

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
PARCEL 2 AT GAINNEY RANCH**

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**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PARCEL 2 AT GAINNEY RANCH**

THIS DECLARATION is made on the 27 day of MAY, 1987, by Felker-Edmunds Development, an Arizona general partnership (the "Declarant").

ARTICLE 1

DEFINITIONS

As used in this Declaration, the following capitalized terms shall have the meanings set forth in this Article:

1.1. "Architectural Committee" means the committee established by the Board pursuant to Section 3.4 of this Declaration.

1.2. "Architectural Committee Rules" means the rules adopted by the Architectural Committee.

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.

1.4. "Assessments" means the annual and special assessments levied and assessed against each Lot pursuant to Article 4 of this Declaration.

1.5. "Assessment Lien" means the lien granted to the Association by this Declaration to secure the payment of Assessments and all other amounts payable to the Association under the Project Documents.

1.6. "Association" means the Arizona nonprofit corporation to be 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 "Parcel 2 At Gainney Ranch Owners Association," but if such name is not available, Declarant may organize the Association under such other name as the Declarant deems appropriate.

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

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

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

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

1.11. "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 and Markland Properties, Inc., an Arizona corporation, in the event Markland Properties, Inc. elects to become the Declarant under this Declaration pursuant to Section 9.16 of this Declaration.

1.12. "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as it may from time to time be amended.

1.13. "First Mortgage" means any mortgage or deed of trust on a Lot which has priority over all other mortgages or deeds of trust on the same Lot.

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

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 and, where the context indicates or requires, includes the Residential Unit and all other Improvements situated on the Lot.

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 title (and legal title if the same has merged with the 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 the 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.

1.21. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

1.22. "Plat" means the plat of A Subdivision of Gainey Ranch Parcel 2 recorded with the County Recorder of Maricopa County, Arizona, in Book 310, page 27, and all amendments and corrections thereto.

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

1.24. "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 privileges appurtenant thereto.

1.25. "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, (ii) an Owner who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration or (iii) Markland Properties, Inc., an Arizona corporation, if Markland Properties, Inc., 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 Properties, Inc.

1.26. "Residential Unit" means any building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence by a Single Family.

1.27. "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 not more than three persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

1.28. "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 the grade level of the object being viewed.

ARTICLE 2

PLAN OF DEVELOPMENT

2.1. Property Initially Subject to the Declaration. This Declaration is being recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration. 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 development and use 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 Association and all Owners. Declarant, its successors, assigns and grantees, covenants and 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.

2.2 Disclaimer of Representations. Declarant makes no representations or warranties whatsoever to the Owners that (i) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future. In addition, although a guardhouse will be constructed on the private street leading into the Project, the Declarant makes no representations or warranties to the Owners that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or will be continued in the future. Nothing contained in this Declaration and nothing which may be represented to a Purchaser by real estate brokers

or salesmen representing the Declarant shall be deemed to create any implied covenants or restrictions with respect to the use of any Property subject to this Declaration.

2.3. Restriction on Liability of the Association.

The Declarant intends to construct guardhouses and/or gates at the entrance of the Project in order to limit access and provide more privacy for the Owners and other occupants of Residential Units in the Project. The guard gates may be activated by a key system or some other type of activation device. Each Owner, tenant or other resident of a Residential Unit and their families and guests acknowledge that the guardhouse or gate may restrict or delay entry to the Project by the police, the fire department, ambulances and other emergency vehicles and personnel and that such restriction or delay on the entry by such emergency vehicles and personnel may result in death or injury to an Owner, tenant or other resident of a Residential Unit or their families and guests. Each Owner, tenant or other resident of a Residential Unit and their families and guests agree to assume the risk that the guard gate will restrict or delay entry to the Project by emergency vehicles and personnel and that such delay could result in death or bodily injury to an Owner, tenant or other resident of a Residential Unit or their families and guests. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association shall be liable to any Owner, tenant or other resident of a Residential Unit or their families or guests for any death or bodily injury resulting, directly or indirectly, from the construction, existence or maintenance of the guard gate.

