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WHEN RECORDED, MAIL TO: Beth Mulcahy Mulcahy Law Firm, P.C. 3001 E. Camelback Road, Suite 130 Phoenix, Arizona 85016

**Certificate of Amendment to the Satellite Declaration of Covenants,
Conditions and Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and
Easements for The Greens at Gainey Ranch**

THIS CERTIFICATE OF AMENDMENT TO the Satellite Declaration of Covenants, Conditions, and Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for The Greens at Gainey Ranch ("Amendment") is made this 23rd day of May, 2011, by The Greens at Gainey Ranch ("Association").

RECITALS

- A. The original Declaration of Covenants, Conditions and Restrictions was recorded on August 22, 1984 at Document No. 1984-368308, thereafter, amended on September 13, 1985, at Recording Number 1985-435104, and further amended on July 21, 2006, at Recording Number 2006-0980289, and further amended on June 28, 2007 at Recording Number 2007-074771, all official records of Maricopa County, Arizona ("Declaration"), and subjected the real property described in the Declaration (and any Supplemental Declaration) to the Declaration and required that the property be held, sold, used, and conveyed subject to the easements, restrictions, covenants and conditions, which run with the title to the real property subject to this Declaration.
- B. The Declaration is binding on all parties having any right, title or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the properties.
- C. The Members of the Association wish to further expand on the responsibility and scope of the front arc maintenance.
- D. Pursuant to Article XIV, Section 14.3 of the Declaration, the Declaration may be amended by an instrument signed by the Owners of at least two-thirds (2/3) of individual Lots.
- E. This Certificate of Amendment was approved by the Owners of at least two-thirds (2/3) of individual Lots within The Greens at Gainey Ranch.

NOW, THEREFORE, the Declaration is amended as follows:

1. Article IX, Section 9.1 of the Declaration is hereby amended as follows:

Section 9.1: Maintenance of Front Areas. The Master Association shall, as an expense reimbursable by the Association under the Master Declaration, maintain the front yards of each and every improved Lot located within the Development, and the side and rear yards where the same face Common Areas, up to and including the option of painting, at the Association's expense, the front wall side and rear walls associated with the dwelling Unit on every such Lot, should the Board decide to change colors (nothing herein shall be deemed to alter the respective Owner's obligations to maintain the subject front wall, side or rear walls). The Owner of each Lot shall reasonably cooperate with the Association and the Master Association or its/their designee to conduct such maintenance. Unless collected by the Master Association, charges for such maintenance shall be prorated and included in the Annual Assessment as set forth in Section 8.3 thereof. Except as otherwise provided an Owner shall have no obligation, to maintain his front yard except in areas which are on the dwelling Unit side of the front wall thereof or areas approved by the Architectural Committee for annual flowers. Annual flower areas shall be maintained by the owner.

For purposes of this Section, "maintenance" (by the Association) shall be defined as the routine trimming, pruning, mowing, fertilizing and general care (and removal of, due to storm damage or death) or such trees, shrubs, ground cover and other vegetation including irrigation thereto. Street lighting shall be maintained and replaced by the Association. Maintenance shall not include grading, landscape lighting installed by Owner, the replacement of trees, shrubs, ground cover (Except over-seeding) and other vegetation which shall be the Owner's responsibility. Should an Owner fail to replace any of the above (after given 30 days written notice) in a timely manner as determined by the Board, then the Board shall designate Gainey Maintenance to make said replacement and the Owner shall be responsible and invoiced for such costs.

Maintenance shall be defined for irrigation, walkways/driveways, street lights and other hardscape items on front areas (except walls) as repair and replacement items at the Association's expense as the Board may, in its sole discretion, deem necessary or appropriate. However, the Association shall not be responsible for walkways/driveway repairs when these areas are disturbed to repair the Owners domestic water lines or other related homeowner owned systems.

THE GREENS AT GAINNEY RANCH
an Arizona Non-Profit Corporation

BY: _____ (Signature)

Name: _____
ITS: President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

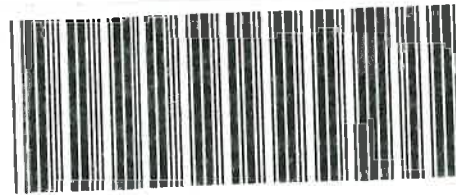
The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by _____ (name), the President of The Greens at Gainney Ranch an Arizona non-profit corporation, on behalf of the non-profit corporation.

Notary Public: _____
My commission Expires: _____

**RETURN TO
HELP**

When Recorded Return To:

BURTON T. COHEN, P.C.
9915 E. Bell Road
Suite 120
Scottsdale, Arizona 85260



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
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1 OF 1

DELROSSA

**CERTIFICATE OF AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS
FOR
THE GREENS AT GAINNEY RANCH**

This Certificate of Amendment to Declaration of Covenants, Conditions, Restrictions, Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch (this "Certificate of Amendment") is made as of this 14th day of May, 2007, by The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation (the "Association").

RECITALS

A. A Declaration of Covenants, Conditions, Restrictions Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch was recorded on August 22, 1984, as Instrument No. 84-368308, records of Maricopa County, Arizona, (the "Declaration"). A Certificate of Amendment thereto was recorded on July 21, 2006, as Instrument No. 2006-0980289, records of Maricopa County, Arizona.

B. Capitalized terms used in this Certificate of Amendment without definition shall have the meanings given to such terms in the Declaration.

C. Article XIV, Section 14.3 of the Declaration provides that the Declaration may be amended by an instrument signed by the Owners of at least two-thirds (2/3) of individual Lots.

D. This Certificate of Amendment was approved by and is signed by the Owners of at least two-thirds (2/3) of individual Lots within The Greens At Gainney Ranch.

AMENDMENT

NOW, THEREFORE, the Declaration is amended as follows:

1. **Section 8.4., Special Assessments for Capital Improvements**, shall be amended to provide as follows:

In addition to the Annual Assessments authorized above, the Association may levy, in any year, one or more Special Assessments, payment of which, at the determination of the Board, may extend for a period of not more than ten (10) Years, for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement upon the Common Area, or for the cost of repainting the exterior front wall, side wall, rear wall, and/or top of wall associated with the dwelling Unit, replacement and/or addition of trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/driveways and other hardscape items on Front Areas, side areas, top of wall areas and/or rear areas, as provided in Section 9.1, including fixtures and personal property related thereto, provided that any such assessment shall be submitted to the same approval requirements as set forth in Section 8.3 (a) above relating to subsequent increases in Annual Assessments.

2. **Section 9.1., Maintenance of Front Areas**, shall be amended to provide as follows:

The Master Association shall, as an expense reimbursable by the Association under the Master Declaration, maintain the front yards of each and every improved Lot located within the Development, and the side and rear yards where the same face Common Areas, up to and including the option of painting, at the Association's expense, the front wall, side and rear walls associated with the dwelling Unit on every such Lot, should the Board decide to change colors (nothing herein shall be Deemed to alter the respective Owner's obligations to maintain the subject front wall, side or rear walls). The Owner of each Lot shall reasonably cooperate with the Association and Master Association or its/their designee to conduct such maintenance. Unless collected by the Master Association, charges for such maintenance shall be prorated and included in the Annual Assessment as set forth in Section 8.3 hereof. Except as otherwise provided, an Owner shall have no obligation, nor shall he undertake, to maintain his front yard except in areas which are on the dwelling Unit side of the front wall thereof. For purposes of this Section, "maintenance" shall be deemed to include replacement and/or addition of such trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/ driveways, and other hardscape items on front areas, side or rear areas, as the Board may, in its sole discretion, deem necessary or appropriate.

3. **Section 10.4.(b), of Architectural Committee Rules**, shall be deleted in its entirety.

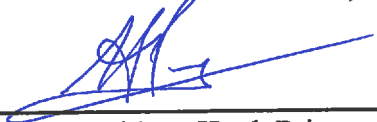
4. The Amendment to the Declaration set forth in this Certificate of Amendment shall become effective on the date of recording hereof.

5. Except as expressly amended by this Certificate of Amendment, the Declaration,

as previously amended, shall remain in full force and effect. In the event of any conflict or inconsistency between this Certificate of Amendment and the Declaration, this Certificate of Amendment shall control.

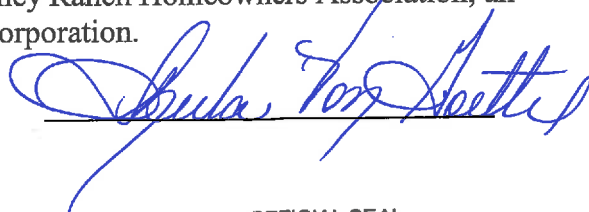
**THE GREENS AT GAINNEY RANCH
HOMEOWNERS ASSOCIATION, an**

Arizona nonprofit corporation

By: 
Its President, Hugh Pring

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 14 day of May, 2007 by Hugh Pring, the President of The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation, on behalf of the corporation.



My Commission Expires:

2/11/2011



OFFICIAL SEAL
SHEILA VON GOETTEL
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
Commission #272624
Exp: 2/11/2011

**RETURN TO
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When Recorded Return To:

BURTON T. COHEN, P.C.
9915 E. Bell Road
Suite 120
Scottsdale, Arizona 85260

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1 OF 1

DELROSSA

**CERTIFICATE OF AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS
FOR
THE GREENS AT GAINNEY RANCH**

This Certificate of Amendment to Declaration of Covenants, Conditions, Restrictions, Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch (this "Certificate of Amendment") is made as of this 14th day of May, 2007, by The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation (the "Association").

RECITALS

A. A Declaration of Covenants, Conditions, Restrictions Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch was recorded on August 22, 1984, as Instrument No. 84-368308, records of Maricopa County, Arizona, (the "Declaration"). A Certificate of Amendment thereto was recorded on July 21, 2006, as Instrument No. 2006-0980289, records of Maricopa County, Arizona.

B. Capitalized terms used in this Certificate of Amendment without definition shall have the meanings given to such terms in the Declaration.

C. Article XIV, Section 14.3 of the Declaration provides that the Declaration may be amended by an instrument signed by the Owners of at least two-thirds (2/3) of individual Lots.

D. This Certificate of Amendment was approved by and is signed by the Owners of at least two-thirds (2/3) of individual Lots within The Greens At Gainney Ranch.

AMENDMENT

NOW, THEREFORE, the Declaration is amended as follows:

1. **Section 8.4., Special Assessments for Capital Improvements**, shall be amended to provide as follows:

In addition to the Annual Assessments authorized above, the Association may levy, in any year, one or more Special Assessments, payment of which, at the determination of the Board, may extend for a period of not more than ten (10) Years, for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement upon the Common Area, or for the cost of repainting the exterior front wall, side wall, rear wall, and/or top of wall associated with the dwelling Unit, replacement and/or addition of trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/driveways and other hardscape items on Front Areas, side areas, top of wall areas and/or rear areas, as provided in Section 9.1, including fixtures and personal property related thereto, provided that any such assessment shall be submitted to the same approval requirements as set forth in Section 8.3 (a) above relating to subsequent increases in Annual Assessments.

2. **Section 9.1., Maintenance of Front Areas**, shall be amended to provide as follows:

The Master Association shall, as an expense reimbursable by the Association under the Master Declaration, maintain the front yards of each and every improved Lot located within the Development, and the side and rear yards where the same face Common Areas, up to and including the option of painting, at the Association's expense, the front wall, side and rear walls associated with the dwelling Unit on every such Lot, should the Board decide to change colors (nothing herein shall be Deemed to alter the respective Owner's obligations to maintain the subject front wall, side or rear walls). The Owner of each Lot shall reasonably cooperate with the Association and Master Association or its/their designee to conduct such maintenance. Unless collected by the Master Association, charges for such maintenance shall be prorated and included in the Annual Assessment as set forth in Section 8.3 hereof. Except as otherwise provided, an Owner shall have no obligation, nor shall he undertake, to maintain his front yard except in areas which are on the dwelling Unit side of the front wall thereof. For purposes of this Section, "maintenance" shall be deemed to include replacement and/or addition of such trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/ driveways, and other hardscape items on front areas, side or rear areas, as the Board may, in its sole discretion, deem necessary or appropriate.

3. **Section 10.4.(b), of Architectural Committee Rules**, shall be deleted in its entirety.


4. The Amendment to the Declaration set forth in this Certificate of Amendment shall become effective on the date of recording hereof.

5. Except as expressly amended by this Certificate of Amendment, the Declaration,

as previously amended, shall remain in full force and effect. In the event of any conflict or inconsistency between this Certificate of Amendment and the Declaration, this Certificate of Amendment shall control.

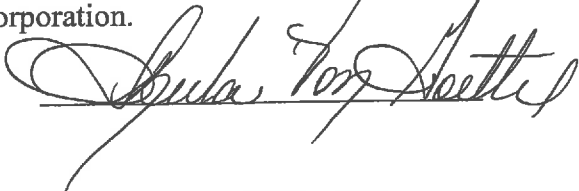
**THE GREENS AT GAINNEY RANCH
HOMEOWNERS ASSOCIATION, an**

Arizona nonprofit corporation

By: 
Its President, Hugh Pring

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 14 day of May, 2007 by Hugh Pring, the President of The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation, on behalf of the corporation.



My Commission Expires:

2/11/2011

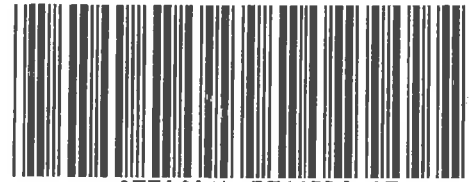


OFFICIAL SEAL
SHEILA VON GOETTEL
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
Commission #272824
Exp: 2/11/2011

**RETURN TO
HELP**

When Recorded Return To:

BURTON T. COHEN, P.C.
7333 E. Doubletree Ranch Rd.
Suite 205
Scottsdale, Arizona 85258



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2006-0980289 07/21/06 04:46 PM
1 OF 1

KNAPPENBERGERC

**CERTIFICATE OF AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, SERVICUTES, LIENS, RESERVATIONS AND EASEMENTS
FOR
THE GREENS AT GAINNEY RANCH**

This Certificate of Amendment to Declaration of Covenants, Conditions, Restrictions, Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch (this "Certificate of Amendment") is made as of this 17 day of July, 2006, by The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation (the "Association").

RECITALS

A. A Declaration of Covenants, Conditions, Restrictions Assessments, Servitudes, Liens, Reservations And Easements for The Greens At Gainney Ranch was recorded on August 22, 1984, as Instrument No. 84-368308, records of Maricopa County, Arizona, (the "Declaration").

B. Capitalized terms used in this Certificate of Amendment without definition shall have the meanings given to such terms in the Declaration.

C. Article XIV, Section 14.3 of the Declaration provides that the Declaration may be amended by an instrument signed by the Owners of at least two-thirds (2/3) of individual Lots.

D. This Certificate of Amendment was approved by and is signed by the Owners of at least two-thirds (2/3) of individual Lots within The Greens At Gainney Ranch.

