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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

FOR

THE VINTAGE AT GAIKEY RANCH

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
THE VINTAGE AT GAINNEY RANCH

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	DEFINITIONS
1.1	Architectural Committee..... 1
1.2	Architectural Committee Rules..... 1
1.3	Articles..... 1
1.4	Assessments..... 2
1.5	Association..... 2
1.6	Association Rules..... 2
1.7	Board..... 2
1.8	Bylaws..... 2
1.9	Common Area..... 2
1.10	Declarant..... 2
1.11	Declaration..... 2
1.12	Dwelling Unit..... 2
1.13	First Mortgage..... 2
1.14	First Mortgagee..... 2
1.15	Improvement..... 3
1.16	Lot..... 3
1.17	Master Association..... 3
1.18	Master Declaration..... 3
1.19	Member..... 3
1.20	Owner..... 3
1.21	Plat..... 4
1.22	Project Documents..... 4
1.23	Property or Project..... 4
1.24	Purchaser..... 4
1.25	Single Family..... 4
1.26	Single Family Residential Use..... 4
1.27	Visible From Neighboring Property..... 4
ARTICLE 2	THE ASSOCIATION..... 5
2.1	Rights, Powers and Duties..... 5
2.2	Board of Directors and Officers..... 5
2.3	Association Rules..... 5
2.4	Architectural Committee..... 5
2.5	Master Association..... 5
2.6	Management of the Association..... 6

85 185985

		<u>Page</u>
ARTICLE 3	MEMBERSHIP AND VOTING RIGHTS.....	7
3.1	Identity of Members.....	7
3.2	Classes of Members.....	7
3.3	Joint Ownership.....	7
3.4	Corporate Ownership.....	8
3.5	Transfer of Membership.....	8
3.6	Suspension of Voting Rights.....	8
ARTICLE 4	COVENANT FOR MAINTENANCE ASSESSMENTS.....	9
4.1	Creation of the Lien and Personal Obligation of Assessments.....	9
4.2	Purpose of the Assessments.....	9
4.3	Annual Assessments.....	9
4.4	Supplemental Assessments.....	10
4.5	Special Assessments.....	10
4.6	Extraordinary Assessments.....	10
4.7	Rate of Assessment.....	11
4.8	Date of Commencement of Annual Assessments; Due Dates.....	11
4.9	Effect of Non- <small>Official Document</small> of Assessments; Remedies of the Association.....	11
4.10	Subordination of Assessment Lien to Mortgages.....	13
4.11	Exemption of Owner.....	13
4.12	Maintenance of Reserve Fund.....	13
4.13	No Offsets.....	13
ARTICLE 5	PERMITTED USES AND RESTRICTIONS.....	14
5.1	Residential Use.....	14
5.2	Animals.....	14
5.3	Antennas.....	14
5.4	Utility Service.....	14
5.5	Improvements and Alterations.....	14
5.6	Temporary Occupancy.....	15
5.7	Trucks, Trailers, Campers and Boats.....	15
5.8	Motor Vehicles.....	15
5.9	Nuisances.....	16
5.10	Trash Containers and Collection.....	16
5.11	Clothes Drying Facilities.....	16
5.12	Machinery and Equipment.....	16
5.13	Restriction on Further Subdivision and Time Shares.....	17
5.14	Signs.....	17
5.15	Declarant's Exemption.....	17

85 185985

		<u>Page</u>
5.16	Mineral Exploration.....	18
5.17	Diseases and Insects.....	18
5.18	Limitation on Leasing of Units.....	18
5.19	Outdoor Burning.....	18
5.20	Fuel Tanks.....	18
5.21	Window Coverings.....	18
5.22	HVAC and Solar Panels.....	18
5.23	Garages and Driveways.....	18
5.24	Party Walls.....	19
ARTICLE 6	EASEMENTS.....	21
6.1	Utility Easement.....	21
6.2	Easement for Encroachments.....	21
6.3	Easements for Ingress and Egress.....	21
6.4	Association's Right of Entry.....	21
6.5	Association's Easement for Performing Maintenance Responsibilities.....	22
ARTICLE 7	PROPERTY RIGHTS.....	23
7.1	Owners' Easement of Enjoyment.....	23
7.2	Lessees.....	23
7.3	Guests and Invitees.....	23
7.4	Limitations.....	24
ARTICLE 8	MAINTENANCE.....	25
8.1	Maintenance by Master Association.....	25
8.2	Maintenance by Owners.....	25
8.3	Damage or Destruction of Common Area by Owners.....	25
8.4	Nonperformance by Owners.....	25
8.5	Payment of Utility Charges.....	26

85 185985

		<u>Page</u>
ARTICLE 9	INSURANCE.....	27
9.1	Scope of Coverage.....	27
9.2	Certificates of Insurance.....	28
9.3	Fidelity Bonds.....	29
9.4	Payment of Premiums.....	29
9.5	Insurance Obtained by Owners.....	29
9.6	Payment of Insurance Proceeds.....	29
9.7	Repair and Replacement of Damaged or Destroyed Property.....	30
ARTICLE 10	GENERAL PROVISIONS.....	31
10.1	Enforcement.....	31
10.2	Severability.....	31
10.3	Term; Method of Termination.....	31
10.4	Amendments.....	31
10.5	Amendment by Declarant.....	32
10.6	Violations and Nuisance.....	32
10.7	Violation of Law.....	32
10.8	Remedies Cumulative.....	32
10.9	Delivery of Notation ^{Official Document} and Documents.....	32
10.10	Binding Effect.....	33
10.11	Gender.....	33
10.12	Topic Headings.....	33
10.13	Survival of Liability.....	33
10.14	Construction.....	34
10.15	Joint and Several Liability.....	34
10.16	Attorneys' Fees.....	34
10.17	Declarant's Disclaimer of Representations.....	34
10.18	Rights of Markland Properties, Inc.....	34

85 185985

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE VINTAGE AT GAINNEY RANCH**

THIS DECLARATION is made on the 24th day of April, 1985, by Felker-Edmunds Development, an Arizona general partnership (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property located in Maricopa County, Arizona, which is described on Exhibit A attached hereto.

WHEREAS, Declarant intends to construct residences on said real property and desires to impose certain easements, restrictions, covenants and conditions on said real property to protect the value and desirability of said property;

NOW, THEREFORE, the Declarant hereby declares that all of the real property described on Exhibit A attached hereto shall be held, sold and conveyed subject to the easements, restrictions, covenants, and conditions contained in this Declaration which are for the purpose of protecting the value and desirability of, and which shall run with said real property and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1

DEFINITIONS

1.1. "Architectural Committee" means the committee established by the Board pursuant to Section 2.4 of this Declaration.

1.2. "Architectural Committee Rules" means the rules adopted by the Architectural Committee, as the same may be amended from time to time.

1.3. "Articles" means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

85 185985

1.4. "Assessments" means the annual, special, supplemental and/or extraordinary assessments levied and assessed pursuant to Article 5 of this Declaration.

1.5. "Association" means the Arizona nonprofit corporation organized by the Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association under the name of "The Vintage At Gainey Ranch Owners Association," but if such name is not available, Declarant may organize the Association under such other name as the Declarant deems appropriate.

1.6. "Association Rules" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

1.7. "Board" means the Board of Directors of the Association.

1.8. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

1.9. "Common Area" means all real property, and all improvements located thereon, owned by the Association for the common use and enjoyment of the Owners.

1.10. "Declarant" means Felker-Edmunds Development, an Arizona general partnership, its successors and any person or entity to whom it may expressly assign any or all of its rights under this Declaration.

1.11. "Declaration" means the covenants, conditions and restrictions herein set forth in this entire document, as same may from time to time be amended.

1.12. "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a Single Family.

1.13. "First Mortgage" means any mortgage or deed of trust with first priority over any other mortgage or deed of trust.

1.14. "First Mortgagee" means the holder of any First Mortgage.

85 185985

1.15. "Improvement" means buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

1.16. "Lot" means any parcel of real property designated as a lot on the Plat.

1.17. "Master Association" means the Gainey Ranch Community Association, an Arizona nonprofit corporation, organized pursuant to the provisions of the Master Declaration.

1.18. "Master Declaration" means the Gainey Ranch Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements recorded with the County Recorder of Maricopa County, Arizona, as Instrument No. 84 130211, as such Declaration may be amended from time to time.

1.19. "Member" means any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

1.20. "Owner" means the record owner, whether one or more persons or entities, of ^{beneficial or equitable} legal title (and ^{beneficial or equitable} title) to the fee simple interest of a Lot. Owner shall not include (i) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Lot. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the trustor under the deed of trust shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement the beneficiary of such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

85 185985

1.21. "Plat" means the plat of survey of Gainey Ranch Parcel II which plat has been recorded with the County Recorder of Maricopa County, Arizona, in Book 281 of Maps, page 37, and all amendments and supplements thereto.

1.22. "Project Documents" means this Declaration and the Articles, Bylaws, Association Rules and Architectural Committee Rules.

1.23. "Property" or "Project" means the real property described on Exhibit A attached to this Declaration together with all buildings and other Improvements located thereon, and all easements, rights and appurtenances belonging thereto.

1.24. "Purchaser" means any person other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot except for (i) an Owner who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale of other Lots or (ii) an Owner who, in addition to purchasing a Lot ^{Official Document} assigned any or all of the Declarant's rights under this Declaration.

1.25. "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

1.26. "Single Family Residential Use" means the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

1.27. "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

85 185985

ARTICLE 2

THE ASSOCIATION

2.1. Rights, Powers and Duties. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents.

2.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a board of directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws.

2.3. Association Rules. Subject to the provisions of this Declaration, the Board may adopt, amend and repeal rules and regulations. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner; provided, however, that the ^{Official Document} Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

2.4. Architectural Committee. The Board shall establish an Architectural Committee consisting of not less than three (3) members appointed by the Board to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board.

2.5. Master Association. The Project is a part of a master planned community known as Gainey Ranch. The Project shall be subject to the terms and conditions of the Master Declaration and the Articles of Incorporation, Bylaws, Architectural Committee Rules (collectively the "Master Association Documents") of the Master Association, as such documents may from time to time be amended. All Assessments and other amounts payable pursuant to this Declaration shall be in addition to any amounts payable by owners to the Master Association pursuant to provisions of the Master Declaration and the Master Association Documents, and all consents required by this Declaration of the Architectural Committee or the Board

85 185985

shall be in addition to any consents required under the terms of the Master Declaration or the Master Association Documents.

2.6. Management of the Association. In accordance with Article 13, Section 4 of the Master Declaration, the Master Association shall provide administrative and management services to the Association, shall act as accountant for the Association, shall handle the collection of assessments levied by the Association and enforce such collection, assist in the preparation of budgets, administer use of the Common Area, negotiate contracts for services and enforce the Project Documents. All such duties shall be performed by the Master Association under the direction of the Board and officers of the Association. As provided for in Article 13, Section 1 of the Master Declaration, the Master Association shall have the right to take temporary control of the Association in the event the Association is failing to levy and collect Assessments in an amount sufficient to pay its obligations to the Master Association or otherwise failing, in the opinion of the Board of Directors of the Master Association, to perform its functions and duties in a manner consistent with the standards established by other Satellite Associations (as that term is defined in the Master Declaration) in ^{Unofficial Document} Ranch or necessary for the maintenance of high quality of residential development envisioned for the residential areas of Gainey Ranch.

85 185985

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

3.2. Classes of Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant until the termination of the Class B membership, of Lots. Each Class A member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership ^{Unofficial Document} upon the happening of either of the following events, whichever occurs earlier:

(a) When seventy-five percent (75%) of the Lots have been conveyed to Purchasers; or

(b) When the Declarant notifies the Association in writing that it relinquishes its Class B membership.

3.3. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

85 185985

3.4. Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president or general partner of such corporation, partnership or association shall have the power to vote the membership.

3.5. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

3.6. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the ^{provisions} provisions of the Project Documents for a period of fifteen (15) ^{Official Document} days or violates any other provisions of the Project Documents which violation is not cured within ten (10) days after notice of the violation is given to such Owner by the Association, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current, and all violations of the Project Documents are cured.

85 185985

ARTICLE 4

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments, (2) supplemental assessments, (3) special assessments for capital improvements and (4) extraordinary assessments. The Assessments, together with interest, reasonable attorneys' fees and all costs incurred by the Association in collecting, or attempting to collect, such Assessments, whether or not a lawsuit is filed, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, reasonable attorneys' fees and all costs incurred by the Association in collecting, or attempting to collect, such Assessments, whether or not a lawsuit is filed, shall also be the personal obligation of the Owner of such Lot at the time Unofficial Document the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

4.2. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the upkeep, maintenance and improvement of the Common Area, for promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property and for the performance by the Association of all of its rights, duties and obligations under the Project Documents.

4.3. Annual Assessment. In order to provide for the operation and management of the Association and to provide funds for the Association to perform its duties and obligations under the Project Documents, including the establishment of replacement and maintenance reserves, the Board, for each fiscal year of the Association commencing with the year in which the first Lot is conveyed to a Purchaser, shall assess against each Lot an annual assessment. The amount of the annual assessment shall be in the sole discretion of the Board. Notice of the annual assessment shall be given to each Owner.

85 185985

4.4. Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the Association, for any reason, including, without limitation, nonpayment of Assessments by the Members, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and prepare a supplemental budget and levy a supplemental assessment against each Lot in such amount as the Board deems necessary in order to obtain the amount of such inadequacies. Notice of any such supplemental assessment shall be given to each Owner. The supplemental assessment shall be paid on such dates and in such installments as may be determined by the Board.

4.5. Special Assessments. In addition to the annual and supplemental assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement of the Common Area, including fixtures and personal property related thereto, or ^{Unofficial Document} other lawful Association purpose, provided that any such special assessment shall have the assent of Members having more than fifty percent (50%) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

4.6. Extraordinary Assessments. In addition to annual, supplemental and special assessments, the Association may levy an assessment against an Owner, and such Owner's Lot, for the following expenses:

(a) Any expense to the Association which was caused by the misconduct of such Owner;

(b) Any expense incurred by the Association pursuant to Section 8.3 of this Declaration as a result of damage or destruction of the Common Area by an Owner or as a result of the interference by an Owner with the activities of the Association in connection therewith;

(c) Any expense incurred by the Association pursuant to Section 8.4 of this Declaration as a result of the Owner's failure to maintain his Lot, and the Improvements located thereon, in accordance with the terms of this Declaration;

85 185985

(d) All costs incurred by the Association in enforcement of the provisions of the Project Documents against an Owner, including but not limited to attorneys' fees and court costs.

4.7. Rate of Assessment. Annual, special and supplemental assessments shall be fixed at a uniform rate for each Lot except that (i) the Declarant shall pay only 10% of the annual, special or supplemental assessments attributable to its Lots until a certificate of occupancy for each such Lot has been issued by the appropriate governmental authority and (ii) each Owner other than the Declarant shall pay only 25% of the annual, special or supplemental assessments attributable to his Lot until a certificate of occupancy for his Lot has been issued by the appropriate governmental authority. If a Lot ceases to qualify for a reduced rate of assessment during the period to which an annual, supplemental or special assessment is attributable, such assessment shall be prorated between the applicable rates on the basis of the number of days in the period that the Lot qualified for each rate. Extraordinary assessments shall be levied in accordance with Section 5.6 of this Declaration and need not be uniform for each Lot.

4.8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. Written notice of the annual assessment shall be sent to every Owner. However, the failure to give such notice shall not effect the validity of, or delay the commencement of, the annual assessment. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

4.9. Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment, or any installment of an assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of 18% per annum. Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. The lien shall be perfected by the recording of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the

85 185985

records of the Association, (2) the legal description or street address of the Lot against which the claim of lien is made, (3) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except for tax liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and the liens which are specifically described in Section 4.10 of this Declaration.

Before recording a lien against any Lot the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments together with interest, reasonable attorneys' fees and all costs incurred by the Association in collecting, or attempting to collect, such Assessments, whether or not a lawsuit is filed. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving any lien securing any such delinquent Assessments or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

85 185985

4.10. Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

4.11. Exemption of Owner. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities or by the abandonment of his Lot.

4.12. Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and such improvements on the Lots ^{Official Document} as the Master Association is obligated to maintain under Section 8.2 of this Declaration.

4.13. No Offsets. All Assessments shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

85 185985

ARTICLE 5

PERMITTED USES AND RESTRICTIONS

5.1. Residential Use. All Lots shall be used, improved and devoted exclusively to Single Family Residential Use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot.

5.2. Animals. No animals, birds, fowl, poultry, or livestock, other than two dogs or cats, shall be maintained on any property and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be Visible from Neighboring Property. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a nuisance. Any decision rendered by the Board shall be enforceable to the same extent as other restrictions contained in this Declaration.

5.3. Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any property, whether attached to a building or structure or otherwise, unless approved by the Architectural Committee.

5.4. Utility Service. Except as approved in writing by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

5.5. Improvements and Alterations. After the conveyance of a Lot by Declarant to a Purchaser, no improvements, alterations, repairs, excavations, landscaping or other work which in any way alters the exterior appearance of such Lot, or the improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee, except as otherwise expressly provided in this Declaration.

85 185985

After the conveyance of a Lot by Declarant to a Purchaser, no building, fence, wall, landscaping, residence or other Improvement shall be commenced, erected, maintained, improved, altered, made or done on such Lot without the prior written approval of the Architectural Committee. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property without the prior written approval of the Architectural Committee. No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other parties shall have recourse against the Architectural Committee for its refusal to approve any such plans and specifications or its disapproval of any other request made pursuant to the Project Documents.

5.6. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time on any portion of the Property for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such property shall be removed immediately after the completion of construction.

5.7. Trucks, Trailers, Campers and Boats. No mobile home, motor home, trailer, truck, camper, truck with a camper shell, boat, boat trailer or similar vehicle or equipment shall be parked, kept, placed, maintained, constructed, reconstructed, serviced or repaired, upon any street (public or private), Lot or Common Area provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Committee.

5.8. Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed, serviced or repaired on any Lot, Common Area, street (public or private) or other property so as to be Visible From Neighboring Property, and no inoperable vehicle may be stored or parked on any Lot, Common Area, street (public or private) or any other property, so as to be Visible From Neighboring Property; provided, however, the provisions of this Section shall not apply to emergency repairs. No automobile, motorcycle, motorbike or other motor vehicle shall be parked upon any street (public or private) within the Project except as authorized by the Architectural Committee Rules or as approved

85 185985

in writing by the Architectural Committee.

5.9. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property, and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.

5.10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. The Board shall have the right to require all Owners to place their garbage or trash containers at a specific location for collection or to require all Owners to subscribe to a trash collection service. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

5.11. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any property so as to be Visible From Neighboring Property.

5.12. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any property except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a residence, appurtenant structures, or other improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Property.

85 185985

5.13. Restriction on Further Subdivision and Time Shares. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board. Neither the ownership nor occupancy of any Lot shall be in time shares. No Owner shall transfer, sell, assign or convey any time share in his Lot, and any such transaction shall be void. "Time Share" as used in this Section shall mean the right to occupy a Lot or any one of several Lots during five (5) or more separated time periods of less than thirty (30) days per period over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in a Lot or a specified portion of a Lot.

5.14. Signs. No signs whatsoever (including, but not limited to, commercial, advertising, political and similar signs) shall be erected or maintained anywhere on the Property including but not limited to, the inside or outside of windows in any building located on the Property, except:

(a) Such signs as may be required by legal proceedings;

(b) Not more than one (1) residential identification sign with a total face area of thirty-six (36) square inches or less for each Lot; and

(c) One (1) "for sale" sign may be maintained on a Lot which is available for sale to the public but such sign may be displayed only during such time as an "open house" is being held on such Lot and the residence located upon such Lot is available for inspection by the general public and the times that the sign is to be displayed has been approved in writing by the Board.

5.15. Declarant's Exemption. Notwithstanding any other provision of the Project Documents, it shall be expressly permissible for the Declarant or its duly authorized agents, employees and representatives to maintain during the period of construction of Dwelling Units and the sale of Lots such facilities, structures and signs as are necessary or convenient to the construction of Dwelling Units or the sale of the Lots, including, but without limitation, a business office, storage area, construction yards, model units or homes and sales offices.

5.16. Mineral Exploration. No property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

85 185985

5.17. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property which shall induce, breed or harbor infectious plant diseases or noxious insects.

5.18. Limitation on Leasing of Units. No Owner may lease less than his entire Lot. No Lot may be leased for a period of less than thirty (30) days. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Project Documents and any failure by the lessee to comply with the terms of the Project Documents shall be a default under the lease. An Owner who leases his Lot shall promptly notify the Association and provide the Association with the term of the lease and the name of each lessee.

5.19. Outdoor Burning. There shall be no outdoor burning of trash or other debris; provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills.

5.20. Fuel tanks. No fuel tanks of any kind shall be erected, placed or maintained on the Property except for a propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue or grill.

5.21. Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows of any Dwelling Unit or other structure without the prior written approval of the Architectural Committee. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Dwelling Unit or other structure shall be constructed or installed in any Dwelling Unit or other structure without the prior written consent of the Architectural Committee.

5.22. HVAC and Solar Panels. Except as initially installed by the Declarant, no heating, air conditioning, evaporative cooling or solar energy collecting unit or panels shall be placed, constructed or maintained upon any Lot without the prior written approval of the Architectural Committee.

5.23. Garages and Driveways. The interior of all garages situated on any Lot shall be maintained in a neat, clean and sightly condition. Garages shall be used only for the parking of vehicles and the storage of normal household supplies and materials and shall not be used or converted for

85 185985

living quarters or recreational activities without the prior written approval of the Architectural Committee. All driveways shall be of concrete construction. Garage doors shall be left open only as needed for ingress and egress.

5.24. Party Walls. The rights and duties of Owners of Lots with respect to party walls shall be governed by the following provisions:

(a) Each wall which is placed on the dividing line between separate Lots shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burden and be entitled to the benefit of the restrictive covenants contained in this Declaration, and to the extent not inconsistent with this Declaration, the general rules of law regarding party walls shall be applied;

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the adjoining Owners of such wall in proportion to the use thereof, without prejudice, however, to the right of any Owner to call for a larger contribution from the ^{Unaffected} adjoining Owner under any rule of law regarding liability for negligent or willful acts or omissions;

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including a loss by fire or other casualty or ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

(d) Notwithstanding any other provision of this Section, an Owner who, by his negligent or wilful act, causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owners and their successors in title;

(f) In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to

85 185985

modify, make additions to or rebuild a party wall shall first obtain the written consent of the adjoining Owner and the Board;

(g) In the event of a dispute between Owners with respect to the repair or the rebuilding of a party wall or with respect to sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as made from time to time to be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three (3) arbitrators, one chosen by each of the Owners, and the third by the two so chosen, or, if the arbitrators do not agree as to the selection of the third arbitrator within five (5) days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the arbitrators shall be binding upon the Owners who shall share the cost of the arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after personal receipt or request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators;

Unofficial Document

(h) The provisions of this Section shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission respecting the party wall except such as took place while he was an Owner.

85 185985

ARTICLE 6**EASEMENTS**

6.1. Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electricity and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary poles and other necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

6.2. Easement for Encroachments. In the event any residence or other structure or any fence or wall constructed as part of the initial construction of Improvements on a Lot encroaches upon another Lot or the Common Area, a valid easement for such encroachment and for the maintenance of same, so long as it stands, shall and does exist; provided, however, that any such encroachment shall not exceed one (1) foot.

6.3. Easements ~~for~~ ^{Official Document} ~~Access~~ and Egress. Easements for ingress and egress are hereby reserved to the Declarant, the Owners, and their family, guests, tenants and invitees for pedestrian traffic over, through and across such sidewalks, paths, walks and lanes as from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

6.4. Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any Lot, excluding the interior of any Dwelling Unit located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Committee Rules are being complied with by the Owner of said Lot.

85 185985

6.5. Association's Easement For Performing Its Duties and Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and for performing all of the Association's other rights, duties and obligations under the Project Documents.

Unofficial Document

85 185985

ARTICLE 7

PROPERTY RIGHTS

7.1. Owners' Easement of Enjoyment. Every Owner, and each person residing with such Owner, shall have a right and easement of enjoyment in and to the Common Area. Said easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) the right of the Association to adopt reasonable rules and regulations governing the use of the Common Area and all facilities located thereon;

(b) the right of the Association to charge reasonable admission and other fees for the use of any clubhouse or recreational facility situated upon the Common Area;

(c) the right of the Association to suspend the voting rights and the rights to the use of the recreational facilities of an Owner for any period during which any Assessment against his Lot remains ^{Unofficial Document} or any other infraction of the Project Documents remains uncured;

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by Members representing at least sixty-seven percent (67%) of the total authorized votes in the Association;

(e) the right of Declarant and its agents and representatives, in addition to the rights set forth elsewhere in this Declaration, to the non-exclusive use, without charge, of the Common Area for maintenance of sales facilities, and display and exhibit purposes.

7.2. Lessees. If a Lot is leased or rented by the Owner thereof, the lessee and the members of his family residing with such lessee shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

7.3. Guests and Invitees. The guests and invitees of any Member or other person entitled to use the Common Area pursuant to Section 7.1 above or of any lessee who is entitled to use the Common Area pursuant to Section 7.2 above may use the Common Area provided they are accompanied by a Member,

85 185985

lessee or other person entitled to use the Common Area pursuant to Section 7.1 or 7.2 above. The Board shall have the right to limit the number of guests and invitees who may use the Common Area at any one time and may restrict the use of the Common Area by guests and invitees to certain specified times.

7.4. Limitations. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement of enjoyment.

Unofficial Document

85 185985

ARTICLE 8**MAINTENANCE**

8.1. Maintenance by Master Association. In accordance with Article X, Section 4 of the Master Declaration, the Master Association shall be responsible for the maintenance of the Common Area and shall cause the Common Area to be maintained in accordance with the same standards established for the Master Common Areas (as that term is defined in the Master Declaration). In addition, the Master Association shall maintain the landscaping on the Lots, except for the landscaping which is located within any area enclosed by a fence or wall. For performing such maintenance, the Association shall pay the Master Association in accordance with the provisions of the Master Declaration, and all such amounts shall be an expense of the Association and shall be included in the budget of the Association. In the event the Master Declaration is amended in such a manner that the Master Association is not obligated to maintain the Common Area or the landscaping on the Lots except for the landscaping which is located within any area enclosed by a fence or wall, the Association shall be responsible for the maintenance of such portion of the Common Area and the Lots as the Master Association is no longer obligated to maintain.

8.2. Maintenance By Owners. Each Owner shall be solely responsible for the maintenance, repair and replacement of his Lot and all Improvements located thereon, except for the landscaping on his Lot which is not within any area enclosed by a fence or wall.

8.3. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association or the Master Association in connection therewith. Any expenses incurred by the Association or the Master Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association or the Master Association and such amounts shall be a lien on any Lots owned by said Owner, and the Association or the Master Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration or the Master Declaration for the collection and enforcement of assessments.

8.4. Nonperformance by Owners. If any Owner fails to maintain any portion of his Lot, and the Improvements located thereon, which he is obligated to maintain under the provisions of the Project Documents, the Association shall have the right, but not the obligation, to enter upon such Owner's

85 185985

Lot to perform the maintenance and repairs not performed by the Owner, and the cost of any such work performed by or at the request of the Association shall be paid for by the Owner of the Lot, upon demand from the Association, and such amounts shall be a lien upon the Owner's Lot and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

8.5. Payment of Utility Charges. Each Lot shall be separately metered for electrical, water, sewer and other utility service and all charges for such utility services to the Lots shall be the sole obligation and responsibility of the Owner of each Lot. Charges for utility service to the Common Area shall be paid by the Master Association in accordance with the provisions of the Master Declaration. In the event the Master Declaration is amended in such a manner as to relieve the Master Association of its obligation to pay for utility service to the Common Area, the Association shall be responsible for the payment of such charges.

Unofficial Document

85 185985

ARTICLE 9

INSURANCE

9.1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy;

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover all ~~occurrences~~ ^{occurrences} commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and all other portions of the Property which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(d) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

(e) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(1) That there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household;

85 185985

(2) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;

(3) That the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by the Owners or their mortgagees or beneficiaries under deeds of trust;

(4) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;

(5) The Association shall be named as the insured;

(6) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

(f) If there is a steam boiler in connection with the Common Area, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location;

(g) If the Property is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended;

(h) "Agreed Amount" and "Inflation Guard" endorsements.

9.2. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article

85 185985

may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

9.3. Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity bond coverage shall be based upon the best business judgment of the Board. Fidelity bonds obtained by the Association must also meet the following requirements:

(a) The fidelity bonds shall name the Association as an obligee;

(b) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;

(c) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

9.4. Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association.

9.5. Insurance Obtained by Owners. Each Owner shall be responsible for obtaining insurance for his own benefit and at his own expense covering his Lot, and all improvements located thereon, and his personal property and providing personal liability coverage to the extent such insurance is not obtained by the Association.

9.6. Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 9.7 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area. With respect to any loss to any

85 185985

Lot, or the Improvements located thereon, which is covered by property insurance obtained by the Association, the loss shall be adjusted with the Owner of said Lot and the proceeds shall be payable to said Owner and any holders of liens on said Lot as their interest may appear.

9.7. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

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85 185985

ARTICLE 10

GENERAL PROVISIONS

10.1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

10.3. Term; Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall ^{Official Document} be automatically extended for successive periods of ten (10) years each, unless this Declaration is terminated by Members representing ninety percent (90%) of the total votes in the Association at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Declaration shall be effective unless and until the written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from the holders of recorded First Mortgages on seventy-five percent (75%) of the Lots. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

10.4. Amendments. This Declaration may be amended by recording with the County Recorder of Maricopa County, Arizona, a Certificate of Amendment duly signed and acknowledged as required for a Certificate of Termination in Section 10.3 of this Declaration. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 10.5 of this Declaration, shall certify that

85 185985

at a meeting of the Members duly called and held pursuant to the provisions of the Articles and Bylaws the Members casting seventy-five percent (75%) of the total votes cast at the meeting voted affirmatively for the adoption of the amendment. No amendment shall be effective unless the Certificate of Amendment has been signed by the Master Association and by the Declarant so long as the Declarant owns any Lot.

10.5. Amendment by Declarant. Notwithstanding anything to the contrary in this Declaration, the Declarant shall have the right to amend this Declaration, without obtaining the approval or consent of any Owner or First Mortgagee, in order to conform the Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration or any federal, state or local governmental agency whose approval of the Condominium, the Plat or the Condominium Documents is required or requested by the Declarant.

10.6. Violations and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby ^{Unofficial Document} deemed to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner.

10.7. Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any Lot is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

10.8. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

10.9. Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association, the Architectural Committee, or the Declarant, at 7400 E. McCormick Parkway, Suite B101, Scottsdale, Arizona 85258; if to an Owner, to the address of his Lot or to any other address last furnished by the Owner to the Association; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the Association. Each Owner of a Lot shall file his

85 185985

correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

10.10. Binding Effect. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Declarant, its successors, assigns and grantees, ^{Official Document} I agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

10.11. Gender. The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

10.12. Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or this Declaration.

10.13. Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies

85 185985

which the Association may have against such former Member arising out of, or in any way connected with such membership and the covenants and obligations incident thereto.

10.14. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, the provisions of this Declaration shall prevail.

10.15. Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration, shall be joint and several.

10.16. Attorneys' Fees. In the event the Association files an action to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

10.17. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Maricopa County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

10.18. Rights of Markland Properties, Inc. 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 by reason of any option or right of first refusal held by Markland to purchase all or any part of the Property, Markland 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 owned by Markland, provided, however, that (i) Markland shall not become the Declarant hereunder and shall not succeed to any of the rights, options or duties of the Declarant unless Markland so

85 185985

elects by written instrument recorded in the Office of the Maricopa County Recorder, (ii) if such an election is recorded, Markland 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, Felker-Edmunds Development, its successors or assigns, still owns any unimproved Lots, Felker-Edmunds Development, its successors and assigns, shall be entitled to the exemption provided the Declarant in Section 4.7 of this Declaration with respect to the unimproved Lots which it owns and shall not be required to obtain the approval of the Board for the construction of Improvements on the unimproved Lots owned by Felker-Edmunds Development.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

FELKER-EDMUNDS DEVELOPMENT,
Unofficial Document Arizona general partnership

By: **THE SCOTTSDALE PLAZA I,**
 a limited partnership
 General Partner

By: **LIFE STYLE CONCEPTS,**
LTD., a Wisconsin
 corporation, General
 Partner of The
 Scottsdale Plaza I

By: 
 Richard J. Felker
 Its President

By: **GEOFFREY H. EDMUNDS AND**
ASSOCIATES, INC., an
 Arizona corporation,
 General Partner

By: 
 Its President

85 185985

STATE OF Arizona)
County of Maricopa) ss.

Acknowledged before me this 24th day of April, 1985, by Richard J. Felker, the President of Life Style Concepts, Ltd., a Wisconsin corporation, on behalf of the corporation, as a general partner in The Scottsdale Plaza I, a limited partnership, general partner in Felker-Edmunds Development, an Arizona general partnership.

Jean Wright
Notary Public

My Commission Expires:

My Commission Expires May 15, 1988

Unofficial Document

STATE OF ARIZONA)
County of Maricopa) ss.

Acknowledged before me this 24th day of April, 1985, by Geoffrey H. Edmunds, the President of Geoffrey H. Edmunds and Associates, Inc., an Arizona corporation, on behalf of the corporation, as a general partner in The Scottsdale Plaza I, a limited partnership, general partner in Felker-Edmunds Development, an Arizona general partnership.

Jean Wright
Notary Public

My Commission Expires:

My Commission Expires May 15, 1988

85 185985

EXHIBIT A

Lots 1 through 57, inclusive, and Tracts A, B, C, D and E,
GAINNEY RANCH PARCEL II, according to the plat recorded in
Book 281, page 37, records of Maricopa County, Arizona.

Unofficial Document