ARTICLE 3**THE ASSOCIATION; RIGHTS AND DUTIES,
MEMBERSHIP AND VOTING RIGHTS**

3.1. 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. Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

3.2. 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. No director, officer or employee of the Association and no member of the Architectural Committee or any other committee appointed by the Board shall be liable to the Association, the members or any other person for any negligence, mistake, error or omission in connection with the performance of his duties under the Project Documents except for willful misconduct or gross negligence.

3.3. Association Rules. The Board may, from time to time and subject to the provisions of this Declaration, 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 except that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. 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.

3.4. Architectural Committee. The Board shall establish an Architectural Committee consisting of not less than three (3) members 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. So long as the Declarant owns any Lot, the Declarant shall have the right to appoint and remove the members of the Architectural Committee. When the Declarant no longer owns any Lot, the Board shall appoint and remove members of the Architectural Committee.

3.5. 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.

3.6. 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.

3.7. Classes of Members. The Association shall have two classes of 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 Declarant shall be entitled to ten (10) votes for each Lot owned by the Declarant. The Class B membership shall terminate when seventy-five percent (75%) of the Lots have been conveyed to Purchasers. Upon the termination of the Class B membership, the Declarant shall become a Class A member.

3.8. 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.

3.9. 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, general partner or chief executive officer of such corporation, partnership or association shall have the power to vote the membership.

3.10. Suspension of Voting Rights. If any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of five (5) days or if any Owner violates any other provision of the Project Documents and such violation is not cured within ten (10) days after the Association notifies the Owners of the violation, the 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 until any other infractions or violations of the Project Documents are cured.

3.11. 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 and the Gainey Ranch 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 shall be in addition to any consents required under the terms of the Master Declaration or the Master Association Documents. The exercise by the Declarant of any rights granted to or reserved by the Declarant in this Declaration shall be subject to the Master Association Documents, and the Declarant shall obtain any consents or approvals pertaining to the exercise of such rights that are required under the Master Association Documents.

3.12. 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 Gainey Ranch or necessary for the maintenance of the high quality of residential development envisioned for the residential areas of Gainey Ranch.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08-03-09 BY 60322 UCBAW/STW/STW

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 annual assessments and special assessments. The annual and special assessments, together with interest, costs, reasonable attorneys' fees, monetary penalties and all other fees and charges payable to the Association pursuant to the Project Documents 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, costs, reasonable attorneys' fees, monetary penalties and all other fees and charges payable to the Association pursuant to the Project Documents shall also be the personal obligation of the Owner of such Lot at the time when 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 (i) the upkeep, maintenance and improvement of the Common Area; (ii) promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property; (iii) the performance and exercise by the Association of its rights, duties and obligations under the Project Documents, and (iv) the payment of any amounts due from the Association to the Master Association.

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 fixed at a uniform rate for each Lot except that (i) the Declarant shall pay only 10% of the annual or special 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 or special 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 assessment is attributable, the assessment shall be prorated between the applicable rates on the basis of the number of days in the assessment period that the Lot qualified for each rate. So long as there is a Class B membership in the Association, the Declarant shall pay to the Association any amounts which, in addition to the annual assessments levied by the Association, may be required by the Association in order for the Association to fully perform its duties and obligations under the Project Documents, including the obligation to maintain adequate reserve accounts. The Board shall give notice of the annual assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from its obligation to pay the annual assessment. If the Board determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all expenses of the Association for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the annual assessment for that fiscal year and the revised annual assessment shall commence on the date designated by the Board.

4.4. Special Assessments. In addition to the annual 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 a capital improvement of the Common Area, including fixtures and personal property related thereto, or for any 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.

4.5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Lots 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. 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.

4.6. Effect of Nonpayment of Assessments; Remedies of the Association.

(A) Any Assessment, or any installment of an assessment, not paid before it becomes delinquent shall bear interest from the delinquency date at the rate of interest established by the Board. 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 Assessment Lien shall also secure the payment of all monetary penalties, interest, attorney fees, lien fees, late charges, collection costs and all other fees and charges payable to the Association under the Project Documents. The recording of this Declaration constitutes record notice and perfection of the Assessment Lien and the recording of a notice of lien or other document shall not be required in order to perfect the Assessment Lien.

(B) The Assessment Lien shall have priority over all liens or claims except for (i) tax liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and (ii) the lien of any First Mortgage.

(C) The Association shall not be obligated to release any Notice of Delinquency with respect to the Assessment Lien until all delinquent Assessments, interest, collection charges, lien fees and reasonable attorneys' fees have been paid in full.

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

4.7. Subordination of the Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage. The sale or transfer of any Lot shall not affect the Assessment Lien except that the sale or transfer of a Lot pursuant to judicial or nonjudicial foreclosure or any proceeding

in lieu thereof shall extinguish the Assessment Lien as to payments which become due prior to the sale or transfer. No sale or transfer shall relieve the Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

4.8. 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.

4.9. 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.

4.10. No Offsets. All Assessments and other amounts payable to the Association shall be payable in accordance with the provisions of the Project Documents, and no offsets against such Assessments or other amounts 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.

4.11. Monetary Penalties. In accordance with the procedures set forth in the Bylaws, the Board shall have the right to levy reasonable monetary penalties against an Owner for violations of the Project Documents by the Owner, his family, tenants or guests.

4.12. Cable Television. The Master Association has entered into an agreement with a cable television provider wherein the provider has agreed to furnish cable television service to all of the improved Lots within Gainey Ranch at a specified charge per Lot and to bill the Master Association for all the improved Lots within Gainey Ranch. At such time as the Association is organized, it shall enter into a cable television agreement in a form furnished by the Master Association and on file in the Master Association offices, wherein the Association shall agree to pay any monthly and other charges incurred by the Master Association for all cable television services attributable to Residential Units within the Property. Each Owner of an improved Lot within the Property shall pay the per Lot charge together with all other charges levied against the Master Association which are attributable to the Owner's Lot. All such cable television charges shall be due and payable to the Association by each Owner of an improved Lot every month, whether or not the Residential Unit on such Lot is occupied and whether or not an

Owner or resident of such Lot elects to receive cable television services. If an Owner incurs charges for cable television services not covered under the agreement between the Master Association and the cable television provider, such Owner shall pay the provider directly for such charges. The Master Association and the Association shall have no liability for the operation or maintenance of the cable television system and the Owners shall have no right to withhold payment or offset any credits allegedly due to Lot Owners because of actions or inactions of the cable television provider. Owners shall only be entitled to reductions in charges as the result of interruption or discontinuation of cable television service if the Master Association receives a reduction therefor from the cable television provider.

is to be used for the purpose of the cable television system and the Association shall have no liability for the operation or maintenance of the cable television system and the Owners shall have no right to withhold payment or offset any credits allegedly due to Lot Owners because of actions or inactions of the cable television provider. Owners shall only be entitled to reductions in charges as the result of interruption or discontinuation of cable television service if the Master Association receives a reduction therefor from the cable television provider.

ARTICLE 5

PERMITTED USES AND RESTRICTIONS

5.1. Residential Use. Except for rights granted to the Declarant by this Declaration regarding the use of Lots, all Lots shall be used, improved and devoted exclusively for use as a residence by a Single Family, and 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 Lot 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. No Owner or any lessee or guest of an Owner shall permit any dog or other pet being kept on a Lot to relieve itself on another Owners' Lot. It shall be the responsibility of such Owner, lessee or guest to remove immediately any droppings from pets. No dog, cat or other pet shall be permitted to run at large, and each dog, cat or other pet shall be confined entirely to an owners' Lot except that a dog, cat or other pet shall be permitted to leave an owner's Lot if such dog, cat or other pet is at all times kept on a leash not to exceed six (6) feet in length and is under the direct control of the Owner.

5.3. Antennas. No antenna, satellite television dish antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

5.4. Utility Lines. 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 Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No Residential Unit, landscaping or other Improvement shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities. The public utility easement areas, and all Improvements thereon, shall be maintained

by the Owner of the Lot on which the easement area is located unless the easement area is to be maintained by the utility company or a county, municipality or other public authority.

5.5. 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 for a residence on any Lot, either temporary or permanent. Temporary buildings or structures used during the construction of a Residential Unit or other structure on a Lot shall be removed immediately after the completion of construction.

5.6. Trucks, Trailers, Campers and Boats. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area or on any street so as to be Visible From Neighboring Property or any street; except for (i) pickup trucks of less than 3/4 ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level or to mini-motor homes not exceeding seven (7) feet in height and eighteen (18) feet in length which are used on a regular and recurring basis for basic transportation and (ii) temporary parking of vehicles for a reasonable time by the guests and invitees of the Owner or tenant of a Lot subject to the Association Rules.

5.7. Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot, Common Area or street, and no inoperable vehicle may be stored or parked on any Lot, Common Area or street, so as to be Visible From Neighboring Property or to be visible from any street; except for emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Residential Unit or other Improvement approved by the Architectural Committee.

5.8. Towing of Vehicles. The Association shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be

paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment towed is owned by an Owner or any family member or guest of the Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and his Lot, and such cost shall be secured by the Assessment Lien.

5.9. Nuisances. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupant. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except fire detection and security devices used exclusively for such purposes, shall be located, used or placed on any property.

5.10. Repair of Buildings. No Residential Unit, building, landscaping or other Improvement upon any Lot shall be permitted to fall into disrepair, and each such Residential Unit, building, landscaping or other Improvement shall at all times be kept in good condition and repair by the Owner thereof.

5.11. Trash Containers and Collection. No garbage, rubbish or trash shall be placed or kept on any Lot except in covered containers. 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. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, 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 incinerators shall be kept or maintained on any Lot.

5.12. Clothes Drying Facilities. Outside clothes-lines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot unless they are erected, placed or maintained in such a manner as to not be Visible from Neighboring Property.

5.13. Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of twelve (12) feet.

5.14. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained

upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a Residential Unit, appurtenant structures, or other Improvements constructed by the Declarant or approved by the Architectural Committee.

5.15. Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant.

5.16. Signs. No signs whatsoever (including, but without limitation, commercial, political, "for sale," "for rent" and similar signs) shall be erected or maintained on any Lot except:

(i) One residential identification sign with a total face area of thirty-six square inches or less;

(ii) Such signs as may be required by legal proceedings.

5.17. Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals or any kind, gravel, earth, or any earth substance of any kind and no derrick or other equipment designed or intended for any such activity shall be erected, placed, constructed or maintained on any Lot.

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

5.19. Improvements and Alterations.

(A) All Improvements constructed on Lots within the Project shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

(B) No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, from their appearance on the date the Lot was conveyed by the Declarant to a Purchaser shall be made or done without the prior written approval of the Architectural Committee.

(C) Any Owner desiring approval of the Architectural Committee for any addition, alteration, repair, change or other work which alters the exterior appearance of his Lot, or the Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within sixty (60) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval of the Architectural Committee will not be required and this Section will be deemed to have been complied with by the Owner who had requested approval of such plans.

(D) The approval by the Architectural Committee of any addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar addition, alteration, repair, change or other work subsequently submitted for approval.

(E) Upon receipt of approval from the Architectural Committee and the Master Association for any addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee and the Master Association as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee.

(F) The approval of the Architectural Committee required by this Section shall be in addition to, and not in lieu of, any approvals, consents or permits required under the Master Declaration, the Master Association Documents or the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

5.20. Common Walls. The rights and duties of Owners of Lots with respect to common walls shall be as follows:

(i) The Owners of contiguous Lots who have a common wall shall both equally have the right to use

such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

(ii) In the event that any common wall is damaged or destroyed through the act of an Owner, it shall be the obligation of such Owner to rebuild and repair the common wall without cost to the other Owner or Owners;

(iii) In the event any such common 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 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;

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

(v) 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 Owner's successors in title;

(vi) 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 modify, make additions to or rebuild a common wall shall first obtain the written consent of the adjoining Owners;

(vii) In the event any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots which share such common wall.

5.21. Maintenance of Walls Other Than Common Walls.

(A) Walls (other than common walls) located on a Lot or on the boundary between a Lot and the golf course adjoining the Project shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the surface maintenance (including painting) of the golf course side of the wall between the golf course and the Lot.

(B) Any wall which is placed on the boundary line between a Lot and the Common Area shall be maintained, repaired and replaced by the Owner of the Lot except that the Association shall be responsible for the repair and maintenance of the side of the wall which faces the Common Area.

5.22. 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.

5.23. Fuel Tanks. No fuel tanks of any kind shall be erected, placed or maintained on the Property except for propane or similar fuel tanks permitted under the ordinances of the county or municipality having jurisdiction over the property.

5.24. 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 residence 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 residence or other structure shall be constructed or installed in any residence or other structure without the prior written consent of the Architectural Committee.

5.25. 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.

5.26. Drainage Plan. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained on any drainage easement as shown on the Plat, and no Residential Unit, structure, building, landscaping, fence, wall or other

Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project or for any Lot as shown on the drainage plans on file with the county or municipality in which the Project is located.

5.27. Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and sightly condition. Garages shall be used for parking vehicles and storage only, and shall not be used or converted for living or recreational activities without the prior written approval of the Board. Garage doors shall be left open only as needed for ingress and egress.

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. Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Declarant and granted to the Owners, and their family, guests, tenants and invitees, for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same 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.

6.3. Unit Owners' Easements of Enjoyment.

(A) Every Owner shall have a right and easement of enjoyment in and to the Common Area which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Area;

(ii) The right of the Association to prohibit the use of those portions of the Common Area which the Association, in its sole discretion, determines were designed and intended for aesthetic or decorative purposes only and not for use as recreational areas;

(iii) The right of the Association to suspend the rights of an Owner under this Section for any period during which any Assessment or other amount payable to the Association remains unpaid or for any period during which any other infraction or violation of the Project Documents remains uncured;

(iv) The right of the Association to convey the Common Area, or any part thereof, or subject the Common Area, or any part thereof, to a mortgage, deed of trust, or other security interest, provided that any such conveyance or encumbrance is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing at least ninety percent (90%) of the votes in the Association;

(v) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 6.4 and 6.5 of this Declaration.

(vi) 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 votes in the Association.

(B) If a Lot is leased or rented, the lessee and the members of his family residing with the lessee shall have the right to use the Common Area during the term of the lease, and the Owner shall not have the right to use the Common Area until the termination or expiration of the lease.

(C) The guests and invitees of any member or other person entitled to use the Common Area pursuant to Subsection (A) above or of any lessee who is entitled to use the Common Area pursuant to Subsection (B) above may use the Common Area provided they are accompanied by a Member, lessee or other person entitled to use the Common Area pursuant to Subsection (A) or (B) above. The Association 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.

(D) 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 a 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 Lot, notwithstanding that the description on the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

6.4. Declarant's Use for Sales and Leasing Purposes.

(A) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area while the Declarant is selling Lots in the Project. Declarant reserves the right to place models, management offices and sales and leasing offices on any Lots owned by Declarant and on any portion of the Common Area in such manner, of such size and in such locations as Declarant deems appropriate.

(B) Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Project. Upon the relocation of a model, management office or sales and leasing office constituting a Common Area, Declarant may remove all personal property and fixtures therefrom.

(C) So long as Declarant is marketing Lots in the Project, Declarant shall have the right to restrict the use of the parking spaces which are located on the Common Area. Such right shall include reserving such spaces for use by prospective Lot purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

(D) The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Project that has not been represented as property of the Association. The Declarant reserves the right to remove from the Project any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

6.5. Declarant's Easements.

(A) Declarant shall have the right and an easement on and over the Common Area to construct thereon all buildings and improvements the Declarant may deem necessary and to use the Common Area and any Lots owned by Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project.

(B) Declarant shall have the right and an easement on, over and under the Common Area for the purpose of maintaining and correcting drainage of surface, roof or storm water. The easement created by this Subsection expressly

includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

(C) The Declarant shall have an easement on, over and through the Lots for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

(D) The Declarant shall have the right and an easement on, over, and through the Common Area as may be reasonably necessary for the purpose of discharging its obligations and exercising any rights or easements reserved or granted to the Declarant in this Declaration.

6.6. Easement over Lots in Favor of Association.
The Lots, but not the Residential Unit situated thereon, are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(A) For inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

(B) For inspection, maintenance, repair and replacement of the Common Area situated in or accessible from such Lots or any other area which the Association is obligated to maintain under this Declaration or the Tract Declaration;

(C) For correction of emergency conditions in one or more Lots or casualties to the Common Area or the Lots;

(D) For the purpose of enabling the Association, the Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Project Documents;

(E) For inspection, at reasonable times and upon reasonable notice to the Owner, of the Lots in order to verify that the provisions of the Project Documents are being complied with by the Owners, their guests, tenants, invitees and the other occupants of the Lot.

6.7. Easement for Encroachments.

(A) In the event any Residential Unit 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 the Residential Unit, fence, wall or other structure or improvement within the encroachment area shall exist over the Lot or Common Area upon which the Residential Unit, fence, wall or other structure or improvement encroaches.

(B) In the event any sidewalk, fence, wall, landscaping improvement, structure or other improvement constructed or erected as part of the Common Area encroaches upon any Lot, a valid easement for such encroachment and for the maintenance of the sidewalk, fence, wall, landscaping improvement, structure or other improvements within the encroachment area by the Association shall exist over the Lot upon which the sidewalk, fence, wall, landscaping improvement, structure or other improvement encroaches.

6.8 Easement in Favor of Master Association. The Master Association shall have an easement on, over and through the Lots and the Common Area for inspection, maintenance, repair and replacement of those areas which the Master Association is obligated to maintain, or as to which the Master Association accepts the responsibility to maintain, pursuant to the Master Declaration, this Declaration or the recorded Tract Declaration (as that term is defined in the Master Declaration) pertaining to the Project.

ARTICLE 7**MAINTENANCE**

7.1. 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; provided, however, that if any such amounts billed to the Association by the Master Association are for repair, maintenance or replacement resulting from damage caused by an Owner, his family, tenants, guests or invitees, the Owner, upon demand, shall reimburse the Association for such amounts paid by the Association to the Master Association and such amounts shall be a lien on the Lot of the Owner and the Association may enforce collection of such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments. 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 portions of the Common Area and the Lots as the Master Association is no longer obligated to maintain.

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

7.3. 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 in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

7.4. Nonperformance by Owners. If any Owner fails to maintain any portion of his Lot, and the Improvements located thereon, the Association shall have the right, but not the obligation, to enter upon such Owner's 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.

7.5. Payment of Utility Charges. Each Lot shall be separately metered for all 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 the obligation of the Association and shall be included in the budget of the Association.

ARTICLE 8

INSURANCE

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

(A) Property insurance on any insurable buildings or other structures situated 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 insured property, 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 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 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 and provide coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party;

(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:

(i) The insurer waives any right to claim by way of subrogation against the Master Association, the Association, the Board, the Owners and any Managing Agent of the Association and their respective agents, employees, guests and, in the case of Owners, the members of their household;

(ii) 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;

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

(iv) 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;

(v) The Association shall be named as the Insured;

(vi) 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 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;

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

8.2. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a 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 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.

8.3. 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.

8.4. Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for his own benefit and at his own expense covering his Lot, and all Improvements and personal property located thereon. Each Owner shall also be responsible for obtaining at his expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of his Lot.

8.5. 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 8.6 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

8.6. 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 (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the votes in the Association 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 either be (i) retained by the Association as an additional capital reserve or (ii) used to pay operating expenses of the Association if such use of the funds is approved by the affirmative vote or written consent of Owners representing more than fifty percent (50%) of the Lots.

ARTICLE 9**GENERAL PROVISIONS**

9.1. 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.

9.2. 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.

9.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent (90%) or more of the votes in the Association. 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 of the Association, with his signature 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.

9.4. Amendment.

(A) The Declaration or the Plat may only be amended by the written approval or the affirmative vote of Owners representing not less than seventy-five percent (75%) of the votes in the Association.

(B) So long as the Declarant owns any Lot, any amendment must be approved in writing by the Declarant.

(C) Any amendment adopted pursuant to Subsection (A) of this Section shall be signed by the President or Vice President of the Association. Any such amendment shall certify that the amendment has been approved as required by this Section.

(D) All amendments shall be recorded with the County Recorder of Maricopa County, Arizona.

9.5. Nuisances. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Declarant, the Association or any Owner.

9.6. Laws, Ordinances and Regulations.

(A) The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other persons to obtain the approval of the Board or the Architectural Committee with respect to certain actions are independent of the obligation of the Owners and other persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other person from the obligation to also comply with all applicable laws, ordinances and regulations.

(B) Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

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

9.8. 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 Declarant, the Association or the Architectural Committee at 7400 E. McCormick Parkway, Suite B-101, 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 the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

9.9. 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.

9.10. 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.

9.11. 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 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.

9.12. 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.

9.13. 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.

9.14. Attorneys' Fees. In the event the Association employs an attorney 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.

9.15. Declarant's Right To Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign

such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

9.16. 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 become the Declarant under this Declaration and to succeed to all rights, options and duties of the Declarant hereunder; 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 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 rights and easements provided the Declarant in Sections 6.4 and 6.5 of this Declaration with respect to the unimproved Lots which it owns and shall not be required to obtain the approval of the Architectural Committee for the construction of Improvements on the unimproved Lots owned by Felker-Edmunds Development.

9.17 Annexation of Additional Property. The Declarant reserves the right to annex and subject to this Declaration any real property located within Gainey Ranch presently owned or hereafter acquired by the Declarant. Any such annexation of additional real property shall be accomplished by the recording by the Declarant of a Declaration of Annexation with the County Recorder of Maricopa County, Arizona, stating the legal description of the real property being annexed and subjected to this Declaration and the legal description of any portion of such property which will be Common Area to be owned and maintained by the Association. The right granted to the Declarant under this Section shall expire seven (7) years after the recording of this Declaration. Any annexation of additional land must be approved in writing by the Master Association.

FELKER-EDMUNDS DEVELOPMENT,
an 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*
Richard J. Felker
Its President

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

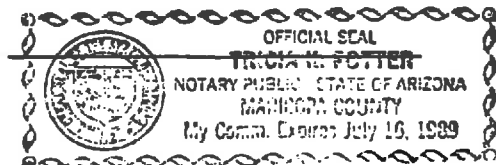
By: *Geoffrey H. Edmunds*
Its President

State of Arizona)
) ss.
County of Maricopa)

Acknowledged before me this 26th day of May,
1987, 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.

[Signature]
Notary Public

My Commission Expires:



State of Arizona)
) ss.
County of Maricopa)

Acknowledged before me this 22 day of May,
1987, 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 Felker-Edmunds
Development, an Arizona general partnership.

[Handwritten Signature]

Notary Public

My Commission Expires:

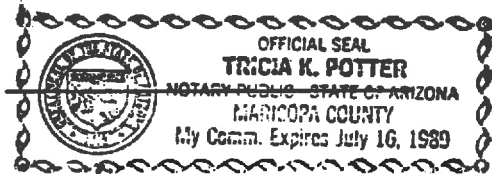


EXHIBIT A

Lots 1 through 21, inclusive, and Tracts A and B, A SUBDIVISION OF GAINNEY RANCH PARCEL 2, according to the plat recorded in Book 310, page 27, records of Maricopa County, Arizona.