AMENDMENT

NOW, THEREFORE, the Declaration is amended as follows:

1. **Section 8.4., Special Assessments for Capital Improvements** , shall be amended to provide as follows:

In addition to the Annual Assessments authorized above, the Association may levy, in any year, one or more Special Assessments, payment of which, at the determination of the Board, may extend for a period not more than ten (10) years for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement upon the Common Area, or for the cost of repainting the exterior front wall associated with the dwelling Unit, replacement and/or addition of trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/driveways and other hardscape items on Front Areas, as provided in Section 9.1, including fixtures and personal property related thereto, provided that any such Assessment shall be submitted to the same approval requirements as set forth in Section 8.3 (a) above relating to subsequent increases in Annual Assessments.

2. **Section 9.1., Maintenance of Front Areas**, shall be amended to provide as follows:

The Master Association shall, as an expense reimbursable by the Association under the Master Declaration, maintain the front yards of each and every improved Lot located within the Development, up to and including the option of painting, at the Association's expense, the front wall associated with the dwelling Unit on every such Lot, should the Board decide to change colors (nothing herein shall be deemed to alter the respective Owner's obligations to maintain the subject front wall). The Owner of each Lot shall reasonably cooperate with the Association and the Master Association or its/their designee to conduct such maintenance. Unless collected by the Master Association, charges for such maintenance shall be prorated and included in the Annual Assessment as set forth in Section 8.3 hereof.. Except as otherwise provided, an Owner shall have no obligation, nor he undertake, to maintain his front yard except in areas which are on the dwelling Unit side of the front wall thereof. For purposes of this Section, "maintenance" shall be deemed to include replacement and/or addition of such trees, shrubs, ground cover and other vegetation, irrigation, lighting, walkways/driveways, and other hardscape items on front areas as the Board may, in its sole discretion, deem necessary or appropriate.

3. A new Section, **Section 9.5., Painting of Wrought Iron Fences**, shall be added to provide as follows:

Should the Board determine to change paint colors, the Master Association may, as an expense reimbursable by the Association under the Master Declaration, paint some or all of the wrought iron fences on each and every improved Lot located within the Development. The Owner of each Lot shall reasonably cooperate with the Association and the Master Association for such purposes and an easement is hereby reserved to the Association and the Master Association or its/ their designee to conduct such painting. Nothing herein shall be deemed to alter the respective Owners' obligations to maintain wrought iron fences upon their respective Lots.

4. The Amendment to the Declaration set forth in this Certificate of Amendment shall become effective on the date of recording hereof.

5. Except as expressly amended by this Certificate of Amendment, the Declaration shall remain in full force and effect. In the event of any conflict or inconsistency between this Certificate of Amendment and the Declaration, this Certificate of Amendment shall control.

**THE GREENS AT GAINNEY RANCH
HOMEOWNERS ASSOCIATION**, an
Arizona nonprofit corporation

By: [Signature]
Its President, Hugh Pring

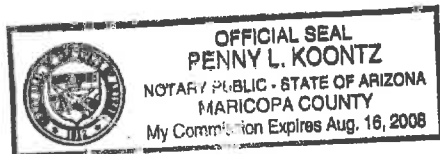
State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 17th day of July, 2006 by Hugh Pring, the President of The Greens At Gainney Ranch Homeowners Association, an Arizona nonprofit corporation, on behalf of the corporation.

[Signature]
Notary Public

My Commission Expires:

8-16-08



84 368308

WHEN RECORDED RETURN TO:

WEN-CLAY INTERNATIONAL
8655 Via de Ventura, Suite F-250
Scottsdale, Arizona 85258
Attention: M. Greer

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA

AUG 22 '84 -2 15

BILL HENRY, COUNTY RECORDER

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JL

PROP R. TR (F.3)

SATELLITE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS
AND EASEMENTS FOR

THE GREENS
AT GAINNEY RANCH

A SATELLITE COMMUNITY
LOCATED ON GAINNEY RANCH

SCOTTSDALE, ARIZONA

STEWART TITLE & TRUST OF PHOENIX

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When recorded return to:

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MARICOPA COUNTY RECORDER	
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FIRST AMENDMENT TO DECLARATION AND PLAT

THE GREENS AT GAINNEY RANCH

MOD EST

THIS FIRST AMENDMENT TO DECLARATION AND PLAT (this "Amendment") is made, published and entered into this 3rd day of June, 1985 by Thomas Culler Davis, a married man dealing with his sole and separate property; William J. Clayton and Joan Clayton, his wife and Richard E. Wense, and Dolyce Wense, his wife (hereinafter collectively called "Declarant");

WITNESSETH:

WHEREAS, Declarant was Declarant under that certain Satellite Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Assessments (the "Declaration"), relating to certain real property more fully described therein (the "Property"), and commonly known as The Greens at Gainney Ranch, a Satellite Community located on Gainney Ranch, Scottsdale, Arizona, which Declaration was recorded with the Maricopa County Recorder on August 21, 1984, as Instrument # 84-368306;

AND WHEREAS Declarant caused to be recorded a Plat (the "Plat") relating to the Declaration and the Property, which Plat was recorded on the 22nd day of August, 1984, in Maricopa County Records, Book of Maps 271, Page 43;

AND WHEREAS, in order to enhance the desirability of the Property and to make provision for certain matters which were not originally dealt with in the Declaration and the Plat, Declarant wishes to enter into and cause to be recorded this Amendment in order to effect certain changes and amendments therein and thereto as more fully set forth herein, but to change and amend said Declaration and Plat only as set forth herein and in no other way, it being the intent of Declarant that the Declaration and the Plat shall be, except as amended hereby, restated and reaffirmed in their entirety as of the date hereof;

AND WHEREAS, Section 14.03 of the Declaration provides that until the first bona fide sale of a Lot by Declarant, the Declaration may be amended by Declarant and Declarant desires to amend the Declaration and the Plat pursuant to said Section 14.03 as more fully set forth herein.

AMENDMENTS:

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

1. The Recitals set forth above are incorporated by reference into this Amendment as if fully rewritten herein. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Declaration. Except as modified hereby, the terms and conditions of the Declaration and the Plat are restated and reaffirmed by Declarant as respects the Property as of the date hereof. The Declaration and the Plat are incorporated by reference into this Amendment as if fully rewritten herein and shall be amended as set forth herein and in no other way, manner or form.

2. The Plat is hereby amended to include as a portion of Lot 116 that certain real property (the "Lot 116 Additional Property"), which was formerly a part of Tract C as depicted on the Plat and which is legally described in Exhibit "A" attached hereto. Henceforth, Lot 116 shall be deemed to contain all of the real property described as Lot 116 on the Plat together with the Lot 116 Additional Property as a portion of the real property included therein and a reference to Lot 116 in an instrument of conveyance or description shall be deemed to, and shall refer to Lot 116 and the Lot 116 Additional Property. Any blanket easements of any type or nature affecting Tract C are hereby declared not to affect the Lot 116 Additional Property as it shall be a part of Lot 116 and all such easements are hereby abandoned and declared to be null and void as to said Lot 116 Additional Property.

3. There shall be added to Lots 152 and 153 as originally platted portions of the Common Area initially described parts of Tract G in the Declaration and the Plat and respectively more fully set forth on Exhibit "A". There shall also be deleted from Lot 153 as originally platted and added to Lot 152 as originally platted that portion of Lot 153 described on Exhibit "A". Henceforth, Lots 152 and 153 shall be legally described as set forth on Exhibit "A" attached hereto and shall include the respective portions of Tract G as portions of the real property included therein. In the future, a reference to Lot 152 or 153 in an instrument of conveyance or description shall be deemed to, and shall, refer to Lot 152 or 153 and the respective portions of Tract G as set forth on the Plat and more fully described herein. In addition, a reference to Lot 152 in an instrument of conveyance or description shall be deemed to, and shall, refer to Lot 152 as amended above together with that portion of Lot 153 described on Exhibit "A" and a reference to Lot 153 shall be deemed to refer to Lot 153 as amended above with the deletion therefrom of that portion of Lot 153 as originally platted which is described on Exhibit "A". Tract G shall not constitute a portion of the Common Area for any purpose henceforth, and any blanket easements of any type or nature are hereby abandoned and declared to be null and void as to Tract G.

4. Tract F shall be divided into two (2) equal parts by a straight line connecting its westerly boundary to its easterly boundary. Such line shall begin fifteen (15) feet from the intersection of each north/south boundary line with each east/west boundary line and shall run along a course described as South 76° 56' 50" East connecting said two (2) east/west boundaries. Henceforth, that portion of Tract F lying contiguous to Lot 147 as originally platted shall be, and shall be deemed to be, a portion of Lot 147 and that portion of Tract F lying contiguous to Lot 146 as originally platted shall be, and shall be deemed to be, a portion

of Lot 146. Henceforth, Lot 147 shall include that portion of said Tract F lying contiguous to Lot 147 as a portion of the real property included therein and Lot 146 shall include that portion of said Tract F lying contiguous to Lot 146 as a portion of the real property included therein and the respective legal descriptions for said Lots are set forth on Exhibit "A." Henceforth and in the future, a reference to Tract 147 or 146 in an instrument of conveyance or description shall be deemed to, and shall, refer to Lot 147 or 146 and the contiguous portions of Tract F respectively described above. Tract F shall not constitute a portion of the Common Area for any purpose henceforth, and any blanket easements of any type or nature are hereby abandoned and declared to be null and void as to Tract F.

In addition, Tract E shall be divided into two (2) portions by a straight line, the description of which is incorporated into the legal descriptions for Lots 139 and 140 set forth on Exhibit "A."

Henceforth, that portion of Tract E lying contiguous to Lot 140 as originally platted shall be, and shall be deemed to be, a portion of Lot 140 and that portion of Tract E lying contiguous to Lot 139 as originally platted shall be, and shall be deemed to be, a portion of Lot 139. Henceforth, Lot 140 shall include that portion of Tract E lying contiguous to Lot 140 as a portion of the real property included therein and Lot 139 shall include that portion of Tract E lying contiguous to Lot 139 as a portion of the real property included therein and the respective legal descriptions for said Lots are set forth on Exhibit "A." Henceforth and in the future, a reference to Lot 140 or 139 in an instrument of conveyance or description shall be deemed to, and shall, refer to Lot 140 or 139 and the contiguous portions of Tract E respectively described above. Tract E shall not constitute a portion of the Common Area for any purpose henceforth, and any blanket easements of any type or nature are hereby abandoned as to Tract E.

5. For and on behalf of the Master Board, the Master Declarant, the Master Association and the Master Architectural Committee, the Master Association and Markland Properties, Inc., an Arizona corporation ("Markland") have executed this Amendment to evidence their assent, Markland being the existing owner of the Golf Course (as defined in the Master Declaration), to a restriction on the use of the Golf Course Easement (hereinafter so called and as created by Section 7 of the Tract Declaration) as more fully set forth herein. It is agreed by the Master Association on its own behalf, and Markland as owner of the Golf Course, for itself and its successors and assigns in interest in and to the Golf Course, that notwithstanding anything to the contrary contained in the Declaration, the Tract Declaration or the Master Declaration, no owner of the Golf Course shall have the right, power or ability to utilize real property affected by the Golf Course Easement when said real property is or shall be located behind (away from the Golf Course boundary) an existing wall or fence enclosing a Lot or Unit adjacent to the Golf Course, which wall or fence was constructed with the approval of the Master Architectural Committee. It is the intent hereof that the maintenance obligations and use rights of the owner of the Golf Course shall extend only up to the walls or fences of Units and Lots adjacent to the Golf Course. Although

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Not signed
by any of
H...

Maintenance
of GL Walls?

85 435194

the Golf Course Easement shall remain platted and in existence, the owner of the Golf Course shall not utilize said Easement herein (away from the Golf Course boundary) said walls or fences nor shall it disturb the use or quiet enjoyment of the Owner of any real property located in the Development which is enclosed by said wall or fence as originally designed by Declarant and approved by the Master Architectural Committee.

6. Except as provided herein, the Plat and the Declaration shall be and remain unmodified and unaltered. The parties who have signed this Amendment in order to assent to the transaction contemplated by this Amendment represent and warrant that the execution and delivery hereof by each party has been duly authorized by all necessary corporate action and that the persons signing on behalf of said parties have the full legal authority of said parties to so consent.

IN WITNESS WHEREOF, Declarant hereunto set its several names this 7th day of June, 1985.

Thomas C. Davitt
Thomas C. Davitt, a married man dealing with his sole and separate property

William C. Clayton
William C. Clayton

Richard E. Wense
Richard E. Wense

Jean E. Clayton, his wife
Jean E. Clayton, his wife

Dejce Wense, his wife
Dejce Wense, his wife

AGREED TO AND ACCEPTED:

AMERICAN WEST MORTGAGE SERVICES, INC.,
(Lender)

STEWART TITLE & TRUST OF PHOENIX, A Delaware corporation, as Trustee pursuant to Deed of Trust Recorded March 29, 1984, Records of Maricopa County, Arizona as Instrument No. 84-138216

By [Signature]
Its _____

By [Signature]
Its _____

LEGAL DESCRIPTION FOR LOT 139

85 435104

ALL OF LOT 139 AND THE NORTHEASTERLY PORTION OF TRACT "E" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAINES RANCH AND AS RECORDED IN BOOK 271, PAGE 42, MARICOPA COUNTY, ARIZONA RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 139;
THENCE SOUTH $60^{\circ} 22' 32''$ EAST ALONG THE NORTHEAST LINE OF SAID LOT 139
A DISTANCE OF 118.77 FEET TO THE SOUTHEAST BOUNDARY LINE OF SAID
SUBDIVISION;
THENCE SOUTH $39^{\circ} 37' 28''$ WEST ALONG SAID BOUNDARY LINE A DISTANCE OF
56.63 FEET TO AN ANGLE POINT ON THE EASTERLY LINE OF SAID TRACT "E";
THENCE NORTH $60^{\circ} 22' 32''$ WEST THROUGH TRACT "E" A DISTANCE OF 112.75
FEET TO THE WEST BOUNDARY LINE OF SAID TRACT "E" SAID POINT BEING ON A
NON-TANGENT CURVE, FROM WHICH POINT THE CENTER OF SAID NON-TANGENT
CURVE BEARS SOUTH $66^{\circ} 01' 37''$ EAST A DISTANCE OF 107.06 FEET THEREFROM;
THENCE NORTHEASTERLY AND TO THE RIGHT ALONG SAID CURVE A DISTANCE OF
25.23 FEET AND THROUGH A CENTRAL ANGLE OF $15^{\circ} 39' 05''$ TO A POINT OF
TANGENCY;
THENCE NORTH $36^{\circ} 37' 28''$ EAST ALONG THE NORTHWEST LINE OF SAID LOT 139
A DISTANCE OF 27.07 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN AND FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 0.145 ACRES.

27.06 feet
point

LEGAL DESCRIPTION FOR LOT 140

85 435104

ALL OF LOT 140, AND THE SOUTHWESTERLY PORTION OF TRACT "E" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAINNEY RANCH AND AS RECORDED IN BOOK 271, PAGE 43, MARICOPA COUNTY, ARIZONA RECORDS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 140;
THENCE NORTH $13^{\circ} 03' 10''$ EAST ALONG WEST LINE OF SAID LOT 140 A DISTANCE OF 56.47 FEET TO THE BEGINNING OF A TANGENT CURVE, FROM WHICH POINT THE CENTER OF SAID TANGENT CURVE BEARS SOUTH $76^{\circ} 56' 50''$ EAST A DISTANCE OF 107.00 FEET THEREFROM;
THENCE NORTHEASTERLY TO THE RIGHT ALONG SAID CURVE A DISTANCE OF 26.39 FEET AND THROUGH A CENTRAL ANGLE OF $10^{\circ} 55' 13''$ TO A POINT ON THE WESTERLY LINE OF TRACT "E", SAID POINT BEING ON A CURVE THE CENTER OF WHICH BEARS SOUTH $66^{\circ} 01' 37''$ EAST A DISTANCE OF 107.00 FEET THEREFROM;
THENCE SOUTH $61^{\circ} 22' 32''$ EAST THROUGH TRACT "E" A DISTANCE OF 112.75 FEET TO AN ANGLE POINT ON THE EAST LINE OF SAID SUBDIVISION AND SAID TRACT "E";
THENCE SOUTH $13^{\circ} 03' 10''$ WEST ALONG THE EAST BOUNDARY LINE OF SAID SUBDIVISION A DISTANCE OF 44.58 FEET TO THE SOUTHEAST CORNER OF SAID LOT 140;
THENCE NORTH $76^{\circ} 56' 50''$ WEST ALONG THE SOUTH LINE OF SAID LOT 140 A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN AND FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 6.154 ACRES.

✓

LEGAL DESCRIPTION FOR LOT 146

85 435104

ALL OF LOT 146 AND THE NORTH ONE HALF OF TRACT "F" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAIKEY RANCH AND AS RECORDED IN BOOK 271, PAGE 43, MARICOPA COUNTY, ARIZONA RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 146;
THENCE SOUTH $76^{\circ} 56' 50''$ EAST ALONG THE NORTH LINE OF LOT 146 A DISTANCE OF 110.00 FEET TO THE EAST BOUNDARY LINE OF SAID SUBDIVISION;
THENCE SOUTH $13^{\circ} 03' 10''$ WEST ALONG SAID SUBDIVISION BOUNDARY LINE A DISTANCE OF 55.00 FEET TO THE EASTERLY CENTERLINE OF SAID TRACT "F";
THENCE NORTH $76^{\circ} 56' 50''$ WEST ALONG THE CENTER LINE OF TRACT "F" A DISTANCE OF 110.00 FEET TO THE WEST CENTER LINE POINT OF SAID TRACT "F";
THENCE NORTH $13^{\circ} 03' 10''$ EAST ALONG SAID WESTERLY LINE OF A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN A. D FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 0.139 ACRES.

✓

LEGAL DESCRIPTION OF LOT 147

85 435104

ALL OF LOT 147 AND THE SOUTH ONE HALF OF TRACT "P" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAINNEY RANCH AND AS RECORDED IN BOOK 271, PAGE 43, MARICOPA COUNTY, ARIZONA RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 147;
THENCE NORTH $14^{\circ} 45' 15''$ EAST ALONG THE WESTERLY LINE OF SAID LOT 147 A
DISTANCE OF 37.74 FEET TO AN ANGLE POINT;
THENCE NORTH $13^{\circ} 03' 10''$ EAST ALONG SAID WESTERLY LINE A DISTANCE OF
22.28 FEET TO THE WESTERLY CENTERLINE OF SAID TRACT "P";
THENCE, SOUTH $76^{\circ} 56' 50''$ EAST ALONG SAID CENTERLINE OF TRACT "P" A
DISTANCE OF 110.00 FEET TO THE EAST BOUNDARY LINE OF SAID SUBDIVISION;
THENCE SOUTH $13^{\circ} 03' 10''$ WEST ALONG SAID SUBDIVISION BOUNDARY LINE A
DISTANCE OF 60.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 147;
THENCE NORTH $76^{\circ} 56' 50''$ WEST ALONG THE SOUTHERN LINE OF SAID LOT 147 A
DISTANCE OF 111.12 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN AND FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 0.152 ACRES.

✓

85 435104

LEGAL DESCRIPTION FOR LOT 152

ALL OF LOT 152, THE NORTHERLY 5.00 FEET OF LOT 152 AND THE NORTHERLY 5.00 FEET OF TRACT "G" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAINNEY RANCH AND AS RECORDED IN BOOK 272, PAGE 43, MARICOPA COUNTY, ARIZONA, RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 152;
THENCE SOUTH $76^{\circ} 56' 50''$ EAST ALONG THE NORTH LINE OF LOT 152 A DISTANCE OF 115.87 FEET TO A POINT ON THE EAST BOUNDARY LINE OF SAID SUBDIVISION;
THENCE SOUTH $13^{\circ} 03' 10''$ WEST ALONG SAID SUBDIVISION BOUNDARY LINE A DISTANCE OF 43.00 FEET TO THE SOUTHWEST CORNER OF THE NORTHERLY 5' OF SAID TRACT "G";
THENCE NORTH $76^{\circ} 56' 50''$ WEST ALONG THE SOUTH LINE OF THE NORTHERLY 5' OF TRACT "G" AND THE SOUTH LINE OF THE NORTHERLY 5' OF SAID LOT 152 A DISTANCE OF 104.80 FEET TO A POINT ON A NON-TANGENT CURVE FROM WHICH POINT THE CENTER OF SAID NON-TANGENT CURVE BEARS NORTH $63^{\circ} 55' 37''$ WEST A DISTANCE OF 65.89 FEET THEREFROM;
THENCE NORTHERLY AND TO THE LEFT ALONG SAID CURVE A DISTANCE OF 39.16 FEET AND THROUGH A CENTRAL ANGLE OF $34^{\circ} 09' 32''$ TO A POINT OF REVERSE CURVATURE ON A TANGENT CURVE FROM WHICH POINT THE CENTER OF SAID TANGENT CURVE BEARS NORTH $71^{\circ} 33' 59''$ EAST A DISTANCE OF 16.00 FEET THEREFROM;
THENCE NORTHERLY AND TO THE RIGHT ALONG SAID CURVE A DISTANCE OF 9.27 FEET AND THROUGH A CENTRAL ANGLE OF $33^{\circ} 11' 17''$ TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN AND FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 0.112 ACRES.

LEGAL DESCRIPTION FOR LOT 153

85 435104

ALL OF LOT 153 AND TRACT "G", EXCLUDING THE NORTH 5 FEET OF LOT 153 AND THE NORTH 5 FEET OF TRACT "G" AS SHOWN ON THE SUBDIVISION PLAT, THE GREENS AT GAINNEY RANCH AND AS RECORDED IN BOOK 271, PAGE 43, MARICOPA COUNTY, ARIZONA RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 153, WHICH IS ALSO A POINT ON A CURVE WHOSE CENTER BEARS NORTH 45° 25' 13" WEST A DISTANCE OF 65.69 FEET THEREFROM;
THENCE NORTHERLY AND TO THE LEFT ALONG SAID CURVE A DISTANCE OF 21.22 FEET AND THROUGH A CENTRAL ANGLE OF 18° 30' 24" TO THE NORTHWEST CORNER OF SAID LOT 153;
THENCE SOUTH 76° 56' 50" EAST ALONG THE NORTH LINE OF SAID LOT 153 A DISTANCE OF 104.80 FEET TO THE SOUTHEAST BOUNDARY LINE OF SAID SUB-DIVISION;
THENCE SOUTH 13° 03' 10" WEST ALONG SAID SUBDIVISION BOUNDARY LINE A DISTANCE OF 121.48 FEET TO THE SOUTH PROPERTY CORNER OF SAID LOT 153;
THENCE NORTH 32° 54' 19" WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 153 A DISTANCE OF 131.36 FEET TO AN ANGLE POINT;
THENCE NORTH 46° 56' 44" WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 153 A DISTANCE OF 21.22 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL BEING IN AND FORMING A PART OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA AND COMPRISING A NET AREA OF 0.173 ACRES.

85 435104

ALL OF THAT PART OF TRACT C AS SHOWN ON PLAT OF THE GREENS AT GAINES, A SUBDIVISION OF RECORD IN BOOK 171, PAGE 43 MARICOPA COUNTY RECORDS, THE FOLLOWING DESCRIBES AN AREA FOR A FIREPLACE EASEMENT.

COMMENCING AT THE NORTHEAST PROPERTY CORNER OF LOT 116 THENCE NORTH 89° 53' 33" WEST 26.58 FEET ALONG SAID NORTH LOT BOUNDARY OF LOT NO. 116 TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 89° 53' 33" WEST A DISTANCE OF 5.34 FEET ALONG THE NORTH LOT LINE OF LOT 116;
THENCE AT A RIGHT ANGLE, NORTH 00° 06' 27" EAST A DISTANCE OF 1.00 FOOT;
THENCE AT A RIGHT ANGLE, SOUTH 89° 53' 33" EAST A DISTANCE OF 5.34 FEET;
THENCE AT A RIGHT ANGLE SOUTH 00° 06' 27" WEST A DISTANCE OF 1.00 FEET TO THE NORTH BOUNDARY OF LOT 116 THE TRUE POINT OF BEGINNING.

EXHIBIT "A"

85 435104

LEGAL DESCRIPTION FOR LOT 116 ADDITIONAL PROPERTY

THAT PART OF TRACT "C" AS SHOWN ON THE PLAT OF THE GREENS AT GAINNEY RANCH, A SUBDIVISION RECORDED IN BOOK 271, PAGE 43, MARICOPA COUNTY, ARIZONA, RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 116 OF SAID GREENS AT GAINNEY RANCH;
THENCE NORTH $89^{\circ} 53' 33''$ WEST ALONG THE NORTH LOT LINE OF SAID LOT NO. 116 A DISTANCE OF 20.58 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH $89^{\circ} 53' 33''$ WEST ALONG THE NORTH LOT LINE OF SAID LOT NO. 116 A DISTANCE OF 5.34 FEET;
THENCE NORTH $00^{\circ} 06' 27''$ EAST A DISTANCE OF 1.00 FOOT;
THENCE SOUTH $89^{\circ} 53' 33''$ EAST A DISTANCE OF 5.34 FEET;
THENCE SOUTH $00^{\circ} 06' 27''$ WEST A DISTANCE OF 1.00 FOOT TO THE TRUE POINT OF BEGINNING.

HFR 88311-07
Revised 8-23-85

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**SATELLITE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, ASSESSMENTS, CHARGES, SERVITUDES,
LIENS, RESERVATIONS AND EASEMENTS**

THIS SATELLITE DECLARATION of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements (hereinafter, this "Declaration") is made this day of _____, 1984 by Thomas Cullen Davis, a married man dealing with his sole and separate property; William J. Clayton and Joan Clayton, his wife; and Richard W. Wensel and Delyc Wensel, his wife (hereinafter sometimes collectively called "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the developer of approximately 18.66 acres of land in the City of Scottsdale, Maricopa County, Arizona, known as Parcel 6 in the Gainey Ranch Development and legally described as follows:

That part of the S.E. 1/4, Section 26, T. 3 N., R. 4 E., G. & S.R.B. & M., Maricopa County, Arizona, described as follows:

From the N.W. corner of the said S.E. 1/4, Section 26, measure S. 00°06'27" W. perpendicular to the North line of the said S.E. 1/4, Section 26, a distance of 112.50 feet; thence S. 89°53'33" E. parallel to the North line of the said S.E. 1/4, Section 26, a distance of 41.20 feet to the point of beginning, said point also being the beginning of a curve to the left having a radius point bearing N. 00°06'27" E. 2015.00 feet; thence Easterly 59.11 feet along the arc of this curve through 01°40'50" of central angle; thence N. 88°25'36" E. 180.00 feet to the beginning of a curve to the right having a radius point bearing S. 01°34'24" E. 1985.00 feet; thence Easterly 58.23 feet along the arc of this curve through 01°40'50" of central angle; thence S. 89°53'33" E. 728.25 feet to the beginning of a curve to the right having a radius point bearing S. 00°06'27" W. 1985.00 feet; thence Easterly 126.12 feet along the arc of this curve through 03°38'25" of central angle; thence S. 86°15'08" E. 180.00 feet to the beginning of a curve to the left having a radius point bearing N. 03°44'52" E. 2015.00 feet; thence Easterly 128.03 feet along the arc of this curve through 03°38'25" of central angle; thence S. 00°06'27" W. 25.33 feet; thence S. 26°39'25" W. 155.86 feet; thence S. 39°37'28" W. 306.72 feet; thence S. 13°03'10" W. 700.93 feet; thence N. 82°57'15" W. 174.47 feet; thence S. 57°05'41" W. 209.57 feet; thence N. 35°32'23" W. 135.47 feet; thence N. 00°43'06" W. 570.89 feet; thence N. 03°13'40" E. 299.15 feet; thence N. 89°49'37" W. 355.09 feet; thence S. 21°27'18" W. 174.03 feet; thence N. 52°56'46" W. 133.56 feet; thence N. 36°21'24" W. 95.24 feet; thence N. 09°17'38" W. 218.20 feet to the point of beginning; and

WHEREAS, Declarant desires to develop the aforesaid lands into a planned residential community subject to the terms of this Declaration and the terms and conditions set forth in the

Master Declaration and the Tract Declaration (as respectively herein defined); and

WHEREAS, Declarant desires to form a nonprofit corporation for the purposes of benefiting The Greens and the Owners (as respectively herein defined), which nonprofit corporation will acquire and operate a variety of Common Areas (as herein defined) within The Greens; cause the provision of (in conjunction with the Master Association (as herein defined)) management and maintenance services for the Common Area, certain improved portions of Lots or Units (as respectively herein defined) and other areas as more fully set forth herein; establish, levy, and, if permitted by the Master Association, collect and disburse the Assessments (as herein defined) and other charges imposed hereunder; engage and assist in the operation of a security system for the benefit of the Owners; and act as liaison with, and take part in the operations of, the Master Association and all other residents of the Gainey Ranch; and

WHEREAS, Declarant desires and declares that all of the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions as set forth and/or referred to herein, which are for the purpose of protecting the value and desirability of, and shall run with, such real property and be binding on all parties having any right, title or interest in such real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof; and

WHEREAS, this Declaration and the above-described real property is subject to all Matters of Record (as hereinafter defined) and as to any inconsistencies between this Declaration and the Matters of Record including, but not limited to, the Master Declaration, the Matters of Record shall prevail and be deemed controlling.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

Section 1.1. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot or Owner pursuant to Article VIII, Section 8.3 hereof.

Section 1.2. "Architectural Committee" shall mean the committee which will generally supervise the architecture, design and upkeep of The Greens, as more fully described in Article X hereof.

Section 1.3. "Architectural Committee Rules" shall mean the rules adopted for the architecture, design and maintenance of The Greens adopted by the Architectural Committee pursuant to Article X, Section 10.4 hereof.

Section 1.4. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association which are, or shall be, filed in the office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

Section 1.5. "Assessment" shall mean an Annual Assessment, a Special Assessment or an Individual Assessment.

Section 1.6. "Assessment Lien" shall mean the lien created and imposed by Article VIII hereof.

Section 1.7. "Association" shall mean and refer to THE GREENS AT GAINNEY RANCH HOMEOWNERS ASSOCIATION, an Arizona non-profit corporation, its successors and assigns.

Section 1.8. "Association Rules" shall mean the Rules and Regulations relating to The Greens and adopted by the Board and established by the Association, as they may be amended from time to time, and is synonymous with the term "Rules".

Section 1.9. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.10. "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.11. "Common Area(s)" shall mean all real property dedicated by Declarant to, or otherwise acquired by, the Association for the common use and enjoyment of the Owners. The Common Area dedicated by Declarant on the Plat as "Common Area" shall not include Party Walls or Fences, the respective rights in and obligations with respect to which shall be governed by the provisions of Article IV, Section 4.7 hereof. The Common Area shall be deeded or conveyed to the Association by Declarant as more fully described in Article II, Section 2.4 hereof.

Section 1.12. "Constituent Documents" shall mean and include this Declaration, the Master Declaration, the Articles of Incorporation and the Bylaws and the Articles of Incorporation and the Bylaws of the Master Association.

Section 1.13. "Cross reference" when used with reference to a Section or Article of the Master Declaration or Tract Declaration shall refer the reader of this Declaration to the corresponding section in the Master Declaration which deals with a similar provision. Inclusion of Cross References in this Declaration is for convenience of reference only and the provisions of this Declaration which cite Cross References shall be construed to be, and shall be, independently enforceable obligations.

Section 1.14. "Declarant" shall initially mean Thomas Cullen Davis, a married man dealing with his sole and separate property; William J. Clayton and Joan E. Clayton, his wife; and Richard E. Wensel and Delyce Wensel, his wife; or any trustee or escrowee which may be designated by Declarant, including any of Declarant's heirs, personal representatives, successors and assigns. "Declarant" also shall mean and include "Developer", which terms may be used interchangeably herein. It is provided, however, that the Master Declarant shall become, and shall be deemed for all purposes to be, the "Declarant" hereunder if it succeeds to ownership of the Property, or any part thereof, pursuant to the terms of that certain Memorandum of Purchase Option and Right of First Refusal, by and between Declarant and Master Declarant, dated March 23, 1984, which was recorded in Maricopa County Records, Instrument No. 84-130215, on March 29, 1984, and makes the election to become Declarant as provided in Article XIV, Section 14.11 hereof. Declarant shall also mean any person, entity or firm to which there is transferred one or more Lots for

the purpose of development thereof by such party and Declarant assigns its rights hereunder to such party. Thereafter, such person, entity or firm shall be and shall be deemed to be Declarant hereunder and Declarant (as initially defined herein) shall have no further responsibility or obligation under or pursuant to this Declaration.

Section 1.15. "Declaration" shall mean this instrument, as same may be amended from time to time.

Section 1.16. "Developer" shall initially mean Thomas Cullen Davis, a married man dealing with his sole and separate property; William Clayton and Joan E. Clayton, his wife; and Richard E. Wensel and Delyce Wensel, his wife; their heirs, personal representatives, successors and assigns. Unless otherwise expressly indicated herein, Developer shall be deemed the same as "Declarant" and any entity becoming Declarant hereafter shall also have the rights herein granted to the Developer.

Section 1.17. "First Mortgage" shall mean a first lien deed of trust, as well as a first mortgage, on any Lot held by any bona fide lender who has lent funds with a Lot as security, including, without limitation, a First Mortgage which enabled Declarant to acquire Lots in the Development. "First Mortgagee" means a holder of a First Mortgage, as well as a beneficiary under a first deed of trust, and the successors and assigns of such parties.

Section 1.18. "Gainey Ranch" shall mean the real property described in the Master Declaration and the development to be completed thereon, together with any portion of the Additional Lands and the development to be completed thereon which may be annexed to Gainey Ranch pursuant to the Master Declaration. Cross reference Article XV, Section 13, Master Declaration.

Section 1.19. "The Greens" shall mean the Satellite Community within Gainey Ranch to which this Declaration and the Plat relate.

Section 1.20. "Improvement" shall mean any buildings, roads, roadways, parking areas, lighting fixtures, fences, walls, hedges, sprinkler systems, signs, plantings, planted trees and shrubs and all other structures or landscaping of every type and kind located on the Property.

Section 1.21. "Individual Assessment" shall mean an Assessment which is payable by a single Lot Owner only for certain items relating to his Lot or his actions, all as more fully described in Article VIII, Section 8.5 hereof.

Section 1.22. "Lot" shall mean and refer to one of the Lots numbered 101 through 209, inclusive, shown on the Plat, together with any improvements on a Lot, with the exception of the Common Area as shown on the Plat.

Section 1.23. The term "Master" when used as an introductory word shall designate a term which is defined, or to which reference is made, in the Master Declaration. The use of such word in conjunction with a capitalized term herein shall refer to and have the meaning with respect to the capitalized term set forth in the Master Declaration.

Section 1.24. "Master Association" shall mean the Arizona nonprofit corporation to be organized by the Master Declarant

to administer and enforce the provisions of, and exercise the rights, powers and duties set forth in, the Master Declaration.

Section 1.25. "Master Declaration" shall mean the Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements in which Markland Properties, Inc., an Arizona corporation, is named as Declarant, and which was recorded on the 29th day of March, 1984, in Maricopa County Records, Instrument No. 84-130211, and all amendments and supplements thereto, whether now, heretofore or hereafter existing and/or recorded.

Section 1.26. "Master Security System" shall mean the security system created by the Master Declaration and implemented and administered by the Master Association as more fully described in Article X, Section 5 of the Master Declaration.

Section 1.27. "Matters of Record" shall include and mean all reservations, easements, restrictions, conditions, rights of way, liens and encumbrances and other matters as shown in a title report with respect to the Property which title report shall have been prepared as of the date hereof, including but not limited to, the Master Declaration and the Tract Declaration.

Section 1.28. "Member" shall mean any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 1.29. "Membership" shall mean the rights and obligations and membership in the Association of a Lot Owner by virtue of his ownership of a Lot.

Section 1.30. "Owner(s)" shall mean and refer to the record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if the same has merged) of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation so long as the holder of the beneficial title to said Lot has an interest of record. Except as stated otherwise herein, "Owner" shall not include a lessee or tenant of a Lot. For the purposes of Articles II and IV only of this Declaration, unless the context otherwise requires, "Owner" shall also include the family, guests, invitees, licensees and lessees of any Owner, together with any other person or parties holding any possessory interest granted by such Owner in any Lot. It is provided, however, that the term "Owner" shall never be construed so as to give any rights or privileges to family, guests, invitees, licensees and lessees of anyone but an Owner, it being the intent hereof that, for example, guests of guests or guests of family shall not be deemed to be Owners hereunder and shall have no rights under this Declaration. Except as otherwise indicated in this Declaration, "Owner" shall include Declarant so long as Declarant owns any Lot within the Property.

Section 1.31. Wherever a "Majority" or any "Percentage" or a designated "Percentage" of Owners or Members are referred to herein, the same shall be calculated or shall be measured by the number of votes allocated or attributable to the Owners and/or Members pursuant to Article VII hereof.

Section 1.32. "Party Fence" shall mean a fence which is common to two (2) Lots or Units which shall not be a portion of

the Common Area and which is more fully described in Article IV, Section 4.7 hereof.

Section 1.33. "Party Wall" shall mean a common wall which is shared by two Units or Lots, which shall not be a portion of the Common Area and which is more fully described in Article IV, Section 4.7 hereof.

Section 1.34. "Plat" shall mean that certain Plat relating to this Declaration and The Greens and recorded on 8-22, 1984, in Maricopa County, Arizona Records, Book 271, Page 43, and all amendments and supplements thereto.

Section 1.35. "Property" or "Properties" or "Development" shall mean and refer to that certain real, personal or mixed property, hereinbefore described, which is subject to this Declaration.

Section 1.36. "Rules" shall mean the Rules and Regulations as adopted by the Board and established by the Association, as the same may be amended from time to time, as more fully described in Article VI, Section 6.3 hereof, and is synonymous with the term "Association Rules".

Section 1.37. "Side Yard Wall" shall have the meaning ascribed to it in Article IV, Section 4.4(e) hereof.

Section 1.38. "Special Assessment" shall mean any Assessment levied and assessed pursuant to Article VIII, Section 8.4 hereof.

Section 1.39. "Tract Declaration" shall mean the Declaration recorded pursuant to Article IV, Section 1 of the Master Declaration relating The Greens and recorded on March 29, 1984, in Maricopa County, Arizona Records, as Instrument No. 84-130212.

Section 1.40. "Unit" shall mean and refer to a single-family residential living unit constructed upon a separately designated Lot, which term shall also include any Improvements erected on a Lot.

Section 1.41. "Visible From Neighboring Property" shall mean, 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.

Section 1.42. Incorporation of Definitions by Reference; Conflicts. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Master Declaration. Moreover, a definition from the Master Declaration shall be deemed to be expressly incorporated herein by reference if a capitalized term is followed by the introductory word "Master," as more fully set forth in Section 1.23 above. This Declaration shall be construed as an independent instrument and defined terms set forth herein which may bear the same designations as set forth in the Master Declaration shall be construed in the context of this Declaration and the definitions ascribed to such terms herein only, unless the context otherwise indicates to the contrary. For example, the term "Owner" used in this Declaration shall only mean an Owner of Property located in The Greens whereas the term "Owner" used in the Master Declaration means any Owner of any Property on Gainey Ranch.

ARTICLE II

PROPERTY RIGHTS

Section 2.1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, for the purposes for which the Common Area is intended, which 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 suspend the voting rights and right to the use of Common Area facilities by an Owner for any period during which any Assessment against his Lot remains unpaid, as more fully set forth in Section 7.3 hereof, or for any infraction of this Declaration or the Rules;

(b) the right of the Association to dedicate, transfer or convey 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 the Members as hereinafter provided. No such dedication, transfer or conveyance shall be effective unless an instrument, signed by Owners representing two-thirds (2/3) of the Lots or their duly appointed agents and agreeing to such dedication, transfer or conveyance, has been recorded;

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

(d) all rights created or reserved by the Master Declaration.

Section 2.2. Delegation of Use. Any Owner may delegate, in accordance with this Declaration, his right of enjoyment to the Common Area to the members of his family, his tenants, lessees, guests and invitees, provided such delegation is for a reasonable number of persons and at reasonable times and is consistent with the Rules.

Section 2.3. Owners' Easement of Enjoyment Limitations.

(a) 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 and such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the conveyance, transfer, alienation or encumbrance of any Owner's Lot notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.

(b) The Common Area shall remain undivided and no action for partition or division of any part thereof shall be permitted.

(c) Each Owner, tenant and occupant of a Lot, and the invitees, tenants and agents of such Owner, may use the Common Area in common with the Owners, invitees, tenants and agents of the other Lots in accordance with the purposes for which it is in-

tended without hindering or encroaching upon the lawful right of such others.

(d) No Owner will be exempted from liability for Assessments with respect to the Common Area by waiver of the enjoyment of the right to use the Common Area, by abandonment of his Lot or otherwise.

Section 2.4. Title to Common Area. Declarant covenants that it will convey legal title to the Common Area to the Association, free of all defects or encumbrances except: 1) current real property taxes; 2) Matters of Record, (except the lien created by a deed of trust to America West Mortgage Services, Inc.); and 3) other easements, conditions, reservations and restrictions then of record. The conveyance shall be made to the Association not later than the date of conveyance of the first Lot to an Owner other than the Developer. Declarant reserves the right to construct Improvements on the Common Area for the benefit of the Association after legal title has transferred to the Association. For this purpose, there is hereby created an easement in favor of Declarant, its agents and employees, to enter and construct upon said Common Area such Improvements as Declarant may deem advisable, at Declarant's sole expense.

Section 2.5. Regarding Master Common Areas. In addition, each Owner shall have such use of the Master Common Areas, Master streets and other common rights of way and any and all other amenities and improvements on Gainey Ranch which are dedicated for use by all Owners of Property thereof as more fully described in the Master Declaration. This Declaration shall be construed in such a manner so as to permit the free and unobstructed use of all Common Areas (whether Master Common Areas or Common Areas created by this Declaration) by all Owners in The Greens consistent with the dedication of such Common Areas to the common uses of such Owners. Cross reference Article III, Master Declaration.

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION

Section 3.1. General Declaration. Declarant has developed the Property into various Lots. Declarant intends to sell and convey to third parties Lots within the Property so developed subject to this Declaration. Declarant hereby declares that all of the Property subject hereto is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and their respective successors in interest.

Section 3.2. Association Bound Upon Issuance of Certificate. Upon issuance of a Certificate of Incorporation by the Arizona Corporation Commission to the Association, this Declaration shall be binding upon the Association.

ARTICLE IV

USE RESTRICTIONS AND EASEMENTS

Section 4.1. Single Family Private Residential Use. A Unit shall be occupied and used by the Owner solely for private Single Family (as defined in the Master Declaration) residential use and for no other purpose. A Unit may be occupied by the family, tenants or social guests of an Owner, but nothing herein shall be deemed to prevent rental of a Unit to a tenant for private, Single Family residential use, subject to all provisions of this Declaration. No structure whatever, other than one private Single Family residence, shall be erected, placed or permitted to remain on any Lot. Lots or Units owned by Declarant may be used as or for model homes and for sales and construction offices for the purpose of enabling Declarant to sell Lots within the Property or may be rented or leased by Declarant upon such terms and conditions as it may, from time to time, in its sole discretion, determine, until such time as all of the Lots owned by Declarant have been sold to third parties. Cross reference Article I, Definition Yy, Master Declaration.

Section 4.2. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of Improvements or signs necessary or convenient to the development or sale of Lots and the Property. In addition, nothing contained in this Declaration shall be construed to obligate, or limit the rights of, Declarant with respect to Units and/or Lots owned by it until there is no Class B Membership extant, it being the intent hereof that Declarant and Lots or Units owned by it shall be free of the use restrictions set forth herein until it has sold seventy-five percent (75%) of the Lots in the Development. Declarant's construction of Improvements and signs and rights with respect to Units and/or Lots shall be subject to the Master Declaration.

Section 4.3. Compliance With Terms, Conditions and Use Restrictions of Master Declaration and Tract Declaration. Notwithstanding anything to the contrary contained herein or in any instrument or document, recorded or not, including, without limitation, in any Matter of Record, relating to the Property, no person shall use or cause to be used any portion of the Property in any manner which would violate any of the covenants, conditions, restrictions and reservations of easements and rights set forth in Article IV, Sections 2 and 3, of the Master Declaration. Any person owning, using or having any interest in the Property or any portion thereof shall comply with all of the conditions on use of the Property set forth in the Master Declaration and the Association shall have the right, independently of or in conjunction with the Master Association, as the same may be regulated pursuant to the Master Declaration, to enforce any and all of the covenants of the Master Declaration relating to use of the Property or any portion thereof, all of which are specifically incorporated by reference as if fully rewritten herein.

Without restricting the generality of the foregoing, all of the covenants, conditions and restrictions set forth in Section 3 of the Tract Declaration relating to the Property shall be applicable to the Property and shall be complied with by all Owners and are incorporated by reference as if fully rewritten herein.

Section 4.4. Easements.

(a) Utilities and Common Services. Easements are hereby specifically reserved for public utilities and other common services, as more fully set forth in the Plat, which are designated as "Public Utility Easements" thereon. In addition, certain Tracts set forth in the Plat are and shall be subject to blanket easements for public utilities; such Tracts are identified in the Plat. Such easements (whether blanket or designated) shall be upon, across, over and under the Common Area and the Lots as shown or described on the Plat for ingress, egress, installation, replacing, repairing and maintaining all public and private utilities serving the Property, including but not limited to, water, sewers, gas, telephones and electricity, a master television antenna or cable television system and the Master Security System. By virtue of these easements, it shall be expressly permissible for the provider of such services to erect and maintain the necessary poles and underground facilities and other wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Improvements on the Property. The respective public utility providers (or in the case of Master Security System or cable television systems, the Master Association or its designee or the cable television provider, respectively) shall have the right at reasonable times to enter upon any portion of the Property upon which such utility easement is located for maintenance and repair of such easement and the wires, conduits, cables, pipes or other items or things installed thereon and for all other uses which are common to easements of such a type and nature. It is provided, however, that: the cable television provider or the utility providers shall complete such maintenance and/or replacement with all reasonable diligence; after such maintenance or replacement shall, within a reasonable time, restore the Property or any portion thereof affected by said easement to its condition prior to such entry; and shall indemnify and hold harmless any affected Lot Owner and the Association from claims or damages arising from such maintenance or repair. In addition, the Master Association or its designee shall use a reasonably high standard of care in its use of, and the repair and restoration of real property and Improvements relating to, the easement for the Master Security System. Notwithstanding anything to the contrary contained in this subsection, no sewer systems, electrical lines, water lines, gas lines, telephone lines or other utilities may be installed or relocated except as programmed, approved or marketed by Declarant and the Master Association. The utility easements provided herein shall in no way affect any other recorded easements affecting the Property.

(b) Landscaping, Maintenance and Repair. There is hereby created a blanket easement upon, across, over and under each Lot for the purpose of landscaping, maintenance and repair by the Association or its designee pursuant to Article IX, Section 9.1 hereof upon any portions of a Lot up to the building structures (including driveways), patio enclosures and/or exterior fences or walls located on each Lot as initially constructed by Developer.

There is also hereby created a blanket easement upon, across and over and under the Common Area for the purpose of landscaping, maintenance and repair by the Association or its designee pursuant to Article V, Section 5.3 hereof.

(c) Declarant's Easement Affecting Common Area. Declarant hereby reserves an easement over and upon the Common Area and

the Improvements located in and upon the Common Area for the purpose of development and sale of the Lots and Units and Developer's use in connection therewith. Such easement shall entitle Declarant, its agents, assigns, brokers, salesmen and contractors of the buildings, structures and Improvements, to utilize the Common Area and the buildings, structures and Improvements thereon during the period of construction and sale of the Lots and the Improvements thereon to conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the development and sale of such Lots, including without limitation, a business office, storage areas, construction yards, signs, billboards, model units and sales offices.

(d) Master and Tract Declaration Easements. All Common Areas and Lots shall be subject to the same utility and other easements set forth in the Master Declaration and the Tract Declaration, all of which easements are incorporated herein by reference as if fully rewritten herein. Cross reference Article IV, Section II, Master Declaration.

(e) Side Yard Wall Easements. Certain Units may be built on certain Lots in such a manner that one side of the original construction of the Unit and other enclosing walls will be at or near the dividing line between the Lots and, for purposes of this Declaration, shall be deemed a "Side Yard Wall". The Owner of the Lot on which a Side Yard Wall is placed shall have an easement five (5) feet in width, parallel to the Side Yard Wall, which may extend onto the adjoining Lot nearest the Side Yard Wall for the entire length of the Side Yard Wall, for purposes of maintenance and repair of the Side Yard Wall. The Owner of the dominant tenement shall indemnify and hold harmless the Owner of the servient tenement relating to such Side Yard Wall from all actions, liens or damages occasioned by the use of said easement. Said easement shall be utilized only after giving notice to the occupant of the servient tenement at the street address of the servient tenement prior to the utilization of said easement. In the event of emergency, notice shall be waived. Said notice shall state the approximate time that the easement will be utilized, the purpose of the utilization and the duration of said utilization. In the event the occupant of the servient tenement objects to such use and the matter cannot be resolved by the parties, then the dispute shall be submitted to the Architectural Committee for determination. The decision of the Architectural Committee shall be binding on the parties to the dispute.

In the event that the Side Yard Wall located on any Lot is within three (3) feet of the dividing line between such Lot and the adjoining Lot, easements are also hereby provided for the benefit of the adjoining Lot for use and enjoyment of the Owner of the adjoining Lot up to the Side Yard Wall. An easement of enjoyment of each Lot Owner up to the inside edge of the Side Yard Walls surrounding a Lot Owner's property, as said line is extended to the street on which said Lot is fronting, is hereby declared to exist as long as the Side Yard Walls are in existence and are within three (3) feet of the Lot line. The easement of enjoyment as provided in this Section will be in favor of the dominant tenement to decorate up to and including the Side Yard Wall at no cost to the servient tenement and to use the easement for ingress and egress to the street. The Owner of the dominant tenement shall indemnify and hold the Owner of the servient tenement harmless from all actions, liens or damages occasioned by said decorating and use. All acts damaging to or injurious to the Side Yard Wall or the structures appurtenant thereto or the addition of any

structural connections to the Side Yard Wall shall not be permitted.

It is provided, however, that in the event that Side Yard Walls are placed next to one another or that Units share a Common Wall, in such event, the rights, obligations and duties of the Owners of such Units or Side Yard Walls shall be governed by the provisions hereof dealing with Party Walls and Fences rather than by the provisions of this Section 4.4(e).

(f) Drainage Easements. There is hereby reserved over each Lot an easement for drainage of water arising or flowing from the adjoining Lot or Lots including, without limitation, water arising or flowing from the roof or side yard of the adjoining Lot. Such a mutual drainage easement for run-off or overflow water caused by natural occurrences shall be available to all adjoining Lots and the Owners of adjoining Lots shall cooperate to repair, and shall repair or cause the prompt repair of, any damage which may be caused by drainage. Cost of repairs to a Lot or Unit, however, shall be borne by the Owner of such Lot or Unit, provided that such damage shall not have occurred as a result of the negligence of the Owner of the adjoining Lot. In the event the parties cannot agree on the method of repair of such damage or the apportionment of the cost thereof, the dispute shall be submitted to the Architectural Committee and the decision thereof shall be binding upon all parties to the dispute. Notwithstanding the foregoing, no Owner shall remove, replace or alter any facilities located on a Lot, including, without limitation, tiles, paving or cement areas or land contours, which facilitate or aid in the drainage of water and each Owner shall promptly repair any damage to or destruction of such facilities which occurs by virtue of drainage or run-off. In the event that an Owner does not so repair after notice from the Association, the Association may repair such damage and the cost thereof shall be borne by such Owner and shall be enforceable in the manner provided for Individual Assessments as set forth in Section 8.5 hereof.

(g) Sanitary Engineering Easements. There is hereby created a blanket easement for public or private refuse, trash and sanitary engineering services over all streets, driveways and sidewalks located within the Development. In using this easement, the provider of such service shall use best efforts to provide such services in a non-obstrusive fashion. It shall be the obligation of each Owner to keep and maintain his refuse bin or other refuse container provided to or to be supplied by an Owner for use in conjunction with such services so that it is not Visible From Neighboring Property. In addition, each Owner shall arrange the placement of his refuse bin or container for pick-up and the removal thereof from the street so to be as reasonably close to the actual times of pick-up as is practicable, it being the intent hereof that refuse containers shall be set or left on the streets or shall be Visible From Neighboring Property only for the minimum amount of time necessary to effect completion of the refuse, garbage, trash or sanitary engineering services described above.

Section 4.5. Site Plan and Approval. No construction of any Unit or other Improvements on the Property shall be commenced until such proposed construction and any site plan or Plat for the Property has been approved by the Master Architectural Committee in accordance with the rules of the Master Architectural Committee. In addition, the Master Declarant has previously approved the floor plans and elevations for all Units to be constructed on the Property, the landscape plans for the Property,

the colors and materials for all structures to be built on the Property and the graphics, project name and site development concepts for all other Improvements on the Property (including lighting, walls and amenities; all of which items are hereinafter referred to as the "Declarant's Approval Items"). Copies of the Declarant's Approval Items, as approved by the Master Declarant, shall be kept at the office of the Master Association. Neither Declarant nor any other person or entity shall, without the prior written consent of the Master Architectural Committee, construct any Unit on a Lot which deviates from the floor plans, elevations, color and materials approved by the Master Declarant or otherwise take any action with respect to a Declarant Approval Item which is not in compliance with such Declarant's Approval Item submitted to and approved by the Master Declarant. Cross reference Article XI, Section 11.1, Master Declaration.

Section 4.6. Encroachments; Support. All Lots, Units, Common Area and Improvements shall be subject to encroachments and restrictions thereon described in the Master Declaration which are incorporated by reference as if fully rewritten herein. Cross reference Article XI, Section 1, Master Declaration.

Each Lot and Unit shall be subject to an easement for minor encroachments created by construction, settling and overhangs, as existing, designed or constructed. A valid easement for said encroachment and for the maintenance of same, so long as they stand, shall and does exist. In the event a Unit is partially or totally destroyed, and then rebuilt, minor encroachments on or over parts or portions of any adjacent Lot or Unit due to construction shall be permitted and a valid easement for said encroachment and the maintenance thereof shall exist. Each Lot and Unit is and shall be always subject to a nonexclusive easement for support of adjoining or abutting Units or Common Walls or Fences. Common Area is and shall always be subject to easements for minor encroachments thereon of a Unit and to a nonexclusive easement for support of adjoining or abutting Units or Common Walls or Fences.

Section 4.7. Party Walls and Fences.

(a) Controlling Law; Definitions. Every wall (including, but not limited to, patio walls) which is built as a part of two or more Units, and every fence which is placed on the dividing line between separate Lots, shall constitute a Party Wall or Party Fence, respectively. The Owners of Lots with Party Walls or Fences shall be subject to the limitations and restrictions set forth in this Section with respect to Party Walls or Fences. With respect to each such Wall or Fence, each of the adjoining Owners shall assume the obligations and be entitled to the benefits of the provisions in this Section and, to the extent not inconsistent herewith, the general rules of law regarding party walls and fences.

(b) Common Use. The Owners of contiguous Lots who have a Party Wall or Party Fence shall both equally have the right to use such Wall or Fence, provided that such use by one Owner does not materially interfere with the use and enjoyment of same by the other Owner.

(c) Damage By One of Adjoining Owners. In the event that any Party Wall or Party Fence is damaged or destroyed through the act of an Owner or any of his agents, guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner within sixty (60)

days to rebuild and repair the Party Wall or Party Fence without cost to the other adjoining Lot Owner or Owners.

(d) Damage By Other Cause. In the event any such Party Wall or Party Fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his agents, guests or members of his family, it shall be the obligation of all Owners whose Lots adjoin such Wall or Fence to rebuild and repair such Wall or Fence within sixty (60) days, at their joint and equal expense.

(e) Structural Integrity to be Maintained. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Party Wall or Party Fence without the prior consent of all Owners of any interest therein, whether by way of easement or in fee.

(f) Disputes. In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall or Party Fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Architectural Committee, the decision of which shall be binding upon all parties having an interest in said Wall or Fence.

(g) Alterations; Right of Entry. Each Owner shall permit, and there is hereby reserved an easement for, the Owners of adjoining Lots, or their representatives, when reasonably required, to enter his Lot for the purpose of repairing or maintaining a Party Wall or Party Fence or for the purpose of performing installations, alterations or repairs to the Property of such adjoining Owners, provided that requests for entry be made in advance and that such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry pursuant to the terms of this subsection shall be waived. An adjoining Owner making entry pursuant to the terms of this subsection shall not be deemed guilty of trespass by reason of such entry. Disputes regarding such rights of entry shall be resolved by the Architectural Committee, the decision of which shall be binding on the parties to the dispute.

(h) Surface Maintenance. Surfaces of Party Walls or Party Fences on Lots which are generally accessible or viewable from only the adjoining Lot may be planted against, painted, maintained and used by adjoining Owners subject to the maintenance rights and obligations in and for the Board as more fully set forth herein. If such surfaces are viewable from public streets on, or from, the Common Area, or are Visible From Neighboring Property (except from the immediately adjoining Lot as set forth above), the color scheme shall not be changed without the written consent of the Architectural Committee.

4.7 Solar and Radio/Television Signal Collection Devices. No solar collection or energy device or equipment, including, without limitation, solar water heaters, solar electrical generation units or solar ovens or cooking devices, may be placed on or located on, upon or about a Lot or on, upon or about a Unit or the roof or walls thereof if the same is or shall be Visible From Neighboring Property nor shall any so-called "satellite dish" or television or radio reception device, including, with limitation, antennas, aerials or other form of collectors, nor any telescope or other like optical device, be placed or located on, upon or about a Lot or on, upon or about a Unit or the roof or walls thereof if the same is or shall be Visible From Neighboring Prop-

erty, without the advance written consent of the Architectural Committee and the Board.

ARTICLE V

COMMON AREA

Section 5.1. Permitted Uses. The permitted uses for the Common Area shall be as follows:

(a) Access for vehicles and pedestrians between public streets and any parking areas situated on the Property and any Owner's Lot; limited, however, for purposes connected with or incidental to any use being made of any portion of any Owner's Lot;

(b) Access for pedestrians on any sidewalks or walkways; limited, however, for purposes connected with or incidental to any use being made of any portion of any Owner's Lot;

(c) Access for persons engaged in maintaining any portion of the Common Area or any Owner's Lot;

(d) Specific recreational uses, such as pool and spa areas, tennis courts, open or greenbelt areas and the like, in areas so designated on the Plat or subsequently designated by the Board;

(e) Such other uses as may be adopted from time to time by the Board and set forth in the Rules; and

(f) In general, the Common Area shall be used for the benefit of the Owners, for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment to be derived from such reasonable and proper use, without hindering the exercise of or encroaching upon the right of any other Owner to utilize the Common Area; provided that no unlawful use shall be permitted.

Section 5.2. Restricted Uses.

(a) The Common Area shall not be used by Owners for storage of supplies, materials or personal property of any kind;

(b) The use of the Common Area shall be subject to such other restrictions as may be adopted by the Board and set forth in the Association Rules;

(c) Common Area use shall also be restricted as set forth in Article IV, Section 2 of the Master Declaration; and

(d) In general, no activity shall be carried on nor condition maintained by any Owner upon the Common Area which, in the judgment of the Association, spoils or detracts from the appearance of the Property, the Common Area or any Lot, or hinders or encroaches upon the right of any other Owner to utilize the Common Area as reasonably intended.

Section 5.3. Maintenance by Association. The Association shall take, cause or suffer to be taken the following activities as to any Common Area which is conveyed, leased or transferred to it or otherwise placed under its jurisdiction, without any approval of the Owners being required:

(a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such Common Area (to the extent that such work is not done by a governmental entity, if any, or the Master Association, if either of the same shall be responsible for the maintenance and upkeep of such area) in accordance with: (a) the last plans thereof approved by the Board; (b) the original plans for the Improvement; or (c) if neither of the foregoing is applicable and if such Improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such Improvement as same existed prior to the damage or destruction which necessitated the actions set forth above;

(b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk or parking area (including but not limited to guest parking facilities);

(c) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil or for aesthetic purposes;

(d) Place and maintain upon any such area, such signs, markers and lights as the Board may deem appropriate for the proper identification, use and regulation thereof, subject to the approval of the Architectural Committee;

(e) Remove all papers, debris, filth and refuse from the Common Area and wash or sweep paved areas as required and clean and relamp lighting fixtures as needed;

(f) Pay all real estate taxes and assessments relating to the Common Area as the same become due and payable;

(g) Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Area as the same become due and payable;

(h) Pay for and keep in force, at the Association's expense, public liability insurance and fire and extended coverage insurance with respect to the Common Area with companies acceptable to the Association in amounts, with subrogation waivers as against individual Owners, and with limits of liability desired by the Board or required of the Owners pursuant to any Matter of Record, such insurance to name the Association or the Owners (or appropriate lenders or mortgagees), or both, as named insureds as the Board may from time to time determine;

(i) Maintain and pay for all landscaping and other items located on, upon or about the Common Area;

(j) Maintain and pay for all repairs and replacements to street lighting facilities;

(k) To the extent not maintained by any governmental agency or the Master Association, maintain and make all repairs and replacements to the sewer system and all charges in connection with any private sewer facilities, except for any damage caused by the negligence or acts of any Owner which will be the obligation of that particular Owner;

(l) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration; and

(m) Subject to the provisions of the Master Declaration, the Board shall be the sole judge as to the appropriate maintenance of all grounds within the Common Area.

To the extent contemplated by the Master Declaration, the Master Association shall be, and hereby is, authorized to perform such duties and responsibilities set forth above as are required by the Master Declaration. The Master Association, in such capacity, shall receive cost reimbursements and compensation for acting in such capacity in accordance with the Master Declaration. If so agreed by the Board and the Master Association, any services which the Master Association is not obligated to provide may be provided by the Board or through any number of independent contractors, agents or employees which the Board may, in its sole discretion, approve and employ. Charges for the services provided hereunder shall be allocable to Lot Owners pursuant to the Assessments created by Article VIII hereof. Cross reference Article II, Section 3 and Article X, Section 4, Master Declaration.

Section 5.4. Damage or Destruction of Common Area By Owners. Except to the extent covered by insurance, in the event any Common Area is damaged or destroyed by an Owner or a member of his family or any of his guests, tenants, licensees or agents, or in the event a charge or expense to the Association results from any act of an Owner or any of his guests, tenants, licensees or agents, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications for the area involved, or as the area may have been modified or altered subsequently by the Association, at the discretion of the Association. The amount necessary for such repairs in excess of any insurance proceeds shall be paid by said Owner, upon demand, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of Individual Assessments.

ARTICLE VI

THE ASSOCIATION

Section 6.1. Organization.

(a) The Association. The Association is an Arizona non-profit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration nor may the same be amended, repealed or changed without the consent of the Master Association. Cross reference Article III, Section 1, Master Declaration.

(b) Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the directors may elect or appoint, in accordance with the Articles and the Bylaws, as same may be amended from time to time.

Section 6.2. Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth in this Declaration and the Articles and Bylaws, as the same may be amended from time to time.

Section 6.3. Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration and of the Master Declaration, adopt, amend and repeal rules and regulations to be known as the "Rules". The term "Rules" shall be synonymous with the term "Association Rules." The Rules may, among other things, restrict and govern the use of any Common Area by any Owner, or by any invitee, licensee or lessee of such Owner, provided, however, that the Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Master Declaration, the Articles or Bylaws. A copy of the Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and may, if desired by the Board, be recorded. Said Rules, as they may from time to time be amended, shall have the same force and effect at all times as if they were set forth in and were a part of this Declaration.

In addition to the foregoing, each Owner of a Unit and his licensees, invitees, guests and family members shall, at all times promptly and fully comply with the Gainey Ranch Rules in addition to complying with the Rules promulgated by the Board. Cross reference Article V, Section 4, Master Declaration.

Section 6.4. Personal Liability. No member of the Board or any committee of the Association (including the Architectural Committee), or any officer of the Association shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, any manager or any other representative or employee of the Association, the Architectural Committee or any other committee or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

In addition, neither the Board nor the Association nor any of their officers, members, agents, employees or others dealing or connected with the Master Security System shall be liable or have any liability of any nature whatsoever to any Owner or to any other person, entity or firm for any damages, injury, damage or theft to person or property located in or about the Property or on any Lot or in any Unit for any failures in the Master Security System. It is understood that the type of security provided to the various portions of Gainey Ranch and that the waiver of liability contained herein is a material inducement for the Board and the Association and its Members, officers, employees and agents to offer the use of the Master Security System to and for the benefit of Owners and the Development.

Section 6.5. Budget. The Board shall, on an annual basis determined by the calendar year, prepare a budget which shall determine the funds needed by the Association during each year to operate and maintain the Common Areas and to provide or cause to be provided the other maintenance obligations of the Association as set forth in this Declaration, to pay the expenses of the Association and to otherwise fund the expenses contemplated by the Articles and Bylaws of the Association and by this Declar-

ation, which budget shall not be effective until it has been submitted to, and reviewed and approved by, the Master Association Board. The budget shall be so submitted on or before December of each year. Cross reference Article XIII, Section 3, Master Declaration.

Section 6.6. Control By Master Association. In the event that the Board or the Association fails, to the extent that the same are not being collected by the Master Association, to bring about collections of Assessments or is otherwise failing, in the opinion of the Master Board, to perform its functions and duties in a manner consistent with the standards established by other Satellite Associations in Gainey Ranch or necessary for the maintenance of the high quality of residential development envisioned for the residential areas of Gainey Ranch, and notwithstanding anything to the contrary contained in this Declaration, the Articles or Bylaws, the Master Association shall have the right, power and ability, at its sole discretion, to take control of the Association, which may be effected by the Master Association removing such officers and directors of the Association as the Master Association deems appropriate and substituting therefor other individuals, including, if the Master Board so elects, individuals who are also officers and directors of the Master Association. The Articles and Bylaws shall contain a provision similar to this Section 6.6. Cross reference Article XIII, Section 1, Master Declaration.

In the event that the reasons that the Master Association has assumed control of the affairs of the Association as set forth above are corrected to the Master Association's reasonable satisfaction, then, and in such event, the Association shall be permitted to regain and retake control of its own affairs and its Board of Directors and officers, as the case may be, shall be reinstated subject to the further right of the Master Association to take control at a later time.

Section 6.7. Appointee to Council of Presidents. The President of the Association shall be the Association's appointee to the Council of Presidents as created by the Master Declaration. The President of the Association shall give due heed to the wishes and requests of the Board and Members when representing the Association before the Council of Presidents.

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS

Section 7.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Members shall hold or cause to be held annual meetings of the Members at a time and place to be fixed pursuant to the Articles and Bylaws.

Section 7.2. Membership Classes. The Association shall have two (2) classes of voting Membership:

Class "A": The Class "A" Members shall be all Owners except for Declarant. A Class "A" Member shall be entitled to one vote for each Lot owned by said Member.

Class "B": The Class "B" Member shall be Declarant. The Class "B" Member shall be

entitled to three (3) votes for each Lot owned by it; provided that the Class "B" Membership shall cease and be converted to a single Class "A" Membership upon the happening of either of the following events, whichever first occurs:

(i) When the total votes outstanding in the Class "A" Membership equal the total votes outstanding in the Class "B" Membership; or

(ii) Ten (10) years from the date of this Declaration.

From and after the happening of the first to occur of the foregoing events, the Class "B" Member shall be deemed to be a Class "A" Member entitled to one (1) vote for each Lot then held by it.

Section 7.3. Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said Owner's rights to vote and all other rights as a Member of the Association are and shall be suspended until said defaulting Owner's payments are brought current and all other defaults cured.

Section 7.4. Persons Entitled to Vote. When more than one person holds an interest in any Lot, only one (1) person shall be the Member who is entitled to vote. Such persons holding an interest shall designate the person to be the voting Member and give written notice thereof to the Association. The vote for such Lot may be exercised as the Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot (except with respect to the Class "B" Membership as long as such Membership is in existence). The 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 or Owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 7.5. Cumulative Voting for Directors. Anything to the contrary notwithstanding contained herein, after the time at which there is no Class "B" Membership extant, in any election of the members of the Board, every Owner entitled to vote at such an election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of Lots owned by the Owner multiplied by the number of directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

Section 7.6. Members' Other Rights. Each Member shall have such other rights, duties and obligations as set forth in the Articles and Bylaws, as same may be amended from time to time.

Section 7.7. Transfer of Membership. The Membership of each Owner of a Lot shall be appurtenant to said Lot. The rights and obligations of an Owner and Membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of the Owner's Lot and then only to the transferee of ownership to such Lot, or by intestate succession, testamentary disposition, foreclosure of mortgage of record, exercise of a power of sale under the provisions of a deed of trust or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any transfer of ownership to said Lot shall operate to transfer said Membership to the new Owner thereof.

Section 7.8. Concerning the Association While Declarant Controls. While the Class "B" Membership exists as set forth in Section 7.2 above, Declarant shall take or cause to be taken all of the actions set forth in Article XIII, Section 2 of the Master Declaration, which include preparation and submission of certain budgets, the levy and collection of certain Assessments and the payment to the Association of the difference between the sums necessary to carry out the functions of the Association during such period and the sums obtained by the Association from Assessments during such period. On the date upon which the Class "B" Membership is converted to a Class "A" Membership, Declarant shall: (1) turn control over to the Association by causing the resignation of its designees as officers and directors thereof and delivering such other items at the Association's reasonable request and expense as the Association may desire; (2) deliver to the Association any operating and reserve funds collected and insurance policies held by it and all rights to utility deposits; and (3) contribute an amount sufficient in the determination of the Master Association to cause the Association to have an operating reserve fund equal to five percent (5%) of all operating and maintenance costs incurred by the Association from the recordation of the Tract Declaration to the date control is relinquished. Cross reference Article XIII, Section 2, Master Declaration.

ARTICLE VIII

COVENANTS FOR ASSESSMENTS AND CREATION OF LIENS

Section 8.1. Creation of the Lien and Personal Obligation of Assessments. At all times as more fully set forth herein, each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association or to the Master Association, as directed by the Association or by the Master Association: (1) Annual Assessments; (2) Special Assessments for capital improvements, such Assessments to be established and collected as hereinafter provided; and (3) Individual Assessments for restoration of a Lot or the Common Area. The Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Property and shall be a continuing lien upon the Lot against which each such Assessment is made. It is provided, however, that the provisions hereof dealing with Assessments shall not be deemed to be, nor shall they be, applicable to Declarant or to Lots owned by Declarant until there is no Class B Membership extant, it being the intent hereof that Declarant shall not be liable for any Assessments, except for its obligations set forth in Section 7.8 hereof, until control of the Association has been turned over to the individual Unit Owners. Each such Assessment,

together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor. No Lot shall be sold, transferred or conveyed by any Owner without all Assessments having been paid in full, whether or not a lien has been filed or recorded. The above provisions are subject to the provisions set forth in Section 8.10 hereof.

Section 8.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners of the Property and for the improvement and maintenance of the Common Area. Without limiting the generality of the foregoing, such purposes shall include the payment for the following:

- (a) Taxes and assessments and any water, sewer, garbage, electrical, lighting, telephone, gas and other necessary utility service for the Common Area;
- (b) Maintenance and repair of storm drains, sanitary sewers, private streets, driveways and sidewalks lying within the Common Area;
- (c) Payment of the Association's (or the Owners') pro rata share of costs for the Master Security System as more fully described in Section 9.3 hereof, if not separately billed or assessed by the Master Association;
- (d) Fire and extended coverage insurance covering the insurable Common Area property (including the improvements thereon) on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost;
- (e) Public liability insurance insuring the Association against any liability to the public or to any Owner, their invitees or tenants, incident to their occupation and/or use of the Common Area with such limits of coverage (but in no event less than \$1,000,000.00 per person and \$3,000,000.00 per occurrence) as may be determined by the Board;
- (f) Workmen's Compensation Insurance to the extent necessary to comply with the applicable laws, and any other insurance deemed necessary by the Board;
- (g) Standard fidelity bonds covering members of the Board, the officers of the Association and employees of the Association as the Board may determine, including those persons who are authorized to sign checks on behalf of the Association, in such amounts as the Board may determine from time to time;
- (h) Directors' and officers' liability insurance covering the Members of the Board and their agents and employees from liabilities arising out of or caused by their serving as members of the Board, and their actions or non-actions with respect to the same;
- (i) Painting, maintenance, repair and replacement of any and all portions of the Common Area and all Improvements located thereon;

(j) Reserves for repair and replacement of Improvements on the Common Area and for exterior maintenance;

(k) Reimbursement for any expenses contemplated by the Articles or Bylaws;

(l) For all other costs and expenses for obligations of the Board as set forth herein, including but not limited to the items set forth in Section 5.3 above and in Article IX below; and

(m) Such other and further items as may be necessary or required by the Board to carry out the intent and purpose of the Association as set forth in this Declaration.

Notwithstanding the foregoing, if any or all of the foregoing services are or shall be provided by the Master Association, the Assessments shall be at least in an amount equal to all charges made by the Master Association and shall be in an amount which, in the judgment of the Board, shall also be sufficient to raise the funds required to meet the anticipated cash requirements set forth in the annual budget of the Association and for anticipated and special improvement expenses. Cross reference Article XIII, Section 1, Master Declaration.

Section 8.3. Assessments. Until January 1 of the year immediately following the conveyance of the first Lot by Developer to an Owner, the initial Annual Assessment for each Lot shall be as determined by Developer. Commencing January 1 of the year immediately following the conveyance of the first Lot by Developer to an Owner, the Annual Assessment for each Lot shall be determined by the Board of Directors. A Lot shall be deemed "improved" when a Unit has been completely constructed thereon, but in no event later than one hundred eighty (180) days after the start of construction thereon. All other Lots shall be deemed "unimproved" Lots.

(a) Each year after the Annual Assessment has been initially determined by the Board of Directors, the Annual Assessments may be increased by the Board once during each calendar year in a fashion as the Board of Directors may determine, and thereafter during the same calendar year only upon the vote of a majority of the Owners (excluding Declarant) and by at least fifty percent (50%) of the votes of the total Membership (including Class A and Class B Members) present at a meeting duly called for this purpose. Notwithstanding the foregoing, all Assessments must be sufficient to pay all charges of the Master Association levied pursuant to the Master Declaration and the foregoing limitations shall not bind the Board in respect of changes in such charges.

(b) The Board may increase or decrease the Annual Assessments and shall fix the Annual Assessments annually, but not in any manner except as above stated. Said Annual Assessments may be collected on a monthly, quarterly or other basis, and subject to the provisions set forth in this Declaration, the Annual Assessments may be changed or modified during any fiscal or calendar year. Collection thereof and accounting therefor may, at the direction of the Master Association, be made or performed through the auspices of the Master Association. Cross reference Article XIII, Section 4, Master Declaration.

(c) It is intended that Annual Assessments shall include an adequate reserve fund for maintenance, repairs and replacements of those elements of the Common Areas that must be replaced on a

periodic basis all as set forth, and required to be included, in the annual budgets of the Association.

(d) All Assessments shall be promptly paid in full by each Owner without offset or deduction therefrom. Alleged claims of insufficiency of services or any other claims against the Board with respect to services provided, the Common Areas or items located thereon may be brought before the Board by an Owner but such claims shall not affect the obligation of each Owner to pay Assessments as set forth herein.

(e) In addition to all other Assessments provided for herein, each Owner who purchases a Lot or a Unit from Declarant shall, upon the sale thereof from Declarant, be required to pay (which shall be non-refundable) at the time of purchase an amount equal to two (2) monthly installments of Annual Assessments (together with a prorated monthly installment of the Annual Assessment based upon the number of days remaining in the month in which the Unit is purchased) which sum shall be used by the Association as a reserve and for working capital. Such payment shall not relieve an Owner from making prompt payments of all other Assessments.

(f) In addition to all other Assessments referred to herein, each Lot shall be subject to the Master Assessments imposed by and defined in the Master Declaration and imposed and administered by the Master Association and all covenants, conditions, restrictions and obligations of record, and the Owner of each Lot agrees to pay same to the Association when due. The Master Association shall also have the right to add to any Master Assessment against each Lot: (a) any Assessments against such Lot levied by the Association which are not paid in a timely manner; and (b) all sums owing to the Master Association by the Association pursuant to Article X, Section 4, and Article XIII, Sections 1 and 2, of the Master Declaration which are not paid to the Master Association in a timely manner, such sums to be allocated among the Lots in the Development which have not paid Assessments to the Association. Cross reference Article XII, Section 5, Master Declaration.

Section 8.4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any year, one or more Special Assessments, payment of which, at the determination of the Board, may extend for a period not more than ten (10) years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall be subject to the same approval requirements as set forth in Section 8.3(a) above relating to subsequent increases in Annual Assessments.

Section 8.5. Individual Assessment for Restoration of Lots. In the event the Owner of a Lot fails to maintain a Lot in a neat and clean condition or fails to maintain the exterior of his Unit and other structures on his Lot in a neat, clean and attractive condition and appearance and generally in a manner satisfactory to the Board, all in accordance with his maintenance obligations set forth herein or in the Rules, the Association, through its agents, employees and/or independent contractors shall have the right (subject to prior notice as hereinbelow set forth), but not the obligation, to enter upon such Owner's Lot and repair,

maintain, clean-up, rehabilitate and restore the structures located thereon to a condition deemed satisfactory by the Board. The cost thereof shall be deemed to be an "Individual Assessment" and shall be charged against such Lot and collected from the Owner thereof. Such cost shall be paid by the Owner within thirty (30) days from the date of the invoice sent by the Association to the Owner. Said amount also shall be secured by and subject to all provisions regarding Assessment liens as provided for in this Article VIII.

Prior to exercising the aforesaid right of restoration, the Association shall give written notice to the Owner of said Lot specifying the necessary repairs, maintenance, rehabilitation or restoration to be undertaken, and granting the Owner fourteen (14) days to accomplish the same. If, at the end of said period, the work required to be performed has not been completed (or has been completed in a manner unsatisfactory to the Board), then the Association shall have the right, as above set forth, to make such repairs, maintenance, rehabilitation or restoration.

Section 8.6. Notice and Quorum for Any Action Authorized Under Sections 8.3 and 8.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 8.3 or 8.4, shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all of the votes for each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8.7. Uniform Rate of Assessment. Except for Lots owned by Declarant while the Class B Membership is extant, both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis at the discretion of the Board, subject to approval of the Master Association.

Section 8.8. Date of Commencement of Annual Assessments; Due Dates. Subject to the provisions set forth in Section 8.3(e) hereof, the Annual Assessments provided for herein shall commence as to all Lots owned by Owners other than Declarant on the first day of the month following the conveyance of the first Lot to an Owner other than Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. Subject to the direction of the Master Association, the due dates shall be established by the Board of Directors but the Board shall have no power to alter the delinquency periods set forth herein. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessments on a specified Lot have been paid.

Section 8.9. Effect of Nonpayment of Assessments; Remedies of the Association and the Master Association. Each Owner of

any Lot shall be deemed to covenant and agree to pay to the Association the Assessments provided for herein, and agrees to the enforcement of the Assessments in the manner herein specified. In the event the Association employs an attorney or attorneys for collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration or the Rules, or for any other purpose in connection with the breach of this Declaration or the Rules, each Owner and Member agrees to pay reasonable attorneys' fees and costs thereby incurred (whether or not suit or proceedings are instituted or filed) in addition to any other amounts due or any other relief or remedy obtained against said Owner or Member. In the event of a default in payment of any such Assessment when due, in which case the Assessment shall be deemed delinquent, in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

(a) Enforcement By Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner or Member to enforce each such Assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency, court costs and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner or Member.

(b) Enforcement by Lien. There is hereby created a claim of lien on each and every Lot within the Property to secure payment to the Association of any and all Assessments levied against any and all Owners of such Lots covered by this Declaration, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of any such Assessment, the Association, or any authorized representative, may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. 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 or a 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, or even without such a written demand being made, the Association may elect to file such a claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any officer or any duly authorized agent of the Association, and shall contain substantially the following information:

1. The name of the delinquent Owner;
2. The legal description and street address of the Lot against which the claim of lien is made;
3. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs and reasonable attorneys' fees (with any proper offset allowed);

4. That the claim of Lien is made by the Association pursuant to this Declaration; and
5. That a lien is claimed against said Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original and one (1) copy of such claim of lien, and mailing or delivering a copy thereof to said Owner at the address of the Lot, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal or other governmental assessing unit, the liens which are specifically described in Section 8.10 herein and liens created by the Master Declaration. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a deed of trust or a realty mortgage, as provided by the laws of the State of Arizona, as the same may from time to time be amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The lien created and imposed upon the Lot against which the Assessment was made also is created with the power of sale in the Board, and such power of sale may be exercised in the manner provided by law under a trust deed as set forth by the laws of the State of Arizona, as the same may from time to time be amended. The Association shall have the power to bid (including the right and power to make a so-called "credit bid" for the amount of the obligation secured by the lien) at any foreclosure or trustee's sale and to purchase, acquire, hold, lease, mortgage and convey any such Lot so acquired. In the event of such foreclosure, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot, Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

In addition to the remedies set forth above, and not by way of any limitation thereon, in the event that the Master Association takes control of the Association pursuant hereto and pursuant to the Master Declaration, all of the rights and remedies afforded to the Association with respect to Assessment Liens and delinquent Assessments shall immediately devolve upon and be exercisable by the Master Association, at its election, and/or by its appropriate designees.

Section 8.10. Subordination of the Lien to Mortgages.
The Assessment Lien provided for herein shall be subordinate to the lien of any First Mortgage on any Lot. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in a First Mortgage or foreclosure of such First Mortgage will not be liable for such Lot's unpaid Assessments which accrue prior to the acquisition of title to such Lot by such First Mortgagee. Sale or transfer of any Lot shall not affect the Assessment Lien; however, the sale or transfer of any Lot pursuant to foreclosure of a First Mortgage or any proceeding or conveyance in lieu thereof shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer but shall not relieve such Lot from liability for any Assessments thereafter becoming due nor

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shall such sale or transfer relieve such Lot from the lien of any such Assessment thereafter becoming due.

Section 8.11. Written Notification. A First Mortgagee, upon written request and upon payment of a reasonable fee to be established from time to time by the Board, shall be entitled to written notification from the Association of any default in the performance by the Owner of any Lot (who is the borrower) of any obligation under the Constituent Documents which is not cured within sixty (60) days.

ARTICLE IX

MAINTENANCE AND SECURITY

Section 9.1. Maintenance of Front Areas. The Master Association shall, as an expense reimburseable by the Association under the Master Declaration, maintain the front yards of each and every improved Lot located within the Development up to, but not including, the front wall associated with the dwelling Unit on such Lot. The Owner of each Lot shall reasonably cooperate with the Association and the Master Association for such purposes and an easement is hereby reserved to the Association and the Master Association or its or their designee to conduct such maintenance. Unless collected by the Master Association, charges for such maintenance shall be pro-rated and included in the Annual Assessment as set forth in Section 8.3 hereof. Except as otherwise provided, an Owner shall have no obligation, nor shall he undertake, to maintain his front yard except in areas which are on the dwelling Unit side of the front wall thereof.

Section 9.2. Exterior Unit and Improvement Maintenance. Each Owner shall provide or cause to be provided, in accordance with the Rules, complete, neat and workmanlike exterior maintenance upon his Unit including, without limitation, the following items: paint, repair, replacement and care of roof, gutters, downspouts and all exterior Unit surfaces, trees, shrubs, grass and walks and other exterior improvements located in back of the front wall of the Unit and maintenance of all glass surfaces. In the event that a Unit Owner fails to maintain his Unit in accordance with the provisions hereof, the provisions of Section 8.5 of this Declaration shall be immediately applicable.

Section 9.3. Master Security System. In addition, each Lot, each Owner and the Association shall become a part of the Master Security System operated by the Master Association. Each Owner shall abide by the provisions of the Master Declaration regarding the Master Security System and easements are hereby reserved for entry of security personnel, installation and maintenance of security systems and any other items or things which may be necessary or desirable to operate the Master Security System in an efficient manner as contemplated by the Master Declaration. No Owner nor the Association shall take any steps which will impair, hinder or otherwise disrupt the efficient operation of such a System, it being the intent hereof that the existence of the Master Security System is a material inducement for each and every Owner to purchase his Lot. Pro rata costs of the Master Security System shall be included as part of the Annual Assessments payable by Lot Owners, if not separately billed by the Master Association. Cross reference Article VIII, Section 5 and Article X, Section 5, Master Declaration.

Section 9.4. Landscaping. Within ninety (90) days after a deed to any lot is delivered to an Owner other than Declarant, each Owner must provide, at his sole cost, his own rear and side yard landscaping in accordance with standards established and to be established by the Architectural Committee. In the event that such Owner has not completed such landscaping within such time period, Declarant shall have the right, after thirty (30) days notice to such Owner, to install such landscaping to Architectural Committee standards and the cost thereof shall be a personal debt of the Owner and a lien upon the Lot enforceable in accordance with the provisions hereof dealing with Assessment Liens.

ARTICLE X

ARCHITECTURAL CONTROL

Section 10.1. Organization, Power of Appointment and Removal of Members. There shall be an Architectural Committee, organized as follows:

(a) Committee Composition. The Architectural Committee shall consist of three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.

(b) Initial Members. The initial members of the Architectural Committee shall be appointed by Declarant and if Declarant does not appoint same, the Board shall constitute the initial members.

The Board may act as the Architectural Committee if so determined by the majority vote of the Members of the Association at a duly called meeting for such purpose.

(c) Terms of Office. Unless the initial members of the Architectural Committee have resigned or been removed, their terms of office shall be for a period of one (1) year, or until the appointment of their respective successors.

Thereafter, the term of each Architectural Committee member appointed shall be for a period of one (1) year and until the appointment of his successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed if such member shall accept such re-appointment.

(d) Appointment and Removal. The right to appoint and remove members of the Architectural Committee at any time shall be and is hereby vested solely in the Board, provided, however, that no member may be removed from the Architectural Committee by the Board except by a majority vote of all members of the Board. Subsequent appointments or removals of members of the Architectural Committee, as set forth herein, shall be evidenced on the books and records of the Association and need not be recorded.

(e) Resignations. Any member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to Declarant or to the Board, whichever then has the right to appoint Committee members.

(f) Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Board, whichever then has the power to appoint Committee members. A vacancy or vacancies in the Architectural Committee shall be deemed to exist in case of the death, resignation or removal of any member.

Section 10.2. Duties. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board and to carry out all other duties imposed upon it by this Declaration. Any use waivers of other items which are subject to approval by the Master Architectural Committee shall be submitted in duplicate to the Architectural Committee and it shall be a condition precedent to the effectiveness of such requests that the Architectural Committee shall have approved the request set forth therein.

Section 10.3. Meetings and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to the provisions of paragraph (b) of Section 10.1 above, the vote or written consent of any two members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of this Declaration. Members of the Architectural Committee shall not be entitled to compensation for their services.

Section 10.4. Architectural Committee Rules.

(a) The Architectural Committee may, from time to time and subject to the provisions of the Master Declaration, adopt, amend and repeal by majority vote, rules and regulations, to be known as "Architectural Committee Rules". Said Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property, provided, however, the foregoing provisions are subject to the limitations set forth in Section 10.4(b) below.

(b) Unless at least two-thirds (2/3) of the Owners (other than Declarant) of the individual Lots plus a minimum of seventy-five percent (75%) of the total Membership of the Association (including Class "A" and Class "B" Members) have given their prior written approval, neither the Association, the Board nor the Architectural Committee, by act or omission, shall change, waive or abandon any scheme of regulations or enforcement thereof established by Declarant, pertaining to the architectural design, the exterior of the Units, the exterior maintenance of Units, the maintenance of the Common Area, Party Walls or Fences and driveways, or the upkeep of lawns, areas and plantings on and about the Property.

Section 10.5. Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 10.6. Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, to any Owner or to any other party, for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development or non-development of any portion of the Property; or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Architectural Committee.

Section 10.7. Time for Approval. Subject to the other provisions contained herein, in the event the Architectural Committee fails to approve or disapprove any design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with.

Section 10.8. Processing Fee. With respect to any requests made to the Architectural Committee or in regard to the responsibility of the Architectural Committee to review any plans, drawings or specifications for any work done or proposed, the Architectural Committee may, consistent with its Rules and Regulations, establish processing fees for such requests or actions. The payment of such fees shall be a condition precedent to any Architectural Committee action on such request or other item and the non-payment of such fee shall be deemed to toll the time for approval of such items set forth in Section 10.7 hereof.

Section 10.9. Master Architectural Committee. At all times and with respect to all things, the Architectural Committee and all matters with which it is concerned or over which it is given responsibility shall be subject to the control of the Master Declaration and the Master Architectural Committee.

Section 10.10 Construction in Accord with Laws. All construction undertaken, or additions or improvements placed, on or located upon any portion of the Property shall, if applicable, be constructed in accordance with all building codes, or an appropriate variance obtained and exhibited to the Architectural Committee.

ARTICLE XI

CONDEMNATION

Section 11.1. Upon receipt of notice of intention or notice of proceeding whereby all or any part of the Common Area is to be taken by exercise of the power of eminent domain, all Owners and First Mortgagees which have previously provided their addresses in writing to the Board shall be immediately notified by the Association. If a portion of said Common Area property should be taken by the exercise of the power of eminent domain or should be transferred and conveyed to a condemning authority in anticipation of such exercise, the entire award made as compensation for such taking, after deducting therefrom, in each case, reasonable

and necessary costs and expenses, including, but without limitation, attorneys' fees, appraisers' fees and court costs, shall be paid to the Board as trustee for all Owners and First Mortgagees. Subject to the provisions contained in any First Mortgage which shall have priority, the proceeds of any such award relating to a Unit shall be utilized to restore and replace the property which was taken. No Owner or other party shall have any priority over the rights of a First Mortgagee of any Unit with respect to the distribution of any proceeds.

ARTICLE XII

INSURANCE

Section 12.1. The Board of Directors, or its duly authorized agent, shall have the authority to, and shall, obtain fire and extended coverage insurance for all Common Area insurable property, against loss or damage by fire or other hazards sufficient to cover the full current replacement cost thereof, in an amount not less than one hundred percent (100%) of the insurable value, and shall also obtain a broad-form public liability policy in a minimum amount of \$1,000,000.00 per person and \$3,000,000.00 per occurrence covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be part of the Annual Assessment. All such insurance coverage obtained by the Board shall be written in the name of the Association. Each Owner, at his expense, shall be obligated to obtain and at all times carry fire and extended coverage insurance on said Owner's Unit against loss or damage by fire or other hazards sufficient to cover the full current replacement cost in an amount of not less than one hundred percent (100%) of the insurable value. In addition to the aforesaid insurance required to be carried by each Owner, an Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable, including but not limited to, homeowners' liability insurance, theft and other insurance covering personal property damage and loss. The Board may require each Owner to name the Association as an additional insured on any or all such policies. In the event of damage or destruction by fire or other casualty to any property covered by insurance carried by the Association, the Board shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of such property to the condition as formerly existed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board or by an agent duly authorized by the Board. The Board shall contract with any licensed contractor, who shall be required to provide workman's compensation insurance and a full performance and payment bond for the repair, reconstruction or rebuilding of any Common Area property. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the Association.

In the event of damage or destruction by fire or other casualty to any Unit or other improved structure covered by insurance written in the name of or carried by an individual Owner, said Owner shall, upon receipt of the insurance proceeds, contract to repair or rebuild such damage to destroyed portions of the improvements in a workmanlike manner in conformance with the orig-

inal plans and specifications of said Unit. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the Unit and buildings or areas, within thirty (30) days, the Association, by and through the Board, is hereby irrevocably authorized, but is not obligated, by such Owner to repair and rebuild any such Unit in a good workmanlike manner in conformance with the original plans and specifications of such Units. The Board is authorized to use any Association funds, whether general funds or funds raised by Special Assessment, for this purpose to pay for such repair and rebuilding. Any amount so expended by the Association for the repair or rebuilding of a Lot or Unit shall automatically become a personal debt of the Owner and a lien upon the Lot and the Unit which has been repaired and rebuilt and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien of any First Mortgage and shall be enforceable in the same manner as an Assessment Lien. The Owner shall then repay the Association the amount actually expended for such repairs plus interest at the rate of eighteen percent (18%) per annum on said amount expended.

In the event of damage to a Unit or other improved structure covered by insurance written in the name of or carried by an individual Owner which damage may also be covered by insurance carried by the Association or as to which such Owner may make a claim against the Association, such Owner acknowledges and agrees that notwithstanding any such insurance coverages or any such claims, he shall be solely responsible for paying the amount of any deductible contained either in his own insurance or in the Association's insurance, it being the intent hereof that to the extent insurance proceeds are insufficient to cover a loss by virtue of deductibles, the risk of such deductibles (whether in the Association's or the Owner's insurance) shall be upon an Owner.

In addition, each Owner, on behalf of himself, his successors and assigns, hereby releases and waives any and all rights of subrogation against the Association which, in the absence of this paragraph, would arise in favor of any insurance company insuring an Owner against loss of fire, extended coverage, casualty and other loss of any type, resulting from damage or destruction of a Unit or any portion thereof or the damage or destruction to any of the property of the Owner in the Unit. The Association hereby releases and waives any and all rights of subrogation against any Owner which, in the absence of this paragraph, would arise in favor of any insurance company insuring the Association against loss of fire, extended coverage, casualty and other loss of any other type, resulting from damage to or destruction of the Common Area or any portion thereof, or the damage to or destruction of the personal property of the Association located on or about said Common Area.

ARTICLE XIII

RIGHTS AND DUTIES OF FIRST MORTGAGEES

Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws and any and all rules, regulations or management agreements, the following provisions shall apply to and benefit each holder of a First Mortgage upon a Lot or Unit:

Section 13.1. First Mortgagee Not Bound. Any First Mortgagee or purchaser at a foreclosure sale or trustee's sale under a deed of trust who obtains title to a Lot pursuant to the

remedies provided in the First Mortgage or foreclosure of the First Mortgage will not be liable for such Lot's unpaid Assessments which may accrue prior to the acquisition thereof by the First Mortgagee. As used herein, the term "acquisition" shall mean the date of the execution and delivery of a sheriff's or trustee's deed for such Lot or the execution and delivery of a deed in lieu of foreclosure for such Lot.

Section 13.2. Certain Prohibited Amendments. Unless at least two-thirds (2/3) of the Owners (other than Declarant) of the individual Lots plus a minimum of seventy-five percent (75%) of the total Membership of the Association (including Class A and Class B Members) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area property owned, directly or indirectly, by the Association or other entity for the benefit of the Units or or about the Property (the granting of easements for public utilities or other public purposes consistent with the intended use of such Common Area property shall not be deemed a transfer within the meaning of this clause);

(b) Change the method of determining the obligations, Assessments, dues or other charges which may be levied against a Lot Owner;

(c) Use hazard insurance proceeds for losses to any of the Common Area property for other than the repair, replacement or reconstruction of such Common Area property;

(d) By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Units, the exterior maintenance of Units, the maintenance of the Common Area property, Party Walls or Fences and driveways or the upkeep of lawns and plantings in the Development, all as established by Declarant; or

(e) Fail to maintain fire and extended coverage on insurable development Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs).

Section 13.3. Certain Remedies of First Mortgagees. First Mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area property and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 13.4. Condemnation. No provision of the Constituent Documents shall give a Lot Owner, or any other party, priority over any rights of the First Mortgagee of a Unit pursuant to its First Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of Lots.

Section 13.5. Default Notices. A First Mortgagee, upon written request, upon payment of a reasonable fee to be established by the Board from time to time, shall be entitled to writ-

ten notification from the Association of any default in the performance by the lot mortgagor, on such First Mortgagee's Mortgage, under the Constituent Documents, which is not cured within sixty (60) days.

Section 13.6. Access to Books and Records. First Mortgagees shall have the right upon reasonable request to examine the books and records of the Association at reasonable times.

Section 13.7. Certain Remedies Applicable to First Mortgagees. An action to abate the breach of any of the covenants, restrictions, reservations and conditions created or imposed by this Declaration may be brought against the purchasers who have acquired title through foreclosure of a First Mortgage and the subsequent sheriff's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Unit or Lot.

Section 13.8. Voting Rights. During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the First Mortgagee, or a receiver appointed in any such action, may, but need not, exercise any or all of the rights and privileges of the Owner in default of a Unit including, but not limited to, the right to vote as a Member of the Association in the place and stead of the defaulting Owner.

Section 13.9. First Mortgagees to Pay Assessment After Delivery of Deed. At such time as the First Mortgagee shall become record Owner of a Lot (or upon execution and delivery of a sheriff's or trustee's deed or deed in lieu of foreclosure only in the case of Assessments) and entitled to possession, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all Assessments and charges accruing thereafter, in the same manner as any other Owner.

Section 13.10. Miscellaneous. Notwithstanding and prevailing over all other provisions hereof, no amendment to this Declaration shall be made or become effective which in any way affects, diminishes or impairs any of the rights, privileges or powers granted to any First Mortgagee under this Article XIII without the prior written consent of the First Mortgagees affected by such an amendment. Subject to the rights of the Master Association, First Mortgagees shall have the right to enforce against Owners, the Association and all others, any and all provisions of this Declaration including, without limitation, this Article XIII. Enforcement by First Mortgagees may be by injunction, mandatory or prohibitory, or any other lawful procedure. The Articles of Incorporation, Bylaws and all rules and regulations of the Association shall be governed by this Declaration and all provisions thereof which are inconsistent herewith shall be void.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.1. 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.

Section 14.2. Severability. Invalidation of any one of the covenants or restrictions herein contained by judgment or court order shall in no way affect any other provisions of this Declaration which shall remain in full force and effect.

Section 14.3. Term and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date the Master Declaration was recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless revoked at the end of any such respective period by written instrument requiring the same approval as amendments below and the written consent of all First Mortgagees. Any amendment during the first thirty (30) year period, or thereafter during any successive ten (10) year period, shall require an instrument signed by the Owners of at least two-thirds (2/3) of individual Lots plus, so long as the Class B Membership exists, a minimum of seventy-five percent (75%) of the total Membership (determined with respect to votes) of the Association (including Class A and Class B Members). Prior to sale of the first Lot by the Developer to a bona fide purchaser, the Developer shall have the right to amend this Declaration. To the extent set forth in the Tract Declaration, this Declaration shall be deemed modified to the extent that the Master Board amends the Tract Declaration as set forth in Paragraph 12 thereof, and any change, modification or deletion pursuant thereto shall be effective on all persons acquiring any interest in any Lot or Unit on or after the date of the Tract Declaration. No amendment shall be made which will alter or modify the rights of the First Mortgagee of any Lot without the consent of the affected First Mortgagee or affect the rules, regulations or restrictions of any governmental agency or instrumentality acquiring any mortgage or participation interest therein on any Lot. All amendments must be recorded.

Section 14.4. Violations and Nuisance. 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 Declarant, the Association or any Owner or Owners of Lots within the Property or any other party having a proprietary interest in the Property.

Section 14.5. Violation of Law. Any violation of any state, municipal or local law, ordinance or requisition, 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 in this Declaration.

Section 14.6. Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive.

Section 14.7. 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 forty-eight (48)

hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows:

To the Association: c/o Secretary of the Board
(at the address of which each Owner has received notice)

To the Architectural Committee: c/o Secretary of the Board
(at the address of which each Owner has received notice)

if to an Owner, to the address of any Lot within the Property owned, in whole or in part, by him or to any other address last furnished by an Owner to the Association; and if to Declarant, c/o Wen-Clay International, Inc., 8665 Via de Ventura, Suite F-250, Scottsdale, Arizona, 85258; provided, however, that any such address may be changed at any time by the party concerned 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.

Section 14.8. Perpetuity Savings. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be: (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 14.9. Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 14.10. Interpretation.

(a) Unless the context otherwise indicates, words used in the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience of reference only and shall be deemed to mean and include any and all other genders as the context may require.

(b) Headings of Articles and Sections herein and the Index hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All accounting terms not otherwise defined herein shall have the meanings assigned to them under generally accepted accounting principles at the time such term is being construed.

Section 14.11. Rights of Master Declarant. If Master Declarant becomes the owner of all or any part of the Property by reason of any option or right of first refusal held by Master Declarant to purchase all or any part of the Property, Master Declarant shall have the right to elect to become Declarant under

this Declaration and to succeed to all rights, options and duties of Declarant hereunder; provided, however, that: (i) Master Declarant shall not become Declarant hereunder and shall not succeed to any of the rights, options or duties of Declarant unless Master Declarant so elects by written instrument recorded in the Office of the Maricopa County Recorder; (ii) if such an election is recorded, Master Declarant shall have no liability for any actions taken by Declarant prior to the recording of such election; and (iii) if at the time of the recording of such election, Declarant, its successors or assigns, still own any unimproved Lots, Declarant shall not be required to obtain the approval of the Board for the construction of Improvements on the unimproved Lots owned by Declarant.

Section 14.12 Approval. Any approvals or waivers called for in this document from the Board, the Association or the Architectural Committee shall not be effective nor shall the same bind the Master Board, the Master Architectural Committee or the Master Association until such a waiver or approval is obtained, if necessary, pursuant to the Master Declaration, from such bodies. In addition, any waivers or approvals from the Master Association, the Master Board or the Master Architectural Committee shall not bind the Board, the Architectural Committee or the Association unless a like approval is sought from such parties if required pursuant to this Declaration.

Section 14.13 Approval By Lender. American West Mortgage Services, Inc., designated as "Lender" hereinafter, and its trustee under a deed of trust presently encumbering the Property, has executed and agreed to and approved this Declaration for the purpose of allowing the conveyance, free and clear of its lien, of the Common Area to the Association by virtue of the execution and delivery of the Plat and to agree to and confirm all of the terms and conditions hereof.

Section 14.14 The Declaration. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within 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 real property covered hereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees 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.

84 368308

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this
9th day of July, 1984 by William Clayton and Joan E.
Clayton, his wife for the purposes therein stated.

Mary D. Crowley
Notary Public

My commission expires:

Aug 23, 1984

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this
9th day of July, 1984 by Richard E. Wensel and Delyce Wensel,
his wife, for the purposes therein stated.

Mary D. Crowley
Notary Public

My commission expires:

Aug 23, 1984

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this
9th day of July, 1984 by Bill Bass as President
of American West Mortgage Services, Inc., an
Arizona corporation, for the purposes therein stated.

Mary D. Crowley
Notary Public

My commission expires:

Aug 23, 1984

84 368308

IN WITNESS WHEREOF, the undersigned, collectively being the Declarant herein, have jointly and severally hereunto set their hands this 9th day of July, 1984.

Thomas Cullen Davis
Thomas Cullen Davis, a married man dealing with his sole and separate property

William J. Clayton
William J. Clayton

Richard E. Wensel
Richard E. Wensel

Joan E. Clayton
Joan E. Clayton, his wife

Deiye Wensel
Deiye Wensel, his wife

AGREED TO AND ACCEPTED:

AMERICAN WEST MORTGAGE SERVICES, INC.
(Lender)

By [Signature]
Its President

TEXAS)
STATE OF ARIZONA)
Tarrant)ss.
County of ~~ARIZONA~~)

The foregoing instrument was acknowledged before me this 6th day of July, 1984 by Thomas Cullen Davis, a married man, dealing with his sole and separate property, for the purposes therein stated.

Santa M. Morgan
Notary Public

My commission expires:

December 31, 1984

STEWART TITLE & TRUST OF PHOENIX,
a Delaware corporation, as Trustee
pursuant to Deed of Trust recorded
March 29, 1984, Records of Maricopa
County, Arizona, as Instrument
No. 84-130216

THE GAINNEY RANCH COMMUNITY
ASSOCIATION, an Arizona
non-profit association,

By: Royce Thomas
Its: Senior Vice President

By: Stephen J. