color: Natural #4604

Approved Frame: White Finished Painted Metal

Fixed awnings are constructed of fabric stretched and wrapped over anodized metal frame which is permanently fixed to the exterior wall. No framework may be exposed.

- B. SUNSCREENS are reviewed on an individual basis.
1. FIXED SCREENS, including the frame and hardware, are constructed out of white finished anodized metal to match the window frame. The approved screen color is dark bronze.
 2. RETRACTABLE SCREENS must be dark bronze or beige in color. They are allowed only on the rear elevation. Retractable sunscreens will be track-mounted flush against the building within ½" of the window frame and all hardware will be concealed in a protective box matching the color/finish of the building exterior. No conduit or junction boxes may be exposed on the building exterior.

C. COVERED TRELLISES

Existing trellises may be covered for additional sun protection with the same fabric and color approved for awnings in Section A.

The fabric must be stretched and attached to a metal framework which will be visible only from beneath the trellis. Fabric and framework will be concealed behind stuccoed parapets. The framework will be pitched to drain water.

D. UMBRELLAS, etc

Must be kept in good condition. Fabric may not display graphics of any kind and fabric colors that are highly contrasting to adjacent building or highly contrasting multi-colors on the umbrella are not permitted.

E. GLASS TREATMENT

1. STAINED/COLORED GLASS will be reviewed on an individual basis for color, design and location.
2. TINTED GLASS will not be allowed beyond that which has been provided by the original installation of the builder.
3. NO REFLECTIVE MATERIALS including but not limited to aluminum foil, reflective screens or glass, mirrors or similar type items shall be permitted to be installed or placed on the outside or inside of any window.

F. SCREEN DOOR AND SECURITY DOOR

The approved standard for screen doors consists of a white frame with dark bronze screen material and mullions similar to the approved Courts window screens. Units 101 and 155 have the approved style doors.

The approved security door must be a white metal frame door with a dark bronze screen material with a "Zuni" design in the middle section of the door, a picture of which is available in the Administrative Office.

MEMORANDUM

TO: The Courts Homeowners Association Members

FROM: The Court Homeowners Association Board of Directors

SUBJECT: Respective Maintenance Responsibilities of the Association and the Homeowners

DATE: May 29, 1996 (Mailed June 26, 1996)

Your Board of Directors has undertaken a review of all the Courts Homeowners Association documents in order to clarify and delineate the respective maintenance responsibilities of the Courts at Gainey Ranch Homeowners Association ("Association") and its members ("Homeowners"). To this end, the Master Declaration, Tract Declaration, and the Courts Homeowners Association Declaration (commonly referred to as the CC&R's) were reviewed. In addition, those statutes ("the statute") pertaining to the creation and management of a condominium in the State of Arizona were reviewed for compliance.

The allocation of maintenance responsibilities has been organized according to the parts which make up the Condominium, namely, Units, Limited Common Elements and Common Elements. A summary of each part follows.

Unit: The Unit is the part of the condominium you independently own. Although defined in detail in the CC&R's, for purposes of this memorandum it can be thought of as that which comprises your interior living space. Generally speaking, the structural components and exterior of the building in which your Unit is located are not part of the Unit, but are Common Elements.

Limited Common Element: Limited Common Elements are not owned by Unit owners (hence they are part of the Common Elements), but are appurtenant to and for the exclusive use of designated Unit owners (hence the Limited designation). The CC&R's and plat designate the following as Limited Common Elements: garages, stairways to second story units, driveways, entryways, patios, balconies, fireplaces (including firebox and flue) and any portion of the electrical, plumbing, mechanical and similar systems, within or without the Unit, serving only that Unit. In addition, the statute designates all exterior doors, windows, and walls around patios as Limited Common Elements.

Common Elements: Common Elements consist of every element of the entire Condominium that is not included within the definition of a Unit. For purposes of this memorandum, however, references to Common Elements do not include Limited Common Elements since these are considered separately.

Elements since these are considered separately.

The allocation of maintenance responsibilities for the foregoing elements of the Condominium is as follows:

I. Units

A. Each homeowner is responsible for all of the maintenance, repairs and replacements within the homeowner's Unit. This includes but is not limited to the following:

1. All perimeter walls, floors, ceilings, doors and windows and all other improvements within the Unit.
2. All appliances, fixtures and equipment within the Unit, including without limitation lighting fixtures, plumbing fixtures, stoves, refrigerators, hot water heaters and heating and air conditioning components as long as these components exclusively service the Unit rather than being a part of a system serving more than one Unit.

B. The Association has no maintenance responsibility with respect to the Units.

II. Limited Common Elements

The CC&R's state that each homeowner is responsible for maintaining in good order and repair and in a clean and sanitary of all exclusive Limited Common Elements (except the driveways, as to which the CC&R's state that the Association shall provide all maintenance). In some instances, the CC&R's are more specific in regards to the maintenance of certain Limited Common Elements. On the other hand, the Tract Declaration states that the Association shall be responsible for the exterior of the dwelling units and other buildings which is broad enough to encompass certain Limited Common Elements, and specifically reference painting and maintenance of roofs. Your Board has reconciled these documents by drawing distinctions between (i) those Limited Common Elements that require exterior maintenance and those that do not, (ii) building and landscape maintenance and (iii) those items that have been added by the homeowner, either as an option at the time of purchase or independently after purchase, and those that were standard. In addition, whenever possible specific language was given precedence over general language. Thus, the maintenance responsibility for Limited Common Elements is as follows:

A. The Association is responsible for all driveway maintenance and parking areas exterior to garages and for maintaining garage doors and exterior lights except all lights, including building mounted lights within patios and balconies.

B. Homeowners are responsible for routine cleaning and maintenance of entryways,

stairways to second story units including railings and posts, patios and balconies, which includes railings and posts and keeping drains in an open and unobstructed condition. Except as otherwise provided in Paragraph II.H. below, the Homeowner is responsible for all other exterior maintenance of these elements.

- C. Homeowners are responsible for routine cleaning and maintenance of garages, storerooms not within the Unit and fireplaces (including firebox and flue). The Association has no responsibility with respect to these elements.
- D. Homeowners are responsible for maintenance, replacement and repair of any of the items described in Paragraph I.A2. above which qualify as Limited Common Elements because they are not located within the Unit, and for maintenance of all other portions of the electrical, plumbing, mechanical and similar systems which qualify as Limited Common Elements. This includes the maintenance of, in an open and unobstructed condition, all sewer and drainage pipes, water and other utility lines between the points at which the same enter the Unit and the points where the same join the utility line serving other units. The Association has no responsibility with respect to such items.
- E. Homeowners are responsible for maintenance of all exterior doors, including such door system components as jambs, weather stripping, thresholds, tracks, screens and hardware, excluding garage doors (see Paragraph II A above). This includes painting, repair and replacement and interior and exterior cleaning of all door glass. This also includes maintenance of the garage door opener and remote control device. The Association's responsibility with respect to these elements is limited to caulking.
- F. Homeowners are responsible for maintenance of all windows and skylights, including such window system components as frames, weather stripping, tracks, screens and hardware. This includes repair and replacement and interior and exterior cleaning of all window and skylight glass. The Association's responsibility with respect to these elements is limited to exterior caulking and maintenance of the flashing around skylights and windows.
- G. Homeowners are responsible for maintenance of any landscaping within a Limited Common Element. The Association has no responsibility with respect to this item.
- H. Maintenance responsibility for a second story patio or balcony is as follows:
 - 1. The Association is responsible for maintaining the membrane surface because it is partially a roof element of a garage, any water penetration could also damage the building structure supporting the deck and water could also enter the interior of a Unit.

2. Homeowners are responsible for routine cleaning as set forth in Paragraph IIB above and for negligent damage noted in Paragraph III below.
 3. The enclosed deck maintenance program has been adopted by the Board.
- I. Homeowners are responsible for maintenance of any awnings or other sun control devices added to the exterior. The Association has no responsibility with respect to these items.

III. Common Elements

The Association is responsible for maintenance of the Common Elements. Homeowners have no responsibility to maintain any of the Common Elements. However, homeowners are liable for any damage to the Common Elements, including the Limited Common Elements, that may be sustained by reason of the negligence of a homeowner's family members, tenants, guests or invitees.

THE COURTS HOMEOWNERS ASSOCIATION SECOND STORY DECK MAINTENANCE PROGRAM

Realizing the importance of maintaining the second story decks in a water tight condition, the Courts Homeowners Association has adopted a maintenance program covering the second story patio decks. These patios have the standard waterproofing membrane surface.

- A. The GRCA maintenance staff will inspect each deck annually during years when not inspected by the consultant for breaks, tears, wear spots, rips, or any conditions allowing water to migrate through the deck. Conditions of each deck will be noted and appropriately documented. Any standard membrane decks that require repairs or replacement of the waterproofing material will be scheduled for repair and the owner will be notified. The cost of such repairs and inspection will be the responsibility of the Courts Homeowners Association. However, the owner shall be responsible for the cost to repair if the damage was caused by the owner's negligence or such owner's family members, tenants, guests or invitees. The owner is also responsible for the following good housekeeping practices which plays a major role in preventing water penetration problems and failure of the deck:
1. The decks should be washed down on a regular basis using a mild detergent and warm water.
 2. Wind blown leaves, trash, etc., must be removed on a regular basis.
 3. The drains must be kept cleaned and free of debris at all times and flushed on a regular basis.
 4. Potted plants, trees, etc. should be moved occasionally to prevent deck damage. A raised dolly may be required to move any large pots.
 5. All patio furniture must have rubber skids in order to prevent damage to the membrane.
- B. The decks will be inspected bi-annually by a qualified deck and water proofing consultant. The consultant will provide insight into any premature membrane failure, the cause of such failure and describe how to economically make repairs. The consultant will identify possible chemical or environmental changes that may effect the deck and provide imperative information in planning for repair and replacement budgets. The bi-annual deck inspection by the consultant will be at the cost of the Courts Homeowners Association

85 548750

When recorded, return to:
DEVELOPERS FINANCIAL GROUP
2111 East Highland Avenue, Suite 155
Phoenix, Arizona 85016
Attention: Gary Spore

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
NOV 19 1995-1098
KENTH POLYTS, County Recorder
FEE 650 PGS 62 L.D.

Declaration of Horizontal Property Regime/Condominium
of

THE COURTS AT GAINNEY RANCH

A Residential Condominium Project Located in Scottsdale, Arizona
and
A Satellite Community of Gainney Ranch

When Recorded Return to:

Gary Spore
Developers Financial Group
2111 East Highland Avenue
Suite 155
Phoenix, Arizona 85016

**MASTER DECLARATION OF ANNEXATION
AND
DECLARATION OF HORIZONTAL PROPERTY REGIME
FOR ADDITIONAL PHASES OF
THE COURTS AT GAINNEY RANCH**

APRIL 15, 1986

RECITALS:

WHEREAS, Developers Financial Group, an Arizona partnership ("the Declarant"), has heretofore subjected that certain real property more particularly described as Buildings 7, 8, and 9 on the Plat described below to a Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for the Courts at Gainey Ranch, recorded November 19, 1985, as Document No. 85 548750 of the records of the County Recorder of Maricopa County, Arizona ("the Declaration") and the First Amendment to Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for the Courts at Gainey Ranch recorded contemporaneously herewith; and

WHEREAS, a Plat of survey of the project was recorded in Book 290 of Maps, at page 43 of the records of the County Recorder of Maricopa County, Arizona ("the Plat");

WHEREAS, Declarant desires to subject, as additional phases the remainder of that certain real property more particularly described as Buildings 1, 2, 3, 4, 5, 6, 10, and 11, incorporated herein by reference ("the property") to a horizontal property regime/condominium pursuant to A.R.S. §§33-551, et seq., and 33-1201, et seq., of the Arizona Revised Statutes and to subject the property to all of the covenants, conditions and restrictions set forth in the Declaration;

NOW, THEREFORE, in consideration of the foregoing and the covenants, conditions and restrictions hereinafter contained, it is agreed as follows:

1. Declarant, as the sole owner of the property, pursuant to Sections 38 and 39 of the Declaration does hereby annex the property to the horizontal property regime/condominium previously established pursuant to the Declaration, as amended, in additional phases; provided, however, that annexation of each phase shall be effective only upon the recordation of the conveyance of the first Unit within such particular phase as such phases are described on such conveyance to an owner other than Declarant ("the first conveyance"). From and after the recordation of the first conveyance in each particular phase all of the property contained within the boundaries of such phase shall be subject to all of the covenants, conditions and restrictions contained in the Declaration any person or entity acquiring any interest in the property shall, in all respects, be bound thereby. Notwithstanding anything contained herein to the contrary, the grantee of the first conveyance shall take title to such grantee's Unit together with the undivided interest in the common elements appurtenant thereto subject to all the covenants, conditions, and restrictions contained in the Declaration and shall not be exempt therefrom by virtue of such first conveyance occurring simultaneously with the effective date of annexation of the phase in which such Unit is situated. The Plat attached to the Declaration as Exhibit "A" and incorporated herein by reference describes the Building(s), the Units and the Common Elements which are planned to be created upon the property annexed hereby which are more fully described in the Declaration. From and after the recordation of the first conveyance in each particular phase the undivided interest in and to the common elements appurtenant to each Unit in the horizontal property regime/condominium shall be adjusted, as determined by a fraction, the numerator of which shall be one and the denominator of which shall be equal to the total number of Units then subject to the horizontal property regime/condominium. For purposes of this section, a purchase of any part of the property by Markland Properties, Inc., shall not be deemed a sale which automatically triggers annexation.

2. Pursuant to Section 7 of the Declaration, assessments for Common Expenses shall not be payable for any Unit in additional phases of The Courts at Gainey Ranch until

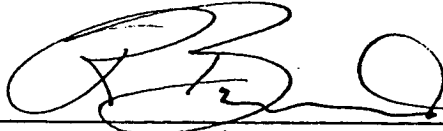
the first conveyance in each such phase and then assessments for Common Expenses shall be payable only with respect to the Units in such phase as well as Units in any phase(s) previously subjected to the horizontal property regime/condominium created by the Declarant.

3. If Declarant has not constructed any Building in a particular phase, Declarant may, within seven (7) years from the date hereof, record a Declaration of Abandonment and upon the recordation of such Declaration of Abandonment, the property described therein shall cease to be subject to this Master Declaration of Annexation, the Declaration, and the horizontal property regime/condominium created thereby. If such phases are not abandoned within said seven-year period, the remaining phases shall be deemed automatically annexed into the condominium. The foregoing notwithstanding, Declarant shall not have the right to abandon any property without the prior written consent of Markland Properties, Inc.

IN WITNESS WHEREOF, the Declarant has executed this Master Declaration of Annexation as of the day and year first above written.

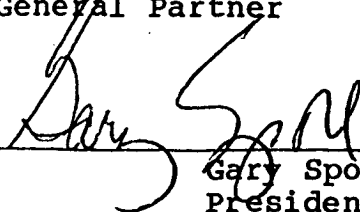
DEVELOPERS FINANCIAL GROUP,
an Arizona partnership

By: **Developers Financial Group, Inc.,**
an Arizona corporation,
General Partner



Robert A. Ballard
President

By: **Gary Spore, Inc.,**
an Arizona corporation,
General Partner



Gary Spore
President

APPROVED AND ACCEPTED:

Markland Properties, Inc.,
an Arizona corporation,

By: *Stephen J. Brown*

Its: VP - FINANCE

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED *April 15*, 1986, before me
the undersigned Notary Public, personally appeared
Robert A. Ballard, who acknowledged himself to be the President
of Developers Financial Group, Inc., an Arizona corporation,
and General Partner of Developers Financial Group, an Arizona
general partnership, and being authorized so to do executed the
foregoing instrument for the purposes therein contained.

April 15 SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
, 1986.

Deane M. Hruskewer
Notary Public

My Commission Expires:
July 8, 1989

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED April 15, 1986, before me
the undersigned Notary Public, personally appeared Gary Spore,
who acknowledged himself to be the President of
Gary Spore, Inc., an Arizona corporation, and General Partner
of Developers Financial Group, an Arizona general partnership,
and being authorized so to do executed the foregoing instrument
for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
April 15, 1986.

Arani M. Greiskemer
Notary Public

My Commission Expires:
July 8, 1989

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED April 21, 1986, before me the undersigned Notary Public, personally appeared Stephen J. Brumm, who acknowledged himself to be the V.P. - Finance, of Markland Properties, Inc., an Arizona corporation, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
April 21, 1986.

Linda Susan Snyder
Notary Public

My Commission Expires:

My Commission Expires July 9, 1989

APPROVED AND ACCEPTED:

**Mera Bank, formerly known as
First Federal Savings & Loan Association
an Arizona corporation,**

By: _____
 Jeannette Byrum
Its: Vice President

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED _____, 1986, before me the undersigned Notary Public, personally appeared Jeannette Byrum, who acknowledged herself to be the Vice President of First Federal Savings & Loan Association, now known as Mera Bank, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

**SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
_____, 1986.**

Notary Public

My Commission Expires:

EXHIBIT "A"

When Recorded Return to:

Gary Spore
Developers Financial Group
2111 East Highland Avenue
Suite 155
Phoenix, Arizona 85016

FIRST AMENDMENT
TO
DECLARATION OF HORIZONTAL PROPERTY REGIME/CONDOMINIUM
AND
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR

THE COURTS AT GAINNEY RANCH

THIS INSTRUMENT, dated APRIL 15, 1986, by **DEVELOPERS FINANCIAL GROUP**, an Arizona general partnership (hereinafter "the Declarant").

WHEREAS, Declarant owns One Hundred Percent (100%) of the property located in **The Courts at Gainey Ranch** condominium project, as described in the Declaration of Horizontal Property Regime/Condominium and Declaration of Covenants, Conditions, and Restrictions for The Courts at Gainey Ranch ("Declaration") recorded as Document No. 85 548750 in the office of the Recorder of Maricopa County, Arizona, on November 19, 1985, and the plat thereof recorded in Book 290 of Maps, at page 43 ("the Plat"); and

WHEREAS, Declarant wishes to amend said Declaration to provide for the orderly and beneficial development and construction of the condominium project by developing and constructing the project in multiple phases.

NOW, THEREFORE, the undersigned Declarant hereby amends said Declaration pursuant to Section 26 thereof as follows:

1. The terms used herein shall have the same meanings and definitions as contained in the Declaration.

2. The Courts at Gainey Ranch project shall be developed and constructed in multiple phases. The first phase shall consist of Buildings 7, 8, and 9 as defined and described on the Plat for The Courts at Gainey Ranch, together with the easements, common areas, roads, and other amenities shown thereon except Limited Common Elements comprising parts of Buildings 1, 2, 3, 4, 5, 6, 10, and 11.

3. Subsequent phases, consisting of Buildings 1, 2, 3, 4, 5, 6, 10, and 11 as depicted on the Plat, may be annexed into the project by recordation of an instrument setting forth the description of the phase(s) to be annexed and upon the conveyance of the first unit in any such Building to the residential purchaser. In addition, Markland Properties, Inc., may execute and record any document necessary to annex any portion of the Property into the project pursuant to Markland Properties Inc.'s rights and privileges described in Section 40 of the Declaration. For purposes of Markland Properties, Inc.'s exercise of its rights pursuant to said Section 40, the term "Property" shall include all unannexed Buildings. The transfer of any portion of the Property to Markland Properties, Inc., shall not be deemed a conveyance to a residential purchaser.

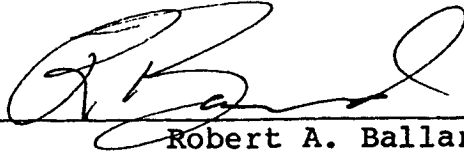
4. There shall be a maximum of seventy (70) total units in the project. In the first phase established hereby, the initial Allocated Interests of the owners of each Unit shall be equal to $1/21$ or 4.76 percent. Thereafter, as each additional phase is annexed, the Allocated Interests of all owners shall be automatically adjusted to reflect the additional units so annexed. For example, if seven more units were annexed, the Allocated Interests of each unit would be $1/28$ or 3.57 percent, and so forth. Such additional phases and any person acquiring an interest there shall be entitled and subject to the same rights, interests, easements, privileges, duties, and obligations as described in Section 38 of the Declaration.

5. Any provision, covenant, condition, or restriction contained in the Declaration which is inconsistent with the foregoing is hereby amended only to the extent necessary to make such provision consistent with the phasing procedure established herein. For purposes of phasing, "Building" shall be deemed to include all parking spaces, garages, patios, and balconies associated with such Building. In all other respects, said Declaration shall remain in full force and effect. Nothing herein shall be construed as deleting, altering, or amending, Markland Properties, Inc.'s rights, as set forth in the Master

Declaration and Tract Declaration, to purchase the subject property and to become the Declarant.

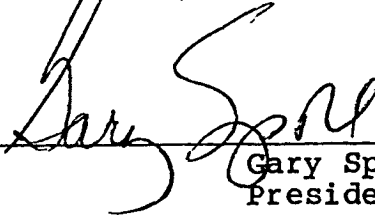
DEVELOPERS FINANCIAL GROUP,
an Arizona partnership

By: **Developers Financial Group, Inc.,**
an Arizona corporation,
General Partner



Robert A. Ballard
President

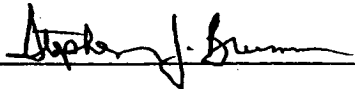
By: **Gary Spore, Inc.,**
an Arizona corporation,
General Partner



Gary Spore
President

APPROVED AND ACCEPTED:

Markland Properties, Inc.,
an Arizona corporation,

By: 

Its: VP - FINANCE

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED April 15, 1986, before me
the undersigned Notary Public, personally appeared
Robert A. Ballard, who acknowledged himself to be the President
of Developers Financial Group, Inc., an Arizona corporation,
and General Partner of Developers Financial Group, an Arizona
general partnership, and being authorized so to do executed the
foregoing instrument for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
April 15, 1986.

Deane M. Kreske
Notary Public

My Commission Expires:
July 8, 1989

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED April 15, 1986, before me
the undersigned Notary Public, personally appeared Gary Spore,
who acknowledged himself to be the President of
Gary Spore, Inc., an Arizona corporation, and General Partner
of Developers Financial Group, an Arizona general partnership,
and being authorized so to do executed the foregoing instrument
for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
April 15, 1986.

Diane A. Kresheimer
Notary Public

My Commission Expires:

July 8, 1989

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED April 21, 1986, before me the undersigned Notary Public, personally appeared Stephen J. Gunnison, who acknowledged himself to be the V-P Finance, of Markland Properties, Inc., an Arizona corporation, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me
April 21, 1986.

Linda Susan Snider
Notary Public

My Commission Expires:
My Commission Expires July 9, 1989

APPROVED AND ACCEPTED:

**Mera Bank, formerly known as
First Federal Savings & Loan Association
an Arizona corporation,**

By: _____
 Jeannette Byrum
Its: Vice President

STATE OF ARIZONA)
 : ss.
County of Maricopa)

DATED _____, 1986, before me the undersigned Notary Public, personally appeared **Jeanette Byrum,** who acknowledged herself to be the Vice President of **First Federal Savings & Loan Association,** now known as **Mera Bank,** and being authorized so to do executed the foregoing instrument for the purposes therein contained.

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me _____, 1986.

Notary Public

My Commission Expires:

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to
Declaration of Horizontal Property Regime/Condominium
of
THE COURTS AT GAINNEY RANCH

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Exhibit "A" - Legal Description
Exhibit "B" - Condominium Plat

85 548750

DECLARATION OF HORIZONTAL PROPERTY REGIME/CONDOMINIUM
AND
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR

THE COURTS AT GAINNEY RANCH

THIS INSTRUMENT, dated NOVEMBER 19TH,
1985, by DEVELOPERS FINANCIAL GROUP, an Arizona
general partnership (hereinafter called the
"Declarant").

W I T N E S S E T H :

WHEREAS, Declarant is the sole owner of the real property situated in the City of Scottsdale, County of Maricopa, State of Arizona, described in Exhibit "A" attached hereto (located in a planned development known as the Gainney Ranch); and

WHEREAS, Declarant desires hereby to convert, submit and subject the Property (as hereinafter defined) to a horizontal property regime (hereinafter referred to as the "Condominium"), pursuant to A.R.S. §§33-551 through 33-561; and subject to the master plan of development established for the Gainney Ranch; and

WHEREAS, Declarant desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the subject real property, or any part thereof, certain easements and rights in, over, and upon said real property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance thereof; and

WHEREAS, Declarant desires and intends that the Unit Owners, Mortgagees, beneficiaries and trustees under trust deeds, occupants and all other persons hereafter acquiring any interest in such property shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which shall run with the land and be binding upon such real property and all parties having or acquiring any right, title, or interest in or to such real property, or any part thereof, and shall inure to the benefit of each Owner, Mortgagee, occupant, or other persons now owning or hereafter acquiring any interest in any Unit, and all such rights, easements, privileges, and restrictions are hereby declared to be in furtherance of a plan to promote and protect the cooperative use, conduct, and maintenance of such real property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness thereof, and

85 548750

WHEREAS, Declarant further wishes to obtain for itself and for future owners of acquiring interests in the real property, the rights and benefits of the Arizona Condominium Act, A.R.S. §§33-1201, et seq., which has been enacted into law and will become effective shortly after the recordation of this instrument.

NOW, THEREFORE, Declarant, as the sole owner of the real property hereinbefore described and for the purposes herein set forth, declares as follows:

1. Definitions. In addition to the definitions contained elsewhere herein, as used herein, unless the context otherwise requires, the following definitions shall apply:

1.1 "Act" means A.R.S. §§33-551 through 33-561; however, after January 1, 1986, "Act" shall mean A.R.S. §§33-1201 through 33-1270.

1.2 "Affiliate of Declarant" means any person who controls, is controlled by, or is under common control with a Declarant.

1.3 "Allocated Interests" means the undivided interests in the Common Elements, the Common Expenses, and votes in the Association allocated to each Unit as specifically set forth herein.

1.4 "Articles of Incorporation or Articles" means the instrument by which The Courts at Gainey Ranch Homeowners Association is formed and organized under Arizona law.

1.5 "Association" or "Unit Owners' Association" means The Courts at Gainey Ranch Homeowners Association.

1.6 "Board" or "Board of Directors" shall mean the Board of Directors of the Association, which shall have the general management powers to act on behalf of the Association.

1.7 "Bylaws" means the bylaws of the Association as promulgated and amended from time to time.

1.8 "Common Elements" means all portions of The Courts at Gainey Ranch Condominium, other than the Units, including without limitation the Parcel, the roofs and walls of the buildings, and the laundry rooms, storage rooms, mechanical rooms, central air conditioning/heating systems not serving an individual Unit as described in Section 3.2, parking areas and spaces, streets, sidewalks, driveways, walkways, outside stairways, and landings, patios, balconies, landscaping, recreational areas and facilities and the sewer and drainage

easements shown on the Plat and all other portions of the Property other than the Units.

1.9 "Declarant" means DEVELOPERS FINANCIAL GROUP, a partnership, and any person or group who reserves, is granted, and succeeds to any Special Declarant Right. In the event that Markland Properties, Inc., an Arizona corporation, exercises the right to reacquire all or part of the Property from the Declarant named herein and further elects pursuant to Section 40 below to assume the rights and responsibilities of the Declarant hereunder, then from the date of such acquisition and election the term "Declarant" shall refer to said Markland Properties, Inc., its successors and assigns.

1.10 "Declaration" means all instruments, however denominated, that create this Condominium and any amendments to those instruments.

1.11 "Development Rights" means any right or combination of rights reserved by or granted to a Declarant pursuant to this Declaration.

1.12 "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property.

1.13 "First Mortgagee" means the Mortgagee of a First Mortgage.

1.14 "Identifying Number" or "Unit Number" means the symbol or address that identifies a particular unit in the Condominium. The Unit numbers shall be consecutive, beginning with 1 and continuing 2, 3, and so forth, all as shown on the Plat(s) of the Condominium.

1.15 "Limited Common Element" means a portion of the Common Elements specifically designated as a Limited Common Element in this Declaration and allocated by this Declaration or by operation of applicable law for the exclusive use of one or more but fewer than all of the Units in the Condominium.

1.16 "Majority" or "Majority of Owners" means the Owners of Units to which more than FIFTY PERCENT (50%) of the undivided ownership of the Common Elements is appurtenant, irrespective of the total number of Owners, as provided in Section 4 of this Declaration. Likewise, any specified fraction or percentage of the Owners means the Owners of Units to which that fraction or percentage of undivided ownership of the Common Elements is appurtenant.

1.17 "Mortgage" means any recorded, filed, or otherwise perfected instrument given in good faith and for

valuable consideration which is not a fraudulent conveyance under Arizona law as security for the performance of an obligation, including without limitation, deeds of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.18 "Mortgagee" means a person secured by a Mortgage, including the trustee and beneficiary under any deed of trust and also including a Seller under a contract for sale, other than a Seller who is an Owner; and

1.19 "Mortgagor" means the person executing a mortgage, and, where context requires, the successor/assignee in interest of such a person.

1.20 "Occupant" means a person or persons, other than an Owner, in rightful possession of a Unit.

1.21 "Owner" or "Unit Owner" means the record owner, whether one or more persons or entities, of a fee simple title, whether or not subject to any Mortgage, to any Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, and the Declarant. In the case of Units the fee simple title to which is vested of record in a trustee pursuant to A.R.S. §33-801, et seq., legal title shall be deemed to be in the trustor; in cases where the fee simple is subject to one or more contracts for conveyances as described in A.R.S. §33-741, et seq., the purchaser shall be the Owner.

1.22 "Parking Space" means each of the separate parking spaces as shown on the Plats, including, without limitation, covered and uncovered spaces and garage spaces.

1.23 "Person" (whether or not capitalized) means a natural person, a corporation, business trust, estate, trust, partnership, association, joint venture, government subdivision or agency, or other legal or commercial entity. In the case of a subdivision trust, as defined in A.R.S. §6-801, person means the beneficiary of the trust who holds the right to subdivide, develop, or sell the real estate rather than the trust or the trustee.

1.24 "Plat" means the plat map(s) of the Property, as hereinafter more fully described and identified, which is (are) incorporated fully herein by this reference. The Plat of The Courts at Gainey Ranch Condominiums together with a companion plat of dedication of easements have been recorded in Book 290 of Maps, page(s) 43, records of Maricopa County, Arizona. Copies of said plats are attached hereto as a composite Exhibit "B".

1.25 "Property" means the Real Estate, the Buildings and the Units comprising the Condominium hereby created on the property described in Exhibit "A", together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, all rights, and privileges belonging or in any way pertaining thereto and all furniture, furnishings, fixtures, machinery, equipment, and appliances and personal property located thereon, intended for the mutual use, benefit, and enjoyment of the Owners (but not including the personal property of any Owner or occupant); and such term shall in general have the same meaning as set forth in A.R.S. §33-551, as related to the Condominium hereby created. The Property is comprised of one or more Parcels which may be submitted to this condominium as provided for in this Declaration.

1.26 "Real Estate" means any legal, equitable, leasehold or other estate or interest in, over, or under the land described in Exhibit "A" attached hereto, including structures, fixtures, and other improvements, appurtenances, and interests which by custom, usage, or law pass with a conveyance of land even if not specifically described in a contract of sale or instrument of conveyance.

1.27 "Record" or "Recording" refers to record or recording in the office of the County Recorder of Maricopa County, Arizona.

1.28 "Rules" means the rules, regulations, and provisions, if any, adopted pursuant to the Declarations or Bylaws of the Association governing maintenance and use of the Units and Common Elements.

1.29 "Special Declarant Rights" means the right, or combination of rights, reserved by or granted to the Declarant in this Declaration as described in Section 38.

1.30 "Unit" means those portion(s) of the Condominium designated for separate ownership or occupancy as residences.

2. Submission of Property. Declarant has submitted and hereby submits and subjects the Property to a horizontal property regime pursuant to A.R.S. §§33-551 through 33-561, to be known as The Courts at Gainey Ranch Condominiums. Declarant does hereby declare that all of the Units shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and other provisions of this Declaration. From and after the effective date of A.R.S. §§33-1201 through 1270, Chp. 192, First Regular Session, Thirty-Seventh Legislature, this Declaration, the Condominium Documents and the Property shall be subject to the provisions thereof and shall be entitled to all rights and benefits conferred thereby.

2.1 Master Restrictions for Gainey Ranch. This Declaration and the other Condominium Documents and the uses, operation, maintenance, and management of the Property are subject to and governed by the Gainey Ranch Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements ("Master Declaration") recorded as Document No. 84 130211, as amended, and the Tract Declaration Gainey Ranch Parcel 10C ("Tract Declaration"), recorded as Document No. 85 272993, as amended, which instruments contain restrictions, covenants, and conditions and impose certain obligations in connection with the subject Property, all as more specifically set forth therein. By way of illustration, but not limitation, such instruments provide, and this Declaration hereby confirms that:

(a) the Association for The Courts at Gainey Ranch is a Satellite Association of the Master Gainey Ranch Community Association;

(b) the Master Association may temporarily take control of the Satellite Association for the reasons set forth in the Master Declaration;

(c) the Master Association will provide management and maintenance of the Satellite Community common elements, except those Limited Common Elements which are the responsibility of the Owner pursuant to Section 6.3;

(d) the Master Association will provide management support services to the Satellite Association; and

(e) the Satellite Association will compensate the Master Association for the Master Association's maintenance and management support services.

In the event of any conflict between the provisions hereof and the Master Declaration, the Master Declaration shall prevail.

3. Description of the Building, the Units and the Common Elements. The entire Condominium shall be constituted of the Common Elements and the Units.

3.1 Buildings. Reference is hereby made to the Plat(s) for a description of the space of or planned for each of

the separate residential Buildings (hereinafter "Buildings") in the Condominium and their location or planned location. The cubic content of each Building shall be determined according to said Plat(s).

3.2 Units. There are or are planned to be a maximum total of SEVENTY (70) Units in the Condominium. Reference is hereby made to the Plat(s) for a description of each Unit and its location or planned location within the Buildings. Each Unit shall include the space enclosed and bounded by the interior unfinished surfaces of the ceiling or any extension of the elevation thereof, floor and any extension of the elevation thereof, perimeter walls, doors and windows thereof together with any portion of the air conditioning/heating system which exclusively serves such Unit; provided, however, that no portion of the roof, load bearing walls, foundation, or other structural components of the Building in which each Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of a Unit. The cubic content of each Unit shall be determined according to said Plat(s). A Unit shall include the cubic space enclosed by any deviation from the foregoing planar surfaces and dimensions on account of sky lights, recessed lighting, lofted ceilings and other irregular features which constitute part of the original architectural design of such Unit or of alterations permitted by this Declaration. Each Unit shall include as an appurtenance thereto the exclusive right to use the Parking Space(s) assigned to such Unit and the patio and/or balcony appurtenant thereto, all of which shall be Limited Common Elements. Each second floor Unit shall also include the stairway leading to the Unit and as an appurtenance thereto the exclusive right to use the ground floor entry to the Unit appurtenant thereto which shall be Limited Common Elements.

3.3 Interest in the Common Elements. The Allocated Interest which each Unit bears to the entire Condominium, which interest shall constitute an undivided interest in the Common Elements which is appurtenant to each such Unit, shall be the percentage calculated by a fraction in which the numerator is one and the denominator is the total number of Unit(s). For example, if there are SEVENTY Units, then the interest which each Unit bears to the entire Condominium would be $1/70$ or 1.429 PERCENT.

4. Association. The Association, an Arizona nonprofit corporation, has been or will be prior to the conveyance of the first Unit, formed to constitute the "Council of Co-Owners", as that term is defined in A.R.S. §33-551, and as the "Association" as defined in A.R.S. §33-1201, to serve as the governing body for all of the Owners for the protection, improvement, alteration, expansion, augmentation, disposal, divestment, redescription,

maintenance, repair, replacement, administration, and operation of the Condominium, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds, and other matters as provided in the Condominium Documents, the Master Declaration, the Tract Declaration, and applicable law. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws. The Association is a Satellite Association of the Gainey Ranch Master Association and subject thereto.

4.1 Membership in Association. Each Owner shall be a member of the Association as soon and so long as he shall be an Owner. Such membership shall automatically terminate when an Owner ceases for any reason to be an Owner, and the new Owner shall likewise automatically succeed to such membership in the Association. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it appertains (and then only to such purchaser) or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the person to whom such fee simple title is transferred).

4.2 Proxies and Transfers. Notwithstanding the foregoing, in the event that an Owner has granted an irrevocable proxy or otherwise pledged or alienated the voting right of his Unit regarding special matters to a Mortgagee as additional security, only the vote of such Mortgagee will be recognized in regard to such special matters, if a copy of such proxy or other instrument pledging or alienating such vote has been filed with the Board of Directors. In the event that more than one such instrument has been filed, the Board of Directors shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgages themselves. Any attempt to make a prohibited transfer of a membership is void and will not be recognized by or reflected upon the books and records of the Association. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of such Unit, the Association shall have the right to record a transfer upon the books of the Association and issue a new membership to the purchaser, and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

4.3 Classes of Membership; Voting Rights of Classes. The Association shall initially have two classes of voting membership:

4.3.1 Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The voting for such Unit shall be exercised as such persons among themselves determine, but in no event shall more than one vote be cast with respect to any Class A Unit.

4.3.2 Class B. The Class B Member shall be the Declarant who shall hold one Class B membership and shall be entitled to THREE (3) votes for each Unit owned or which Declarant has the right pursuant to this Declaration to construct or to annex to the Condominium. Each such vote may be cast in such proportions on any matter as Declarant may determine. Class B membership shall cease and be converted to Class A memberships, without further act or deed, upon the happening and during the continuance of any of the following events:

(a) Upon the sale or other disposition of any particular Unit(s) by Declarant, other than in connection with an assignment by Declarant of all or substantially all of its rights under this Declaration (including a pledge or assignment by Declarant to any lender as security), with respect to such Unit(s) so sold or otherwise disposed of; or

(b) With respect to all remaining Class B membership, as follows:

(1) Within NINETY (90) days following the first date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

If any lender to whom Declarant has assigned, or hereafter assigns, as security all or substantially all of its rights under this Declaration succeeds to the interests of Declarant by virtue of said assignment, the Class B membership shall not be terminated thereby, and such lender shall hold the Class B membership on the same terms as they were held by Declarant pursuant hereto.

4.4 Election and Qualifications of Directors. The manner of election, length of term, and duties and powers of the Directors (other than those set forth herein) shall be set forth in the Articles of Incorporation or the Bylaws of the Association. In the event of any conflict between the Articles or Bylaws and this Declaration, this Declaration shall govern and shall be binding. Each Director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership or trust, a director may be an officer, partner or beneficiary of such Owner). If a director shall cease to meet such qualifications during this term, he will thereupon cease to be a director, and his place on the Board shall be deemed vacant. Upon such a vacancy, the Board of Directors may, but shall not be required to elect a Director to fill such vacancy for the remainder of the term. The requirements of this subparagraph shall not apply to directors nominated by the Class B Member.

4.5 Action by the Association. The Board of Directors of the Association shall be qualified and elected according to the terms of this Declaration, the Articles and the Bylaws. To the extent permitted by law, all actions required to be taken by the Owners, acting as a body, shall be taken by the Board of Directors of the Association, by and through its directors and officers, such actions to include, without limitation, adoption or ratification of the Bylaws and rules and regulations for the Condominium Project created hereby. However, the Board shall not act on behalf of the Association to amend the Declaration, terminate the Condominium, elect members of the Board of Directors, or determine the qualifications, powers, and duties or terms of office of the Board of Directors members, except as otherwise expressly authorized in this Declaration. The foregoing notwithstanding, the Board may fill vacancies in its membership for the unexpired portion of any term. The Unit Owners, by a TWO-THIRDS (2/3) vote of all persons present and entitled to vote at any duly constituted meeting of the Owners at which a quorum is present, may remove any member of the Board of Directors without cause.

4.6 Additional Provisions in Articles of Incorporation and Bylaws of the Association. The Articles of Incorporation and Bylaws of the Association may contain any provision not inconsistent with law, or with the Master Declaration, or with this Declaration relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents and members.

5. Use of Common Elements. Except as provided for in Section 6, each Owner shall have the nonexclusive right to use the Common Elements in common with all other Owners as may be required for the purposes of access, ingress and egress, occupancy and enjoyment of the respective Unit owned by such Owner and of the Common Elements for their intended purposes, as herein

provided. Each Owner of any Unit hereafter existing on the Property described in Exhibit "B" attached hereto shall have the nonexclusive right to use any portion of the Common Elements set aside for common recreational purposes on a nondiscriminatory basis with the Owners of all Units in the Condominium created in this Declaration. Such rights shall extend to each occupant and the agents, servants, tenants, family members and invitees of each Owner. Such rights shall be subject to such reasonable limitations and restrictions as may from time to time be promulgated by the Board, and shall be subject to and governed by the provisions of Condominium Documents.

6. Limited Common Elements.

6.1 Garages. One Garage ("Garage") shall be permanently assigned to each Unit for the use and benefit of the Owner of such Unit. Such Garages are Limited Common Elements and shall be and remain appurtenant to such Unit and shall be conveyed with such Unit in any deed, encumbrance, lease, or other conveyance of any interest or estate in such Unit, whether or not expressly listed or provided for in such instrument, and may not be separated or partitioned from such Unit.

6.2 Parking Spaces. There shall be two types of Parking Spaces, called "Restricted Parking Spaces" and "Guest Parking Spaces."

6.2.1 Restricted Parking Spaces. The Declarant shall have the sole right and authority to sell, assign and designate particular Parking Spaces to the Owners of Units in the Condominium created hereby, and Parking Spaces so assigned and designated are herein referred to as "Restricted Parking Spaces." Initially, ONE (1) Restricted Parking Spaces is hereby permanently assigned and designated to each Unit as indicated on Plat(s) and incorporated herein. Restricted Parking Spaces are designated by the letters RP and the number of the Unit to which it is assigned; for example, RP43 is the Restricted Parking Space assigned to Unit 43. Such designated Restricted Parking Spaces are Limited Common Elements and the use of Restricted Parking Spaces shall be and remain appurtenant to such Unit and shall be conveyed with such Unit in any deed, encumbrance, lease or other conveyance of any interest or estate in such Unit, whether or not expressly listed or provided for in such instrument, and may not be separated or partitioned from such Unit. In addition, the Declarant may sell additional Restricted Parking Spaces to any Owner or Owners either in the initial deed of conveyance of a Unit or by separate deed at any time thereafter, so long as the Declarant at all times retains at least ONE (1) Parking space for and in reasonable proximity to each Unit owned by it or such additional Parking Spaces as may be necessary to satisfy any applicable governmental requirements. Such additional Restricted Parking Spaces shall, upon their

initial transfer by the Declarant, be permanently assigned to a specific Unit designated in the instrument of conveyance and shall thereafter be and remain appurtenant to such Unit, as hereinabove provided. The Owner or other person legally entitled to the use of any Restricted Parking Space shall be entitled to reasonable access thereto and to the use thereof for parking purposes, subject to such rules and regulations as may be adopted by the Board of Directors from time to time. No Restricted Parking Space or the right to use the same shall be sold, leased, mortgaged, assigned or otherwise transferred apart from the Unit to which it is appurtenant, as herein provided. Any attempt to sell, lease, mortgage, assign or otherwise transfer any Restricted Parking Space or permit the use thereof contrary to the terms thereof shall be void and shall not be recognized by the Association, unless expressly approved by the Board of Directors. The Association may exclude any persons not owning, leasing or otherwise entitled to use Restricted Parking Spaces from any Restricted Parking Space. An Owner of Restricted Parking Space in a garage, may also use the garage for limited storage purposes.

6.2.2 Guest Parking Spaces. Guest Parking Spaces shall be part of the general Common Elements and held available for additional parking by Owners and their guests and invitees in accordance with rules determined by the Board of Directors from time to time. Declarant may alter the number of Guest Parking Spaces in exercise of its rights conferred in Section 6.1.1. The Board shall have full authority to establish, operate, manage and adopt rules and regulations for any Guest Parking Spaces.

(a) No parking space shall be used for any of the following purposes: parking, storing, or maintaining motorcycles, boats, watercraft, mobile homes, trailers, campers, trucks rated more than TWELVE THOUSAND (12,000) pounds, recreational vehicles, bicycles, or other vehicles or property of any kind, except for personal automobiles. Any such vehicles or property may be kept in the Owner's Garage so long as such are not visible from the exterior of the Garage (the doors of all Garages must be closed at all times when vehicles or property are not being placed into or removed therefrom).

6.3 Patios and Balconies. The patios and/or balconies designated on the Plat as Limited Common Elements are hereby appurtenant to each Unit set aside for the exclusive use and benefit of the Owner of each Unit to which said patio and/or balcony is appurtenant. The maintenance of each patio and/or balcony shall be the sole responsibility of the Owner of each Unit to which said patio and/or balcony is appurtenant. The Owner of each Unit with a patio shall have the right to garden therein.

The Association shall have absolutely no responsibility in the event of any theft, damage, destruction or other loss of anything kept on or in each patio and/or balcony by any person. Each patio and/or balcony shall be conveyed with the Unit to which it is appurtenant in any deed, deed of trust, or other encumbrance, lease or other instrument creating or transferring any interest or estate in such Unit regardless of whether expressly listed provided for in such instrument and may not be separated or partitioned from such Unit.

6.4 Ground Floor Entries to Second Floor Units. The ground floor entries to the respective second floor Units designated on the Plat as Limited Common Elements are hereby set aside for the exclusive use and benefit of the Owner of each second floor Unit to which said entry is appurtenant. The maintenance of each said stairway shall be the sole responsibility of the Owner. The Association shall have absolutely no responsibility in the event of any theft, damage, destruction or other loss of anything kept on each ground floor entry by any person. Each entry shall be conveyed with the Unit to which it is appurtenant in any deed, deed of trust, or other encumbrance, lease or other instrument creating or transferring any interest or estate in such Unit, regardless of whether expressly listed or provided for in such instrument, and may not be separated or partitioned from such Unit.

7. Common Expense. Commencing on the conveyance of the first Unit, each Owner shall pay his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Condominium Documents, the Master Declaration, and the Tract Declaration (which expenses are herein sometimes referred to as "Common Expenses"), including specifically, but not by way of limitation, insurance, taxes and assessments not assessed to the Unit Owners, all utilities for the Common Elements, the maintenance and repair of the Common Elements, the replacements and additions thereof, and reasonable reserves for contingencies, replacements or other proper purposes, including an adequate reserve fund for replacement of those Common Elements which must be replaced on a periodic basis. The Association shall also maintain a working capital fund equal to at least TWO (2) MONTHS estimated Common Expenses of the Association, or such greater amount and for such longer period as the Board of Directors may determine from time to time. The foregoing notwithstanding, Declarant shall not be obligated to pay any Common Expenses allocated to Units not completely constructed and ready for occupancy. *

7.1 Budgets. The Board of Directors is hereby authorized to adopt and amend budgets for the Association from time to time, without the necessity of ratification by the Unit

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Owners. However, such budgets must be submitted to the Master Association for approval.

7.2 Assessments. Each Owner's proportionate share of such Common Expenses shall be determined on the basis of the Allocated Interest in the Common Elements appurtenant to such Owner's Unit as provided in Section 3.4. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be equally assessed against the Unit(s) to which the Limited Common Element is assigned. Any Common Expense or portion of a Common Expenses benefiting fewer than all of the Units shall be assessed exclusively against the benefited Units. The assessments of Common Expenses shall be fixed by the Board from time to time, subject to the conditions hereinafter set forth and in the Master Declaration. Notice of the assessments and the annual budget shall be given to the Owners by mail or hand-delivery to their respective Units within a reasonable time following adoption thereof by the Board of Directors.

7.3 Assessment Liens of Assessments. Payments of assessments for Common Expenses shall be due at least monthly at such times as may be determined by the Board of Directors of the Association. If any assessment is not paid when due, such assessment, together with interest at the rate of TWELVE PERCENT (12%) per annum or such other rate as may be established by the Board of Directors, together with costs, and reasonable attorney's fees and late charges in amounts to be established by the Board, shall constitute the personal obligation of the person who was the Owner of such Unit at the time such assessment fell due. The personal obligation for delinquent payments shall not pass to an Owner's successor in title unless expressly assumed by him. If any Owner shall fail or refuse to make any such payment of assessments when due, the amount thereof, together with interest, costs, late charges, and reasonable attorney's fees, shall constitute a lien on such Owner's Unit and on any rents or proceeds therefrom; provided, however, that such lien shall be subordinate to the lien of a prior recorded First Mortgage on the applicable Unit, acquired in good faith and for value, except for the amount of the unpaid assessments which accrues from and after the date on which such First Mortgagee acquires title to or comes into possession of the applicable Unit, and if any lien for unpaid assessments prior to such date has not been extinguished by the process by which such First Mortgagee acquired such title or possession, such First Mortgagee shall not be liable for such unpaid assessments and, upon written request to the Board of Directors by such First Mortgagee, such lien shall be released in writing by the Association. Upon payment of a reasonable fee to be established by the Board of Directors, any person acquiring an interest in any Unit shall be entitled to a statement from the Association setting forth the amount of unpaid assessments, if any, and such person

shall not be liable for, nor shall any lien attach to such Unit in excess of, the amount set forth in such statement, except for assessments which occur or become due after the date thereof. The lien provided for in this Section may be foreclosed by the Association in any manner provided or permitted for the foreclosure of realty mortgages or mechanic's liens in the State of Arizona.

7.4 **Special Assessments.** In addition to the annual assessments authorized above, the Association may levy special assessments only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements and only upon the vote of TWO THIRDS (2/3) of members who are voting in person or by proxy at a meeting duly called for this purpose. In all other respects, special assessments shall be governed by the provisions hereof applicable to Common Expenses.

7.5 **Declarants' Obligation.** While the Class "B" Membership exists as set forth in Section 4.3 above, Declarant shall take or cause to be taken all of the actions set forth in Article XIII, Section 2 of the Master Declaration, which include preparation and submission of certain budgets, the levy and collection of certain Assessments and the payment to the Association of the difference between the sums necessary to carry out the functions of the Association during such period and the sums obtained by the Association from Assessments during such period. On the date upon which the Class "B" Membership is converted to the Class "A" Membership, Declarant shall: (1) turn control over to the Association by causing the resignation of its nominees as officers and directors thereof and delivering such other items at the Association's reasonable request and expense as the Association may desire; (2) deliver to the Association any operating and reserve funds collected and insurance policies held by it and all rights to utility deposits; and (3) contribute an amount sufficient in the determination of the Master Association to cause the Association to have an operating reserve fund equal to five percent (5%) of all operating and maintenance costs incurred by the Association from the recordation of the Tract Declaration to the date control is relinquished.

8. **Mortgages.** Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages of his Unit. No Owner shall have the right or authority to make or create or cause to be made or created any mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Unit and its appurtenant interest in the Common Elements and any Limited Common Element assigned his Unit.

9. Insurance.

9.1 Insurance Requirements Generally. Commencing not later than the time of the first conveyance of a Unit to a person other than Declarant, the Association shall obtain and maintain in full force and effect at all time certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained, to the extent possible, from responsible companies duly authorized to do insurance business in the State of Arizona with a rating in Best's Insurance Guide (or any comparable publication) of at least Class VI or better (or any comparable rating). All such insurance, to the extent possible, shall be written in the name of, and the proceeds thereof shall be payable to the Association, as trustee for, and for the benefit of, the Owners and their Mortgagees as their respective interests may appear. The Board of Directors shall review all such insurance at least annually and shall be responsible to increase the amounts thereof as it deems necessary or appropriate. To the extent possible, such casualty insurance shall:

9.1.1 Provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees and agents and against each Owner and each Owner's employees, agents and invitees, and against each Mortgagee of all and any part of the Property or of any Unit, and any other person for whom the Association, any Owner or Mortgagee may be responsible.

9.1.2 Provide that the insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of the Association, its officers, directors, employees and agents or of any Owner or such Owner's employees, agents or invitees or of any Mortgagee of all or any part of the Property or of any Unit or any other person for whom the Association, any Owner or Mortgagee may be responsible.

9.1.3 Provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee of all or any part of the Property or any Unit and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee of all or any part of the Property or any Unit.

9.1.4 Contain a standard "without contribution" mortgage clause endorsement in favor of the Mortgagee of any Unit or of all or any part of the Property.

9.1.5 Provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least THIRTY (30) DAYS' prior written notice to the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement.

9.1.6 Provide that the insurer shall not have the option to restore the premises if condominium ownership of the Units and Property is to be terminated and the Units and Property are to be sold as an entirety in accordance with the destruction, condemnation and obsolescence provisions of this Declaration.

9.1.7 If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy provides primary insurance.

9.1.8 To the extent possible, such public liability and property damage insurance shall provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation.

To the extent that any insurance provided for herein is or becomes unavailable as a practical matter, the Association shall give notice thereof to the then current Unit Owners by hand-delivery or first class mail.

9.2 Copies of Policies. The Association shall maintain in its file a copy of its current policy of insurance, insurance certificates, and bonds, for the Property and certificates of insurance for each Unit. Certificates of insurance coverage or copies of insurance policies shall be issued to and at the expense of each Owner and each Mortgagee who makes or on whose behalf written request is made to the Association for any such certificate or copy.

9.3 Insurance Expenses. The cost and expense of all insurance obtained by the Association as provided in this Section shall be a general Common Expenses.

9.4 Casualty Insurance. The Association shall obtain and maintain casualty insurance covering the Property and each Unit covering loss or damage by fire and such other hazards as are covered under standard extended coverage policies, including without limitation, vandalism and malicious mischief, such other hazards as institutional lenders customarily require insurance against in the Phoenix, Arizona, area and, if available and if deemed appropriate by the Association, war risk, and a National Flood Insurance Association Standard Flood Insurance Policy (unless such insurance is not available or the Association shall determine that the Property does not fall within a flood hazard area), for an amount equal to ONE HUNDRED PERCENT (100%) of the current actual cash value of the Property, at the time the insurance is purchased and at each renewal date, exclusive of land, foundations, excavations, and other items normally excluded from coverage, including each Unit. At the option of the

Association, such insurance may also cover additions, alterations or improvements to a Unit made by an Owner if the Owner reimburses the Association for any additional premiums attributable to such coverage. The Association shall not be obligated to apply any insurance proceeds to restore a Unit to a condition better than the conditions existing prior to the making of additions, alterations or improvements as aforesaid.

9.5 Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability and property damage insurance covering bodily injury, liability, property damage liability and automobile bodily injury. Such insurance shall contain a "severability of interest" clause or endorsement which precludes the insurer from denying the claim of an Owner because of negligent acts of the Association or any other Owner. Each Owner shall be insured with respect to such Owner's liability arising out of the ownership, maintenance, repair, condition, or operation of the Common Elements, including Limited Common Elements, and all other coverage in kinds and amounts commonly required for similar projects by institutional lenders in the Phoenix, Arizona area. Limits of such coverage shall not be less than ONE MILLION DOLLARS (\$1,000,000) per injury and occurrence with respect to bodily injury liability, or such other and higher amounts as the Board of Directors determines.

9.6 Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

9.7 Fidelity Bonding. If reasonably available, the Association shall obtain and maintain bonds under which the Association is the named insured for all officers, directors, trustees and employees of the Association and for all other persons or entities which handle or are responsible for funds of the Association, including without limitation officers, employees and agents of any professional manager of the Association, unless such persons or entities are otherwise bonded, in amounts not less than ONE HUNDRED FIFTY PERCENT (150%) of the estimated annual budget of the Association from time to time. To the extent reasonably available, said bonds shall:

- (a) Name the Association as an obligee.
- (b) Contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

(c) The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense; and

(d) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least THIRTY (30) DAYS' prior written notice to the Association.

9.8 Insurance by Owners. Except to the extent coverage therefor may be obtained by the Association and be satisfactory to an Owner, each Owner shall be free to obtain and shall be responsible for obtaining such additional or other insurance as he deems desirable, including insurance covering his furnishings and personal property and covering personal liability for him and his employees, agents and invitees and any other person for whom such Owner may be responsible. Any insurance policy obtained by an Owner must not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and must, to the extent possible, contain a waiver of the rights of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other Owners and their employees, agents and invitees and against any Mortgagee of all or any part of the Property or any Unit or other person for whom the Association or any such Owner or Mortgagee may be responsible.

9.9 Receipt and Application of Insurance Proceeds. Except as some particular person shall have a legal right to receive insurance proceeds directly, all insurance proceeds and recoveries under policies maintained by the Association shall be paid to and received by the Association. The Association shall have the right, acting alone, to collect and dispose of all insurance proceeds and to adjust or settle any claim under any insurance maintained by it and to perform all other acts necessary to accomplish such purposes. Any portion of the Condominium for which insurance is required under this Section which is damaged or destroyed shall be repaired or replaced promptly by the Association, unless any of the following apply:

- (a) The Condominium is terminated.
- (b) Repair or replacement would be illegal under applicable law; and

(c) SEVENTY-FIVE PERCENT (75%) of the Unit Owners, including every owner of a unit or Allocated Limited Common Element which will not be rebuilt, vote not to rebuild.

All insurance proceeds received by the Association shall be applied in accordance with the following priorities: first, as expressly provided in this Declaration and by law; second, to the Owners and Mortgagees or other persons whom the Association may determine are entitled thereto; and third, the balance, if any, to Owners and Mortgagees in proportion to their respective interests in the Common Elements. The lien priority of any First Mortgagee shall not be disturbed by any loss, damage or destruction and shall continue in any insurance proceeds payable with respect to the Mortgaged Unit in accordance with the provisions of this Section. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense.

9.10 Other Insurance by the Association. The Association shall also have the power or authority to obtain and maintain other and additional insurance coverage, including but not limited to casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying officers, directors, employees of the Association, all as the Board of Directors may determine from time to time.

9.11 FNMA and FHLMC Requirements. Notwithstanding any provision of this section, if at any time any of the Units are covered by Mortgages which are required in writing by the holder thereof to qualify for further sale to the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") (or any successor to such corporations which performs their present functions), the Association shall at all times carry all insurance in such amounts and containing all provisions as are required from time to time by either FNMA or FHLMC to be maintained by the homeowners associations of horizontal property regimes or condominiums, unless such coverage is unavailable or waived in writing. The Association shall furnish to FNMA or FHLMC or any First Mortgagee requesting the same in writing any claim or notification of damage or other loss covered by any of the types of insurance provided for in this section.

10. Destruction, Condemnation, Obsolescence, and Restoration or Sale of Property.

10.1 Definitions. As used in this Section, the following terms shall have the following definitions:

10.1.1 "Substantial Destruction" shall exist whenever the Board of Directors of the Association determines that, as a result of any casualty, damage, destruction to the Property, or any part thereof, the excess of estimated costs of Restoration (as herein defined) over Available Funds (as herein defined) is FIFTY PERCENT (50%) or more of the estimated Restored Value of the Property (as herein defined). "Partial Destruction" shall mean any lesser casualty, damage, or destruction of the Property or any part thereof.

10.1.2 "Substantial Condemnation" shall exist whenever the Board of Directors determines that a complete taking of the Property has occurred or that a taking of part of the Property by condemnation or eminent domain or by grant or conveyance in lieu of condemnation or eminent domain has occurred, and that the excess of the estimated costs of Restoration over Available Funds is FIFTY PERCENT (50%) or more of the estimated Restored Value of the Property. "Partial Condemnation" shall mean any lesser taking by eminent domain or by grant or conveyance in lieu of eminent domain.

10.1.3 "Substantial Obsolescence" shall exist whenever the Owners of Units holding SEVENTY-FIVE PERCENT (75%) of the undivided ownership of the Common Elements determine by vote that the Property or any part thereof has reached an undesirable state of obsolescence or disrepair, or whenever the Board of Directors determines that the Property or any part thereof has reached such a state of obsolescence or disrepair that the excess of estimated costs of Restoration over Available Funds is FIFTY PERCENT (50%) or more of the estimated Restored Value of the Property. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which is less than Substantial Obsolescence.

10.1.4 "Restoration", in the case of any casualty, damage, or destruction, shall mean restoration of the Property to a condition the same or substantially the same as the condition in which it existed prior to the casualty, damage or destruction; in the case of condemnation, shall mean restoration of the remaining portion of the Property to an attractive, sound and desirable condition; and, in the case of obsolescence, shall mean restoration of the Property to an attractive, sound, and desirable condition.

10.1.5 "Restored Value of the Property" shall mean the value of the Property after Restoration.

10.1.6 "Available Funds" shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation and any uncommitted income or funds of the Association, other than the income or funds derived through assessments or special assessments. Available Funds shall not

include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Property or of any Unit, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner of a Unit for the condemnation or taking of that Owner's individual air space unit.

10.2 Restoration of the Property. Restoration of the Common Elements shall be undertaken by the Association without a vote of the Owners in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence. In the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence, such restoration shall be undertaken unless the prior written consent of Owners and First Mortgagees to such nonrestoration and to the use of such proceeds or awards for a purpose other than restoration is obtained, as follows:

10.2.1 If Declarant then owns any Units, such consent shall be obtained from the Declarant and not less than TWO-THIRDS of the Owners of all Units not owned by Declarant; and

10.2.2 If Declarant then owns no Units, such consent shall be obtained from not less than TWO-THIRDS of the Owners of all Units.

For purposes of Section 10.2, before the written consent of the Owner of any Unit which is subject to a Mortgage shall be effective, the First Mortgagee of such Unit shall have consented in writing to such nonrestoration and to the use of any such proceeds or awards for a purpose other than the restoration of such Common Elements.

10.3 Sale of the Property. In the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, if the requisite number of First Mortgagees and Owners consent to such nonrestoration as provided in the preceding Section, the Common Elements shall be sold, except for those portions of the Common Elements which remain desirable and which are independent of the destroyed, condemned, or obsolete portion. In the event of such sale, the proceeds of sale and any condemnation awards or payments in lieu of condemnation shall be distributed by the Association to the Owners of Units with each Unit receiving a share based upon his Allocated Interest. Such payments shall be made to Owners or, as to Units which are mortgaged of record at the time of such payment, jointly to such Owner and the Mortgagee.

10.4 Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each Owner, shall have full power and authority to restore or to sell the Property and each Unit whenever Restoration or sale, as the case may be, is

undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

10.5 Special Assessments for Restoration. Whenever Restoration is to be undertaken, the Board of the Association shall levy and collect assessments from each Owner according to his Allocated Interest, in equal proportion, payable over such period as the Association may determine, to cover the costs and expenses of Restoration to the extent not covered by Available Funds. Such special assessments shall be secured by a lien on the Unit of each such Owner as in the case of regular assessments. Notwithstanding any other provisions in this Declaration to the contrary, in the case of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, any such special assessment shall not be a personal obligation of any such Owner who voted against Restoration or who filed with the Association a written consent to nonrestoration prior to commencement thereof. Whether or not such special assessment is a personal obligation of the Owner, if it is not paid when due, such special assessment may be recovered by foreclosure of the lien against the Unit of such Owner as hereinabove provided.

10.6 Receipt and Application of Condemnation of Funds. Except as herein expressly provided and as provided by law, all condemnation, damages, or other proceeds constituting awards in condemnation or eminent domain or payments in lieu of condemnation or eminent domain shall be payable to the Association. The Association shall have the right, acting alone, to adjust or settle any award payable to it. The amount of any such award equitably allocable as compensation for the taking of or injury to a particular Unit and its respective Allocated Interest in the Common Elements, or to any improvements made by an Owner (or his predecessor) therein shall be apportioned and paid to the Owner of that Unit or to any Mortgagee of such Unit as their interests may appear. The balance of the award shall be applied to costs and expenses of Restoration, if undertaken and, to the extent not so applied, shall be allocated as follows:

10.6.1 Any portion of the award allocable to the taking of or injury to the Common Elements shall be apportioned among all Owners or Mortgagees, as their interests may appear, in proportion to their respective Allocated Interests.

10.6.2 The amounts allocable to severance damages shall be apportioned to Owners and Mortgagees of Units which were not taken or condemned in proportion to their respective Allocated Interests.

10.6.3 The amounts allocated to consequential damages or for other purposes shall be apportioned as the Association determines to be equitable under the circumstances. The lien priority of any Mortgagee shall not be disturbed by any condemnation award attributable to the Mortgaged Unit in accordance with the provisions of this section.

10.7 Reorganization in the Event of Condemnation. In the event all of a Unit is taken in condemnation, the Unit shall, upon payment of equitable compensation as hereinabove provided, cease to be part of the Condominium, the Owner thereof shall cease to be a member of the Association, and the Allocated Interests appurtenant to that Unit shall automatically become vested in the Owners of the remaining Units in proportion to their respective Allocated Interests in the Common Elements. The Association shall promptly prepare, execute and record an amendment to the Condominium Document reflecting the reallocations.

11. Rights of Owners in any Distributions. In the event that any Owner or Mortgagee is entitled to receive any distribution of money, property, or other things from the Association for any reason, including without limitation the sale or other disposition of all or any part of the Property or the cessation or termination for any reason of the Condominium herein declared, such distribution shall be in proportion to the Allocated Interests in the Common Elements appurtenant to the Unit or Units owned or held by such Owner or Mortgagee, except as provided in Sections 9 or 10 hereof or as otherwise determined by the Association to be required by equity.

12. Maintenance, Repairs, and Replacements; Right of Access. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, painting, repairs and replacements within his own Unit and of any portion of the air conditioning/ heating system, plumbing, electrical system, or other utilities, doors, and windows, which exclusively service his Unit; and each Owner shall keep his patio and/or balcony in accordance with Section 6.3 herein. The Association shall maintain the Common Elements, except those Limited Common Elements which are the responsibility of the Owner under Section 6.3, in a neat and clean condition and shall make all necessary repairs and replacements, and the cost thereof shall be a Common Expense, except as provided below. Pursuant to the Master Declaration, the Master Association will perform such work on behalf of the Satellite Association. If, due to the willful or negligent act of an Owner or a member of his family or guest or other authorized occupant or visitor of such Owner, or other person for whom such Owner may be responsible, or household pet, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner shall, to the

extent required by law and not covered by the Association's insurance, pay for such damage and for such maintenance, repairs, and replacements as may be determined by the Board. Such obligation of payment and performance shall be payable together with interest, plus costs, and attorneys' fees, and secured by a lien on such Owners' Unit, all as provided in Section 7 with respect to assessments. An authorized representative of the Board, or of the manager or managing agent of the Association, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to reasonable access at reasonable times to each of the Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities, or fixtures affecting or serving other Units and the Common Elements. The Association shall not be deemed in breach or default of its obligations under this Section unless and until notice thereof shall be given to the Association and the Association has been given a reasonable opportunity to effect a cure.

13. Alterations, Additions, or Improvements. No alterations of any Common Elements or any additions or improvements thereto or any alterations additions or improvements to the patios, balconies, or other Limited Common Elements associated with any Unit shall be made by any Owner without the prior written approval of the Board. Any Owner may make nonstructural alterations, additions or improvements within the interior of his Unit (but excluding for purposes of the authority herein granted any patio or balcony) without the prior written approval of the Board, but such Owner shall be responsible for any damage to other Units, the Common Elements, or the Property which may result from such alteration, addition or improvement. Except as expressly provided herein or in case of an emergency affecting the safety of any individual, in addition to the required approval of the Board, there shall be no structural alterations or additions to any Building or other portion of the Common Elements without the prior approval of a Majority of the Owners given at a regular or special meeting of the members of the Association. Unless otherwise determined at any such meeting, the cost of such alterations or additions shall be paid by means of a special assessment against the Owners in proportion to their respective Allocated Interests in the Common Elements. Such special assessments shall be payable together with interests, plus costs and attorneys' fees, and secured by a lien upon the Units of such Owners, all in accordance with the provisions of Section 7.

14. Decorating. Each Owner, at his own expense, shall furnish and be responsible for all of the decorating within his own Unit and its appurtenant Limited Common Elements (but any furnishing or decorating of any patio, balcony, or other Limited Common Element shall be subject to the provisions of Section 18 of this Declaration) from time to time, including painting,

wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, and other furniture and interior decorating. Notwithstanding any other provision hereof to the contrary, all draperies, window shades, curtains, and other decorating of any Unit which can be seen from outside the Unit shall be subject to regulation as to color and design by the Board of Directors. Each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors, and ceilings and the surfaces within his Unit, and each Owner shall have the right to decorate such surfaces from time to time as he may see fit at his sole expense. However, each Owner shall maintain such surfaces in good condition, and all such use, maintenance and decoration shall be subject to regulation by the Board of Directors. Decorating and maintenance of the Common Elements other than interior surfaces within the Unit as above provided), and any redecorating of Units to the extent made necessary by any damage caused by defect in or by maintenance or repair work by the Association on the Common Elements shall be furnished by the Association and paid for as part of the Common Expenses.

15. **Encroachments.** If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portion of the Common Elements, or if any Unit or entryway providing ingress and egress thereto or therefrom shall actually encroach upon another Unit or entryway, as the Common Elements and the Units are shown on the appropriate Plat, whether such encroachment results from the initial construction or from subsequent repair, or reconstruction as provided for in this Declaration, settlement, or shifting, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Unit Owners involved to the extent of such encroachment so long as the same shall exist; provided, however, that no such easement shall arise if the encroachment results from the misconduct of the Owner claiming entitlement thereto. The Association shall at all times have the right to maintain any Common Element now existing or hereafter constructed, regardless of any encroachment now or hereafter existing of any such Common Element on any Unit.

16. **Purchase of Unit by Association.** Upon the consent or approval of a Majority of Owners present and voting at a special or regular meeting of the members of the Association or in such other manner as may be deemed by the Board to be necessary or expedient, the Board of Directors shall have the power and authority to bid for and purchase any Unit at a sale pursuant to a mortgage foreclosure, trustee's or beneficiary's sale under a trust deed, or a foreclosure of any lien for assessments provided for in this Declaration, or at a sale pursuant to an order or direction of a court, or other involuntary sale, and the Board shall have power and authority to finance such purchase of a Unit

by mortgage, special assessment or any other financing arrangement that the Board may deem necessary or expedient.

17. Use and Occupancy Restrictions. No part of the Property shall be used other than as a dwelling and the related common purposes for which the Property was designed, except that Declarant shall have the right to maintain sales and any other offices, model units, and signs on the Property, together with rights of ingress and egress therefrom, and to do such other acts and maintain such other facilities as are incidental to the development and sale of the Units now or hereafter existing in the Condominium hereby created or the development, construction, lease or sale of any portion of the Property described on Exhibit "B" attached hereto.

17.1 Declarant's Use. Declarant is also hereby granted an easement through the Common Elements to such an extent as is reasonably necessary or beneficial for the purpose of discharging Declarant's obligations hereunder or exercising Special Declarant Rights and other rights granted and reserved herein.

17.2 Specific Restrictions. Without limiting the foregoing, no Owner shall permit his Unit to be used for transient or hotel purposes or shall lease less than the entire Unit. Any lease agreement shall be in writing, for a duration of not fewer than THIRTY (30) days, and shall expressly provide that its terms are subject in all respects to the provisions of the Condominium Documents and the Master Declaration, and that a violation of any such provisions shall be a default under such lease, and a copy of any such lease shall be delivered to the Association. The Owner shall enforce such provisions against any lessee or other occupant, and the Association shall also have the right to enforce any remedies provided herein or in any lease in the event of a default resulting from the breach of the Condominium Documents or the Master Declaration. The Association may promulgate Rules increasing the length of the minimum lease periods allowed in any leases of the Units.

17.3 Use of Multiple Units. Each Unit or any two or more adjoining Units used together shall be used as a single family residence or for such other purposes as are permitted by this Declaration and for no other purpose. That part of the Common Elements separating any two or more adjoining Units under common ownership and used together for a proper purpose as aforesaid may be altered to afford ingress and egress to and from such adjoining Units at the sole expense of the Owner thereof if and only if specific plans are submitted to and prior approval is obtained from the Board of Directors.

17.4 Restrictions on Common Elements. The Common Elements shall be used only for their intended recreational purposes and for access, ingress, and egress to and from the respective Units by the Owners or occupants residing therein, members of their household and their guests, household help and other authorized visitors and for such other purposes as are incidental to the residential use of the Units. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Owner. Without limiting the generality of the foregoing, the following restrictions shall apply:

17.4.1 No Owner shall keep or maintain anything or shall suffer any condition to exist on his Unit or cause any other condition on the Property which materially impairs any easement or right of any other Owner or otherwise materially impairs or interferes with the use and enjoyment by the Owners of their Units and the Common Elements. Subject to the foregoing and the Master Declaration, commonly accepted household pets may be kept in a Unit, but no such pets shall be bred, kept for commercial purposes, or allowed loose or unsupervised on any part of the Property. Walking of pets shall be prohibited except at such times and on such portions of the Property as the Board may permit by its rules and regulations, and all pets shall be leashed at all times while out of a Unit.

17.4.2 If the Board determines that any motor vehicle or equipment is creating loud or annoying noises by virtue of its operation within the Property, or that the parking or storage of any vehicle or trailer on the Property is unsightly or detracts from the overall character of the Property, such determination shall be conclusive and final that the operation or storage of such vehicle is a nuisance, and said operation, upon notice by the Board to the owner or operator thereof, shall be prohibited within the Property.

17.4.3 No structure of a temporary character shall be permitted on the Property, and no tent, shack, barn, or trailer shall be permitted on the Property either temporarily or permanently, unless it is located thereon by or with the consent of the Board.

17.4.4 No windbells, windchimes, or similar devices shall be permitted on the Property.

17.4.5 Each Owner of any Unit located above ground level shall install and maintain at all times at his expense carpeting and/or other sound conditioned floor covering, in each case of grades and qualities from time to time approved by the Board of Directors, on all floors in his Unit, except in the kitchens, bathrooms and laundry areas, in which areas other flooring

materials approved by the Board of Directors may be installed and maintained.

17.4.6 No window air conditioners or portable Units of any kind shall be installed in any Building visible outside of a Unit.

17.4.7 No reflective materials, including but not limited to aluminum foil, reflective screens or glass, mirrors or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows. Enclosures, shades, screens, or other items affecting the exterior appearance of any patio or balcony or other portion of a Unit shall not be permitted without the express written consent of the Board of Directors and shall be subject at all times to the rules and regulations of such Board and to the provisions of Section 18 of this Declaration.

17.4.8 No radio, television or other antenna of any kind or nature shall be placed or maintained upon any Unit or Building, except that Declarant, if approved by the Master Association, shall have the right to install master cable(s), satellite dish(es), and other telecommunication device(s) and to provide each Unit access thereto.

17.4.9 The foregoing restrictions shall not, however, be construed in such manner as to prohibit an Owner from:

(a) maintaining his personal and/or a reasonable professional library therein;

(b) keeping his personal business or professional records or accounts therein; or

(c) handling his personal business or professional telephone calls or correspondence therefrom.

17.4.10 Without limiting the foregoing, each Owner shall maintain and keep his Unit at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Units or of the Common Elements.

17.4.11 No Owner shall keep or store garbage, rubbish, or junk or cause or permit any other unsightly or unsanitary substances or conditions to exist on the Property.

17.4.12 Pursuant to the right of entry hereinbelow set forth in Section 21, the Board of Directors or its authorized agents may enter any Unit in which a violation of these

restrictions exists and may correct such violation at the expense of the Owner of such Unit. Such expenses shall be payable together with interest, costs, and attorneys' fees and secured by a lien upon such Unit, all in accordance with the provisions of Section 7.

17.4.13 The Association may modify or waive the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Property and the Units by Rules adopted by the Board of Directors from time to time.

18. **Architectural Control.** The Board of Directors shall have control over the architectural design and maintenance of the Condominium. No building, fence, wall, tower, awning, sign, or other structure of any kind or character shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition, change or alteration be made thereto or therein, including without limitation to any exterior wall or balcony, patio, whether or not part of any unit, which is visible from the exterior of the Building, without approval by the Board and the Master Association. No additions to, changes in or alterations of landscaping, grade, or drainage shall be made, until plans and specifications showing the nature, kind, color, design, shape, height, materials, location and other material attributes of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors and the Master Association.

19. **Party Walls.** Party Walls shall be Limited Common Elements, the use and enjoyment of which shall be limited to the Owners of the Units adjoining each respective party wall. The rights and duties of the Owners of Units with respect to party walls shall be as follows:

19.1 Each wall, including patio and balcony walls, which is constructed as part of the original construction of any structure, any part of which is placed on the dividing line between separate Units, shall constitute a party wall. With respect to any such party wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of this Declaration. In addition, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied.

19.2 In the event any party wall is damaged or destroyed through the act of the Owner of one adjoining Unit, or his guests, tenants, invitees, licensees, employees, agents or members of his family or other person for whom such Owner is responsible, so as to deprive the other adjoining Unit of the full use and enjoyment of such party wall, then the Owner responsible

for such damage shall forthwith at his sole expense proceed to rebuild or repair the same in as good condition as formerly existed immediately prior to such damage or destruction.

19.3 Any Owner who by his negligent or willful act or by the negligent or willful act of any guest, tenant, invitee, licensee, employee, agent, or member of his family or other persons for whom such Owner is responsible, causes any party wall to be exposed to the elements shall at his sole expense furnish the necessary protection against such elements.

19.4 In addition to satisfying the other requirements of this Declaration, any Owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner and shall complete such alterations in accordance with the provisions of any building code or similar regulations or ordinances.

19.5 In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be decided by the Board of Directors of the Association, whose determination shall be final and binding on such Owners.

19.6 These covenants shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission of a previous Owner except as herein expressly provided.

20. Exemption of Declarant from Restrictions. Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any reasonable acts of Declarant, its employees, agents, and subcontractors, or parties designated by it in connection with the construction, completion, sale or leasing of the Units.

21. Entry by Board or its Agent. The Board of Directors of the Association or its authorized agent(s) may enter any Unit at any reasonable time, upon reasonable notice, when a majority of the Board of Directors deem it necessary or advisable for the enforcement of any restriction hereinabove set forth, to effect emergency or other necessary repairs or otherwise for the protection and preservation of that Unit or other Units. In addition, the Board of Directors or its authorized agents may enter any Unit at any time when any director or agent believes in his discretion that an emergency exists and that such entry is

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necessary to protect any person or property in such Unit or adjoining Units or for other good cause. If it becomes necessary to forcibly gain entry into a Unit, the Association, its Directors, Officers, and Agents shall not be liable for any damage done to the Unit as a result of the exercise of this right of entry. The party exercising this right of entry shall see that adequate measures are taken to secure the Unit until either the Owner or occupant shall be notified that the Unit has been entered.

22. Roof Leaks and Repairs. The Association shall maintain properly and repair promptly all leaks or other damage to the roofs of any of the Buildings. The Association shall not be responsible for damages to any Unit or the paint, wallpaper, carpeting or other furnishings thereof or other personal property therein, except for damage to paint or wallpaper caused by the failure of the Association to use reasonable efforts to repair any roof leak after receiving written notice thereof from the Owner of the affected Unit.

23. Copy of Declaration to New Members. A copy of the Condominium Documents and the books, records and financial statements of the Association will be available for inspection, at such reasonably convenient location as the Board of Directors may determine, upon request during normal business hours, to all Owners and First Mortgagees. The former Owner, at its own expense, or upon written request, the Board of Directors at the expense of the person making such request, shall give each new Owner of a Unit a copy of this Declaration and any and all amendments hereto; however, the failure of the Board to provide such copy will not relieve the new Owner from complying with this Declaration nor waive any of the rights, conditions, or restrictions stated herein or create any liability on the part of the Association, the Board of Directors or their agents.

24. Remedies. In the event that any Owner shall fail to comply with the provisions of the Act, the Condominium Documents, or the Rules of the Association, the Association shall have each and all of the rights and remedies provided for in equity or at law, in the Condominium Documents, or said Rules and may prohibit such Owner from the use of the recreational facilities of the Condominium for as long as such Owner is in default in the payment of any Common Expense, or for a period of up to SIXTY (60) days for each violation, whichever is longer, and may prosecute any action or other proceedings against such Owner for enforcement of such provisions or foreclosure of its lien and the appointment of a receiver for the Unit, or damages, or injunctive relief, or specific performance, or judgment for payment of money and collection thereof, or any combination of such remedies or any other and further relief which may be available at law or in equity, all without notice and without regard to the value of such Unit or the solvency of such Owner.

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All expenses of the Association in connection with any action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon as provided in Section 7 until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his Common Expenses, and the Association shall have a lien upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto for all of the same, as well as for nonpayment of his respective share of the Common Expenses. In the event of any such breach by any Owner, the Association shall also have the authority, with or without notice to such Owner, to correct such default and to do whatever may be necessary for such purpose; and all expenses in connection therewith shall be charged to and assessed against such Owner, and such assessment shall constitute a lien against such Owner's Unit. Any and all rights and remedies of the Association may be exercised at any time and from time to time, cumulatively or otherwise. The lien provided for in this Section shall be of the same priority, subject to the terms and conditions and may be foreclosed in the same manner as the lien provided for in Section 7 of this Declaration.

24.1 Mortgage Liens Unaffected. Notwithstanding any provisions of this Declaration to the contrary, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage made in good faith and for value upon any Unit and its appurtenant undivided interest in the Common Elements, but, except as herein expressly provided, each and all of such covenants, conditions, restrictions, reservations, and servitudes shall be binding upon and effective against any lessee or Owner of any Unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure, or otherwise.

25. Amendment. Except for cases where Declarant or the Board of Directors may expressly execute amendments alone, the provisions of this Declaration may be changed, amended, modified, or rescinded by an instrument in writing setting forth such change, amendment, modification, or rescission, signed and acknowledged by Unit Owners holding title to at least SIXTY-SEVEN PERCENT (67%) of the Units; provided, however, that before the signature of any Owner whose Unit is subject to a Mortgage shall be effective, the First Mortgagee of such Unit which has requested in writing to be notified of any amendment and has informed the Association of its address shall also have consented to each such material change, amendment, modification, or rescission, which consent shall not be unreasonably withheld; and further provided that no such amendment shall be effective to revoke, limit, or restrict any right, power, exemption, privilege, or easement

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provided to the Declarant herein or to increase any obligation or liability of the Declarant unless such amendment is also signed by the Declarant.

25.1 Signature of Owners. Notwithstanding the provisions of the foregoing section, if applicable law or the Condominium Documents require the consent or agreement of all or any greater percentage of the Owners than is specified above for any such amendment or for any action, then any instrument so changing, amending, modifying, or rescinding this Declaration or any provision hereof with respect to such action shall be signed by the Owners of not less than such specified percentage, as well as the other persons required by the foregoing.

25.2 Recordation of Amendments. Any such change, amendment, modification, rescission accomplished under any of the provisions of this Section shall be effective upon recording of the instrument providing therefor, signed and acknowledged as hereinabove provided.

26. Termination.

26.1 Right to Terminate. Except as otherwise provided in this Declaration, the Condominium created by this Declaration may be terminated by an instrument in writing signed and acknowledged by at least SEVENTY-FIVE PERCENT (75%) of the Owners, including Class B Membership if such exists (hereinafter referred to as the "Termination Agreement"); provided, however, that before the signature of any Owner whose Unit is subject to a Mortgage shall be effective, the First Mortgagee of such Unit which has requested in writing to be notified of any termination and has informed the Association of its address shall also have consented to such termination, which consent shall not be unreasonably withheld. The Termination Agreement shall be recorded as provided by law, and shall specify a date after which the Termination Agreement will be void unless it is recorded before that date. Notwithstanding the foregoing, if applicable law requires the consent or agreement of all or any greater percentage of the Owners than as specified above for a termination, then a termination of this Declaration shall be approved by the Owners of not less than such specified percentage, as well as any First Mortgagees or other persons required by the foregoing.

26.2 Sale of the Property. As soon as reasonably practicable after the approval of the termination of this Declaration, all of the Units and the Common Elements shall be sold as a whole on such terms and for such price as at least SEVENTY-FIVE PERCENT (75%) of the Owners shall agree. The Termination Agreement shall set forth the minimum terms of sale. The Association, on behalf of the Unit Owners, may contract for the sale of the Property, but the contract is not binding upon the

Unit Owners until approved as provided herein. Upon sale of the Property, the proceeds of sale, together with the assets of the Association, shall be distributed by the Association to the Owners with each Owner receiving a share based upon his respective Allocated Interest. Such payment shall be made to Owners or, as to Units which are mortgaged of record at the time of such payment, jointly to such Owner and the Mortgagee. Each Owner shall be responsible to satisfy all liens and encumbrances against his Unit from his share of the proceeds of sale.

26.3 Operation of Pending Sale. Pending sale of the Property, title to the Property shall vest in the Association as trustee for the Owners. Until the sale has been concluded and the proceeds of the sale distributed, the Association shall continue in existence with all powers it had before termination. Unless otherwise specified in the Termination Agreement, as long as the Association holds title to the Property each Owner and his successors in interest have an exclusive right to occupancy of the portion of the Property that formerly constituted his Unit, and each Owner shall remain liable and shall pay all Mortgage payments and other obligations associated with the Unit. During the period of that occupancy, each Unit Owner and his successors in interest remain liable for all assessments and other obligations imposed on Unit Owners by this Declaration.

27. Notices. Notices provided for in the Act, this Declaration, or the Bylaws shall be in writing and shall be hand-delivered or mailed, postage-prepaid; if to the Association or the Board, addressed to the address to which payments of assessments are then sent, and if to the Owner, addressed to his Unit. The Association or the Board may designate a different address or addresses for notices to them respectively from time to time by giving written notice of such change of address or addresses for notices by giving written notice of the change of address to the Association. Notices addressed as above provided shall be deemed given when hand-delivered or deposited in the United States mail, postage-prepaid.

27.1 Written Request for Notice. Upon written request to the Board, any Mortgagee shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners of such Unit. Such notices shall be deemed given when hand-delivered or deposited in the United States Mail postage-prepaid to the address specified in the request therefor.

28. Severability. If any provision of the Condominium Documents, or the Rules, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Condominium Documents or the Rules, and of the application of any such

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provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and shall remain in full force and effect as if such invalid part were never included therein, and such invalid part shall be promptly amended as herein provided or reformed by such court so as to implement the intent thereof to the maximum extent permitted by law.

29. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants, interests or rights created by this Declaration would otherwise be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until TWENTY-ONE (21) years after the death of the last survivor of the now living descendants of the President of the United States, Ronald Reagan, or the Governor of Arizona, Bruce Babbitt.

30. Rights and Obligations. Each grantee of Declarant, by the acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, or such purchaser under any agreement of sale, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by the Condominium Documents. All rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any Owner, grantee, purchaser or any person having at any time any interest or estate in any Unit in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument or transfer; and each such person shall be entitled to bring, and shall be subject to, an action for the recovery of damages, or for injunctive relief, or both, resulting from any breach of any such provisions.

31. Performance or Relief. After the date hereof, any person who owns or acquires any interest or estate in all or any part of the Property, other than in connection with an assignment by Declarant of all or substantially all of its rights under this Declaration (including a pledge or assignment by Declarant to any lender as security), agrees and shall agree by virtue of and upon the acquisition of such interest or estate that said acquiring person shall look only to the Association or other Unit Owners or other persons hereafter acquiring an interest or estate in said Property for any performance or enforcement of or relief from any violation of any of the covenants, conditions and restrictions contained herein, including the Declarant if the Declarant is violating any of the covenants, conditions and restrictions contained herein which are applicable to the Declarant.

32. Utility Easements. Notwithstanding any other provisions hereof, there is hereby created a blanket easement upon, across, over and under the Parcel, Property, and Common Elements for ingress, egress, installation, replacing, repairing and maintaining utility and service lines and systems, including without limitation water, sewer, gas, telephone, electricity, television cable and communication lines and system. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Property and to affix and maintain wires, circuits and conduits on, in, and under the roofs and exterior walls of the Buildings; provided that no such utility and service line or system may be installed or relocated on said Property except as initially planned and approved by Declarant or as thereafter approved by the Board of Directors. This easement shall in no way affect any other recorded easements on the Property. The Association shall maintain the surface areas above the underground sewer and utility easements.

33. First Mortgage Protections. Unless FIFTY-ONE PERCENT (51%) of all First Mortgagees have given their prior written approval, the Association shall not be entitled to:

33.1 By act or omission, seek to abandon or terminate the Declaration, or the horizontal property regime/condominium contained herein;

33.2 Except as provided in Section 38 hereof, change the pro-rata interest or obligations of any Unit for the purpose of:

(a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or

(b) determining the pro-rata interest in the Common Elements appurtenant to each Unit;

33.3 Partition or subdivide any Unit;

33.4 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements not being a transfer within the meaning of this clause);

33.5 Use hazard insurance proceeds for losses to any Property (whether Units or Common Elements) for other than the repair, replacement or reconstruction of such Property; or

33.6 Subject to the provisions of the Master Declaration terminate professional management and assume self-management of the Association.

33.7 Any First Mortgagee which has requested in writing to be notified and has provided the Association with its address shall be entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of any of such Mortgagor's obligations under this Declaration which is not cured within THIRTY (30) days; the commencement of any condemnation proceedings against all or any part of the Property; or the substantial damage to or destruction of any part of the Property. Upon written request, all First Mortgagees shall have the right:

(a) to examine all books and records of the Association during normal business hours;

(b) to receive annual reports of the Association as soon as available and in any event within NINETY (90) days following the end of the fiscal year of the Association; and

(c) to receive written notice of all meetings of the Owners and to designate a representative to attend all such meetings.

Any provision hereof to the contrary notwithstanding, no provision of this Declaration shall give the Owner of a Unit, or any other party, priority over any rights of the First Mortgagee of such Unit in the case of any distribution to such Unit Owner of insurance proceeds on condemnation awards for destruction to or condemnation of any Unit or Common Element.

34. Professional Management Agreement. Any agreement for professional management of the Condominium or any contract providing for services to be performed by the Declarant for the Association shall provide for termination by either party with or without cause and without payment of termination fee on THIRTY (30) days' written notice, and no such contract or agreement shall be of a duration in excess of ONE (1) year, renewable by agreement of the parties for successive ONE (1) year periods. However, certain management maintenance and control functions on the property will be provided by the Gainey Ranch Master Association, as more specifically set forth in the Master Declaration for Gainey Ranch.

35. Plan of Development. The Condominium hereby declared and created is a horizontal property regime/condominium created or planned to be created on the real property described in

the Plat attached hereto as Exhibit "B" as a part of the Gainey Ranch master development plan. The said Condominium contains or is planned to contain up to a maximum of SEVENTY (70) units. However, neither Declarant nor any successor to Declarant has any obligation to develop such property in accordance with such plan or otherwise.

36. Waiver. Any right or remedy provided for in this Declaration shall not be deemed to have been waived by any act or omission, including without limitation any acceptance of payment or partial performance or any forbearance, except by any instrument in writing specifying such right or remedy and executed by the person against whom enforcement of such waiver is sought.

37. Counterparts and Execution. This Declaration may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one instrument. For purposes of recording, each Unit Owner may execute a separate signature and acknowledgement page which may be attached to counterparts, detached from counterparts, and/or reattached to a single copy of this Declaration so as to permit the recordation thereof.

38. Expansion of Condominium. The Condominium may be expanded, and the right is reserved to Declarant and its successors and assigns to expand the Condominium as follows:

38.1 Additional Property. Subject to compliance with the conditions hereinafter provided, and upon obtaining prior approval by the Master Association, Declarant shall be entitled and hereby reserves the right, without a vote of the Owners, and at any time or from time to time on or prior to December 31, 1990, by written instrument of annexation executed by Declarant and recorded, to add to this Declaration and the Condominium created hereby in one or more phases any additional real property; provided, however, that each such phase added shall be contiguous with a previous phase already within or simultaneously added to the Condominium established hereby and shall include all open space, landscaped areas, parking spaces and other areas proximately and reasonably connected with such added land. Any such property shall upon its addition hereto, be included for all purposes as part of the "Property", and the terms "Buildings", "Common Elements", "Garages", "Parking Spaces", "Unit", "Owner" and other defined terms herein shall mean and include such added property for all purposes as if it had been subject to this Declaration ab initio, and the Owners of such added Units shall be "Members" of the Association. Such added property, and any Person at any time acquiring any interest therein, shall be entitled and subject to all the rights, benefits, memberships, easements, covenants, conditions, restrictions, liens and obligations provided for herein, including without limitation the use of the

Common Elements and the payment of Common Expenses and liens therefor, and the Allocated Interests in the Common Elements appurtenant to each Unit and the relative voting strength of the Owners thereof shall be adjusted in the manner hereinafter provided.

38.2 No Obligation to Expand. Notwithstanding any other provision of this Declaration to the contrary, Declarant shall have no obligation to add any additional property to this Declaration or commence or complete construction of any subsequent phase of development.

38.3 Requirements for Expansion. In the event that Declarant does add property to this Declaration as hereinabove provided, any development upon such property shall be reasonably compatible with prior phases with respect to architectural design, location, number of Units, quality and type of construction and anticipated maintenance expense. Additional phases shall not be subject to any lien arising in connection with the Declarant's ownership of or construction of improvements upon the Property to be added which would adversely affect the rights of existing Unit Owners or the priority of any First Mortgage on any existing Unit, and all taxes, assessments, mechanic's liens or other charges affecting such property must be paid or otherwise satisfactorily provided for by the Declarant. As a condition of adding any further property, the Developer shall purchase or cause to be purchased a liability insurance policy insuring the Owners of existing Units as their interests might appear to cover any liability to which such Owners might be exposed as a result of such expansion.

38.4 Development Rights. In addition to and in combination with the rights otherwise reserved and granted to Declarant herein, Declarant shall have the following Development Rights with the approval of the Master Association:

38.4.1 To add any real estate to the Condominium Project;

38.4.2 To create easements, Units, Common Elements, or Limited Common Elements in the Condominium Project, whether or not in conjunction with an expansion of the Condominium;

38.4.3 To subdivide Units, convert units to Common Elements or Limited Common Elements, or to convert Common Elements or Limited Common Elements to Units;

38.4.4 To withdraw any real estate, and any improvements, buildings, and fixtures thereon, from the Condominium;

38.4.5 To make the Condominium part of a larger condominium or planned community development, by annexation, merger, incorporation, or joint operating agreement;

38.4.6 To amend this Declaration during the Period of Developer control to comply with applicable law, to correct any error or inconsistency in this Declaration, to comply with the rules or guidelines in effect from time to time promulgated by any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans governing transactions involving mortgage instruments.

38.5 Adjustment of Percentage Interests. Upon the inclusion of additional property under this Declaration, the Allocated Interest(s) which are appurtenant to each of the then existing Units shall be adjusted, and each of the new Units so added shall receive and have appurtenant thereto, Allocated Interests calculated in the manner set forth in Section 3.4. At the time of the annexation of additional Units in accordance with the provisions of this section, the Declarant shall record a notice of such adjustment, setting forth the new Allocated Interest(s) in the Common Elements appurtenant to each existing and each new Unit, whereupon such adjustment shall be effective, and no amendment to this Declaration or further instrument or act of any kind shall be necessary to effectuate such adjustment. Declarant shall also deliver a copy of such notice to the Association, but the failure of Declarant to do so shall not affect the validity or effectiveness of such adjustment. Notwithstanding the foregoing, each initial and any subsequent Owner by acquiring title to any Unit and any Mortgagee whose consent might be required to any such adjustment by any provision of this Declaration shall be deemed to and does hereby agree and covenant to execute any consent, power of attorney, amendment or other instrument which may be necessary or appropriate to accomplish any of the foregoing. Any deed for any Unit may, but need not, be delivered subject to the express condition that the Allocated Interests in the Common Elements appurtenant to such Unit may be adjusted upon the addition of any such property to this Declaration in accordance with the formula set forth herein.

38.6 Easements for Development. Declarant hereby reserves a blanket easement upon, across, over and under the Common Elements for the purpose of ingress to and egress from the remainder of the Real Property described in the Plat attached hereto as Exhibit B, developing and constructing improvements on the remainder of such Real Property and for the purpose of providing to and extending to or within such remaining Real Property all utilities, and advertising/marketing such Real Property, and exercising all other Special Declarant Rights. If possible, Declarant shall use any other reasonable means of access in preference to the easement herein granted, and if Declarant

uses such easement herein granted it, shall do so in such a manner as to minimize damage to other Units or Property and shall replace, repair, or restore at its sole cost and expense, any damage to any Unit or Property caused by the manner of such exercise, including without limitation, damage to streets and sidewalks caused thereby.

39. Special Declarant Rights. In addition to and in combination with the rights elsewhere granted to Declarant, Declarant shall have all special Declarant Rights to the fullest extent permitted by law, including:

39.1 The right to construct or cause to be constructed any and all improvements contemplated or permitted in the Condominium Documents.

39.2 The right to exercise all Development Rights, including, without limitation, the rights set forth in Section 38.

39.3 The right to maintain sales offices, construction offices, management offices, and to operate sales and promotional programs and model units.

39.4 The rights to use and enjoy easements of every kind beneficial for the purpose of making improvements, in the Condominium or any real estate added to the Condominium; developing, marketing, and promoting the Condominium, and exercising all rights of Declarant;

39.5. The right to appoint or remove any officer or director of the Association until the Class B Membership of the Association terminates.

40. Markland Properties, Inc., as Successor Declarant. If Markland Properties, Inc., an Arizona corporation, becomes the owner of all or any part of the Property by foreclosure, trustee's sale or otherwise, pursuant to any lien perfected by Markland Properties, Inc., against the Property or any portion thereof, or by reason of any option or right of first refusal held by Markland Properties, Inc., to purchase all or any part of the Property, Markland Properties, Inc., shall have the right to elect to become the Declarant under this Declaration and to succeed to all rights, options and duties of the Declarant hereunder; provided, however, that:

(i) Markland Properties, Inc., shall not become the Declarant hereunder and shall not succeed to any of the rights, options or duties of the Declarant unless Markland Properties, Inc., so elects by written instrument recorded in the Office of the Maricopa County Recorder;

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(ii) if such an election is recorded, Markland Properties, Inc., shall have no liability for any actions taken by the Declarant prior to the recording of such election; and

(iii) if at the time of the recording of such election, Developers Financial Group, its successors or assigns, still owns any portion of the Property, Developers Financial Group, its successors and assigns, shall be entitled to the exemptions provided the Declarant in this Declaration with respect to the portions of the Property which it owns and shall not be required to obtain the approval of the Board for the construction of improvements on the portions of the Property owned by Declarant.

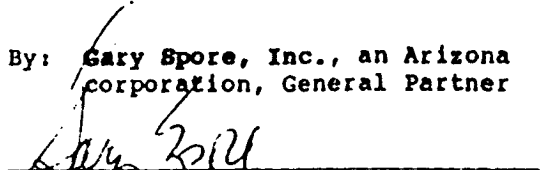
IN WITNESS WHEREOF, DEVELOPERS FINANCIAL GROUP, an Arizona general partnership, has executed this instrument as of this 19 day of NOVEMBER, 1985.

**DEVELOPERS FINANCIAL GROUP,
an Arizona general partnership**

**By: Developers Financial Group, Inc.,
an Arizona corporation,
General Partner**


- Robert A. Ballard
President

**By: Gary Spore, Inc., an Arizona
corporation, General Partner**


Gary Spore
President

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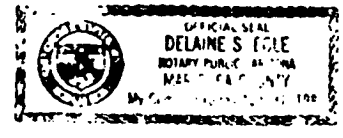
STATE OF ARIZONA)
) ss.
County of Maricopa)

Dated this 19th day of November 1985, before me the undersigned Notary Public, personally appeared **ROBERT A. BALLARD**, who acknowledged himself to be the President of **Developers Financial Group, Inc.**, an Arizona corporation and General Partner of **DEVELOPERS FINANCIAL GROUP**, an Arizona general partnership, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

this 19th day of November, 1985.

Delaine S. Cole
Notary Public

My Commission Expires:
8-31-87



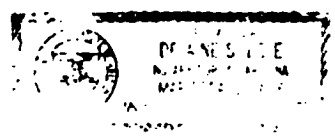
STATE OF ARIZONA)
): ss.
County of Maricopa)

Dated this 19th day of November 1985, before me the undersigned Notary Public, personally appeared **GARY SPORE**, who acknowledged himself to be the President of **Gary Spore, Inc.**, an Arizona corporation and General Partner of **DEVELOPERS FINANCIAL GROUP**, an Arizona general partnership, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

this 19th day of November, 1985.

Delaine S. Cole
Notary Public

My Commission Expires:
8-31-87



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Approved, Ratified, and Accepted
By Gainey Ranch Community Association

By *Stephen J. Clark*
Its *Treasurer*

STATE OF ARIZONA)
) ss
County of Maricopa)

Dated this *November 15*, 1985, before me the undersigned Notary Public, personally appeared *Stephen J. Clark* who acknowledged him/herself to be the *Treasurer* of Gainey Ranch Community Association, and being authorized so to do executed the foregoing instrument for the purposes therein contained.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this *15th* day of *November*, 1985.

Linda Susan Sieder
Notary Public

My Commission Expires:

My Commission Expires July 9, 1988

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EXHIBIT "A"

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Being a portion of the Southeast quarter of Section 26, Township 3 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the East quarter of said Section 26; thence South 0 degrees 19 minutes 05 seconds East along the East line of said Southeast quarter for a distance of 937.48 feet; thence South 89 degrees 40 minutes 55 seconds West 74.00 feet to the TRUE POINT OF BEGINNING; thence South 0 degrees 19 minutes 05 seconds East 83.37 feet to the beginning of a tangent curve bending to the left having a radius of 6565.00 feet; thence Southerly along the arc of said curve through a central angle of 1 degree 19 minutes 11 seconds for a distance of 151.23 feet to the beginning of a curve bending to the right the center of which bears South 88 degrees 21 minutes 44 seconds West 1085.00 feet; thence Southerly along the arc of said curve through a central angle of 1 degree 19 minutes 11 seconds for a distance of 24.99 feet; thence South 0 degrees 19 minutes 05 seconds East 109.96 feet to the beginning of a tangent curve bending to the left having a radius of 925.00 feet; thence Southerly along the arc of said curve through a central angle of 4 degrees 12 minutes 03 seconds for a distance of 67.82 feet to the beginning of a curve bending to the right the center of which bears South 85 degrees 28 minutes 52 seconds West for a distance of 925.00 feet; thence Southerly along the arc of said curve through a central angle of 4 degrees 12 minutes 03 seconds for a distance of 67.82 feet to the beginning of a curve bending to the right the center of which bears South 89 degrees 40 minutes 55 seconds West 1575.00 feet; thence Southerly along the arc of said curve through a central angle of 3 degrees 13 minutes 43 seconds for a distance of 88.75 feet to the beginning of a curve bending to the left the center of which bears South 87 degrees 05 minutes 22 seconds East 1575.00 feet; thence Southerly along the arc of said curve through a central angle of 3 degrees 13 minutes 34 seconds for a distance of 88.68 feet; thence South 0 degrees 19 minutes 05 seconds East along a line parallel with and 72.00 feet West of the East line of said Southeast quarter for a distance of 1.74 feet; thence South 89 degrees 40 minutes 55 seconds West 213.75 feet; thence North 63 degrees 48 minutes 00 seconds West 70.21 feet; thence South 60 degrees 19 minutes 01 seconds West 115.10 feet; thence North 72 degrees 09 minutes 54 seconds West 79.02 feet thence North 136.17 feet; thence East 60.00 feet; thence North 140.00 feet; thence East 136.00 feet; thence North 247.26 feet; thence North 23 degrees 08 minutes 00 seconds West 138.84 feet to the beginning of a curve bending to the left the center of which bears North 3 degrees 02 minutes 03 seconds West 365.00 feet; thence Easterly along the arc of said curve through a central angle of 18 degrees 29 minutes 46 seconds for a distance of 117.83 feet to the beginning of a curve bending to the right the center of which bears South 21 degrees 31 minutes 49 seconds East 525.50 feet; thence Easterly along the arc of said curve through a central angle of 18 degrees 20 minutes 57 seconds for a distance of 168.29 feet to the beginning of a curve bending to the right the center of which bears South 3 degrees 10 minutes 52 seconds East 25.00 feet; thence Southerly along the arc of said curve through a central angle of 92 degrees 51 minutes 47 seconds for a distance of 40.52 feet to the TRUE POINT OF BEGINNING.

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EXHIBIT "B"

**THE COURTS AT GAINNEY RANCH
A HORIZONTAL PROPERTY REGIME / CONDOMINIUMS**

DEDICATION

[Faded text block under DEDICATION]

ACKNOWLEDGEMENT

[Faded text block under ACKNOWLEDGEMENT]

CERTIFICATION

[Faded text block under CERTIFICATION]

VALIDATION

[Faded text block under VALIDATION]

NOTES

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ACKNOWLEDGEMENT

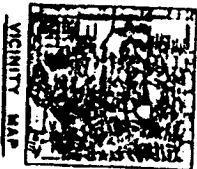
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ACKNOWLEDGEMENT

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APPROVALS

[Faded text block under APPROVALS]



VICINITY MAP

THE COURTS AT GAINNEY RANCH HORIZONTAL PROPERTY REGIME / CONDOMINIUMS PART 1 OF 2

THE COURTS AT GAINNEY RANCH

HORIZONTAL PROPERTY REGIME

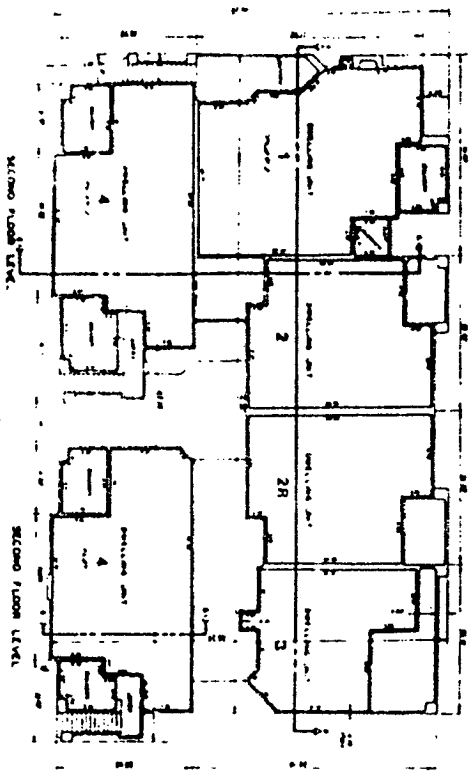
LOCATED IN A PORTION OF
THE N. 1/4 OF SECTION No. 13A, T.44N
R. 65E S. 8W HANCOCK COUNTY, MINN. 55

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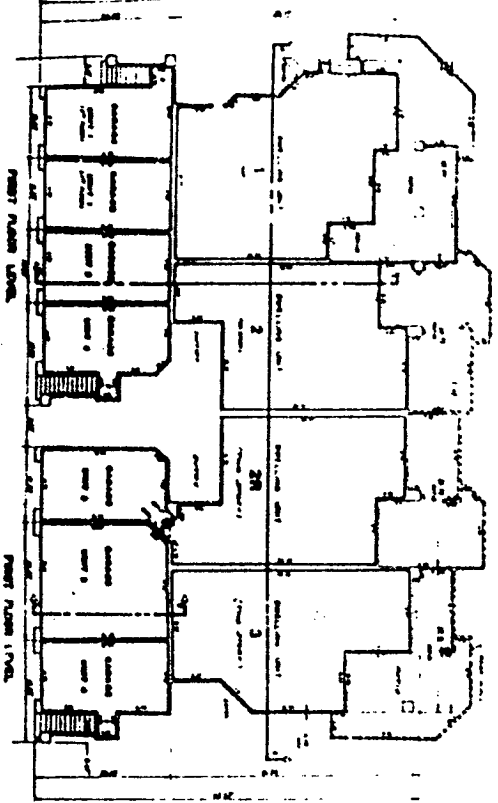
PLAT	SECTION	TOWNSHIP	RANGE	SOURCE
1	13A	T.44N	R.65E	S.8W
2	13A	T.44N	R.65E	S.8W
3	13A	T.44N	R.65E	S.8W
4	13A	T.44N	R.65E	S.8W
5	13A	T.44N	R.65E	S.8W
6	13A	T.44N	R.65E	S.8W
7	13A	T.44N	R.65E	S.8W
8	13A	T.44N	R.65E	S.8W
9	13A	T.44N	R.65E	S.8W
10	13A	T.44N	R.65E	S.8W
11	13A	T.44N	R.65E	S.8W
12	13A	T.44N	R.65E	S.8W
13	13A	T.44N	R.65E	S.8W
14	13A	T.44N	R.65E	S.8W
15	13A	T.44N	R.65E	S.8W
16	13A	T.44N	R.65E	S.8W
17	13A	T.44N	R.65E	S.8W
18	13A	T.44N	R.65E	S.8W
19	13A	T.44N	R.65E	S.8W
20	13A	T.44N	R.65E	S.8W
21	13A	T.44N	R.65E	S.8W
22	13A	T.44N	R.65E	S.8W
23	13A	T.44N	R.65E	S.8W
24	13A	T.44N	R.65E	S.8W
25	13A	T.44N	R.65E	S.8W
26	13A	T.44N	R.65E	S.8W
27	13A	T.44N	R.65E	S.8W
28	13A	T.44N	R.65E	S.8W
29	13A	T.44N	R.65E	S.8W
30	13A	T.44N	R.65E	S.8W
31	13A	T.44N	R.65E	S.8W
32	13A	T.44N	R.65E	S.8W
33	13A	T.44N	R.65E	S.8W
34	13A	T.44N	R.65E	S.8W
35	13A	T.44N	R.65E	S.8W
36	13A	T.44N	R.65E	S.8W
37	13A	T.44N	R.65E	S.8W
38	13A	T.44N	R.65E	S.8W
39	13A	T.44N	R.65E	S.8W
40	13A	T.44N	R.65E	S.8W
41	13A	T.44N	R.65E	S.8W
42	13A	T.44N	R.65E	S.8W
43	13A	T.44N	R.65E	S.8W
44	13A	T.44N	R.65E	S.8W
45	13A	T.44N	R.65E	S.8W
46	13A	T.44N	R.65E	S.8W
47	13A	T.44N	R.65E	S.8W
48	13A	T.44N	R.65E	S.8W
49	13A	T.44N	R.65E	S.8W
50	13A	T.44N	R.65E	S.8W
51	13A	T.44N	R.65E	S.8W
52	13A	T.44N	R.65E	S.8W
53	13A	T.44N	R.65E	S.8W
54	13A	T.44N	R.65E	S.8W
55	13A	T.44N	R.65E	S.8W
56	13A	T.44N	R.65E	S.8W
57	13A	T.44N	R.65E	S.8W
58	13A	T.44N	R.65E	S.8W
59	13A	T.44N	R.65E	S.8W
60	13A	T.44N	R.65E	S.8W
61	13A	T.44N	R.65E	S.8W
62	13A	T.44N	R.65E	S.8W
63	13A	T.44N	R.65E	S.8W
64	13A	T.44N	R.65E	S.8W
65	13A	T.44N	R.65E	S.8W
66	13A	T.44N	R.65E	S.8W
67	13A	T.44N	R.65E	S.8W
68	13A	T.44N	R.65E	S.8W
69	13A	T.44N	R.65E	S.8W
70	13A	T.44N	R.65E	S.8W
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75	13A	T.44N	R.65E	S.8W
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82	13A	T.44N	R.65E	S.8W
83	13A	T.44N	R.65E	S.8W
84	13A	T.44N	R.65E	S.8W
85	13A	T.44N	R.65E	S.8W
86	13A	T.44N	R.65E	S.8W
87	13A	T.44N	R.65E	S.8W
88	13A	T.44N	R.65E	S.8W
89	13A	T.44N	R.65E	S.8W
90	13A	T.44N	R.65E	S.8W
91	13A	T.44N	R.65E	S.8W
92	13A	T.44N	R.65E	S.8W
93	13A	T.44N	R.65E	S.8W
94	13A	T.44N	R.65E	S.8W
95	13A	T.44N	R.65E	S.8W
96	13A	T.44N	R.65E	S.8W
97	13A	T.44N	R.65E	S.8W
98	13A	T.44N	R.65E	S.8W
99	13A	T.44N	R.65E	S.8W
100	13A	T.44N	R.65E	S.8W

- 1. 1/4" = 100'
- 2. 1/8" = 50'
- 3. 1/16" = 25'
- 4. 1/32" = 12.5'
- 5. 1/64" = 6.25'
- 6. 1/128" = 3.125'
- 7. 1/256" = 1.5625'
- 8. 1/512" = 0.78125'
- 9. 1/1024" = 0.390625'
- 10. 1/2048" = 0.1953125'
- 11. 1/4096" = 0.09765625'
- 12. 1/8192" = 0.048828125'
- 13. 1/16384" = 0.0244140625'
- 14. 1/32768" = 0.01220703125'
- 15. 1/65536" = 0.006103515625'
- 16. 1/131072" = 0.0030517578125'
- 17. 1/262144" = 0.00152587890625'
- 18. 1/524288" = 0.000762939453125'
- 19. 1/1048576" = 0.0003814697265625'
- 20. 1/2097152" = 0.00019073486328125'
- 21. 1/4194304" = 0.000095367431640625'
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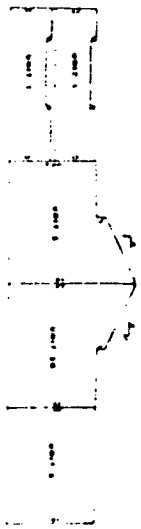
85 548150



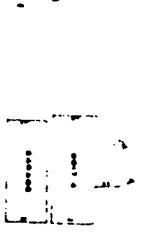
TYPE 'A' BUILDING



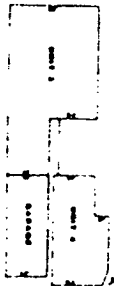
TYPICAL CROSS SECTIONS THROUGH BUILDINGS



SECTION A-A



SECTION B-B



SECTION C-C

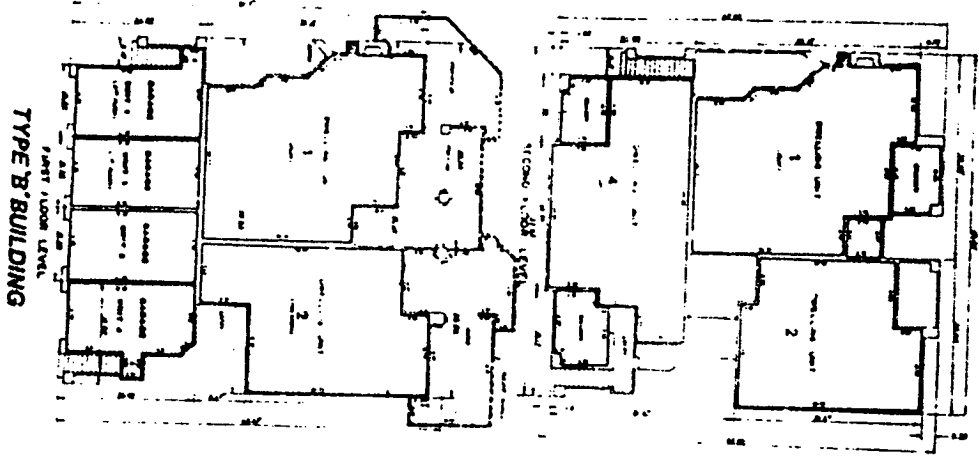
LEGEND

- WALL
- - - - - HIDDEN WALL
- FLOOR SLAB
- - - - - HIDDEN FLOOR SLAB
- ROOF
- - - - - HIDDEN ROOF
- DOOR
- - - - - HIDDEN DOOR
- WINDOW
- - - - - HIDDEN WINDOW

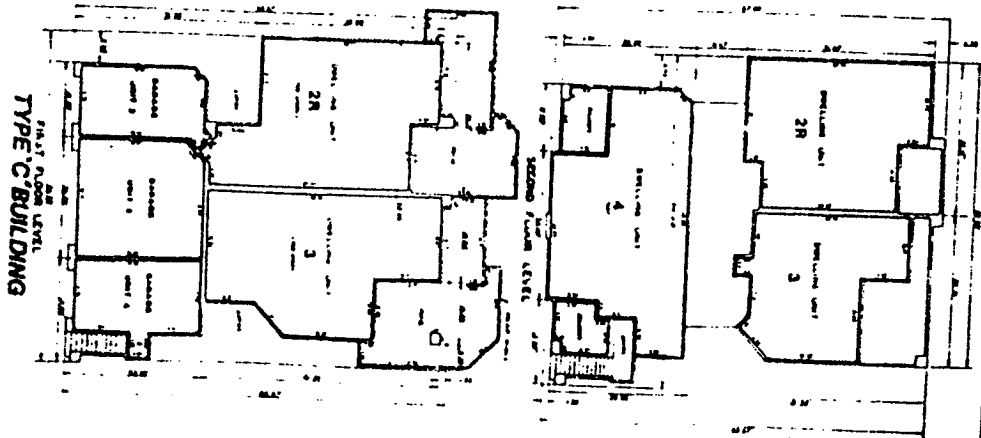
THE COURTS AT GAINNEY RANCH AT GAINNEY RANCH HORIZONTAL PROPERTY RESUME



85 548750



TYPE B BUILDING



TYPE C BUILDING

THE COURTS
AT GAINNEY RANCH
HORIZONTAL PROPERTY RESUME



LEGEND

--- UNIMPROVED LAND
--- IMPROVED LAND
--- EXISTING BUILDING
--- PROPOSED BUILDING



05-18-85

PLAT OF DEDICATION OF EASEMENTS FOR PRIVATE DRIVE, PUBLIC UTILITIES, DRAINAGE EMERGENCY VEHICLES, REFUSE COLLECTION AND CABLE T.V.

LOCATED IN
SECTION 28, T34N, R4E, Q3S, S&B S.M.,
MARICOPA COUNTY, ARIZONA

DEDICATION

I, the undersigned, do hereby dedicate to the public use of the State of Arizona, the easements described in the plat of dedication attached hereto, for the purposes stated therein, and for the use and enjoyment of the public forever.

ACKNOWLEDGEMENT

I, the undersigned, do hereby acknowledge the dedication of the easements described in the plat of dedication attached hereto, and the use and enjoyment of the public forever.

ACKNOWLEDGEMENT

I, the undersigned, do hereby acknowledge the dedication of the easements described in the plat of dedication attached hereto, and the use and enjoyment of the public forever.

RATIFICATION

I, the undersigned, do hereby ratify and confirm the dedication of the easements described in the plat of dedication attached hereto, and the use and enjoyment of the public forever.

ACKNOWLEDGEMENT

I, the undersigned, do hereby acknowledge the dedication of the easements described in the plat of dedication attached hereto, and the use and enjoyment of the public forever.

APPROVAL

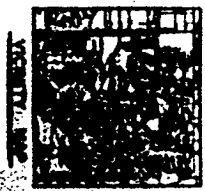
[Signature]
City Engineer

NOTES

1. The easements shown on this plat are for the use and enjoyment of the public forever.

CERTIFICATION

[Signature]
City Engineer

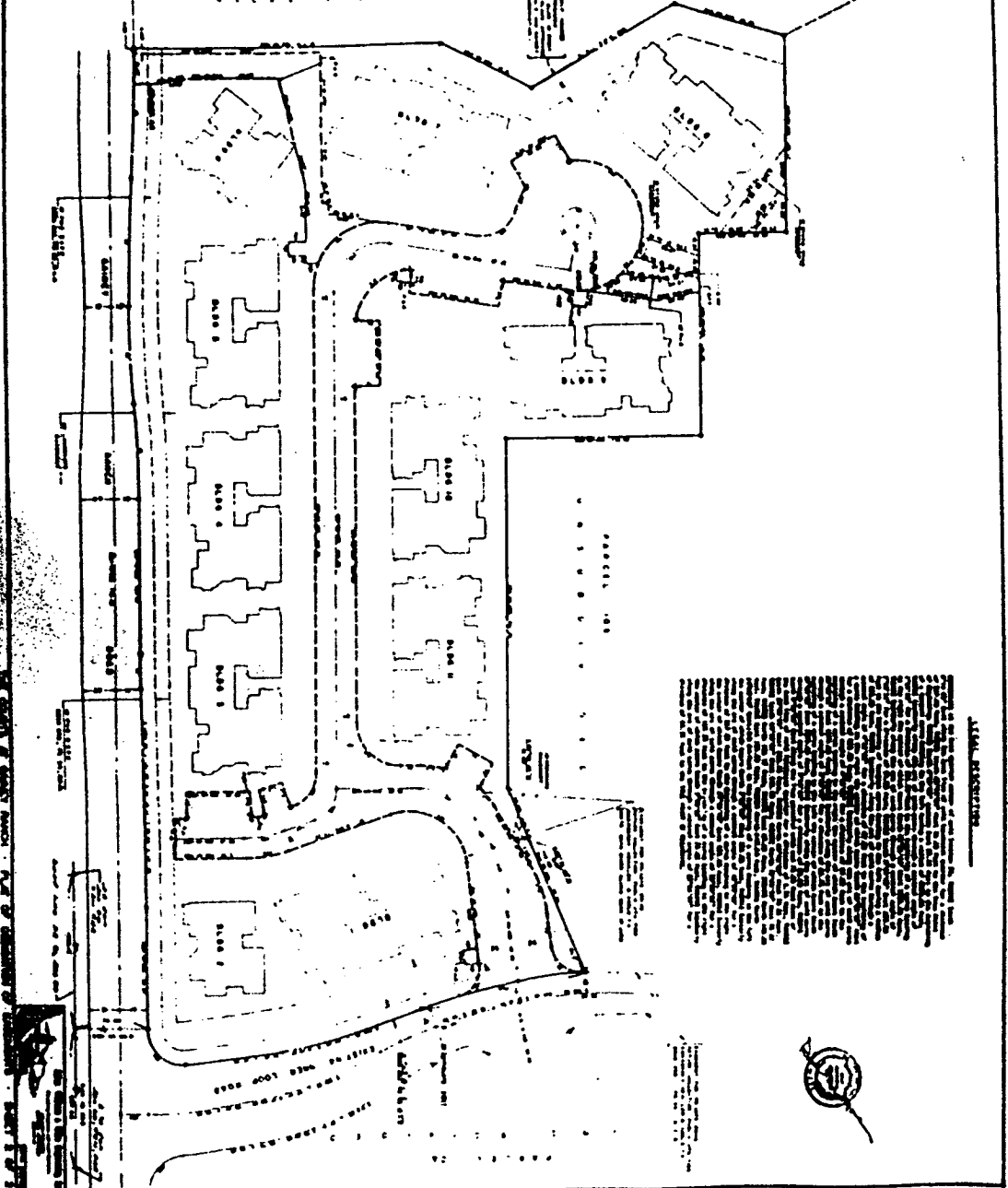
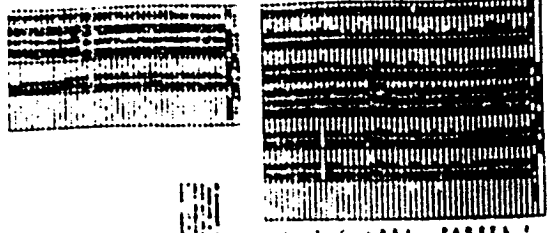
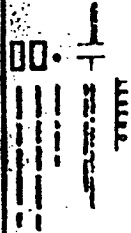


APPROVAL AND SIGNATURE OF THE CITY ENGINEER AND BOARD OF SUPERVISORS

THE COUNTY OF MARICOPA, ARIZONA



85 548750



ALL DIMENSIONS IN FEET

1/4" = 1' - 0"

DATE: 11/15/85

BY: [Signature]

125 - DR - 85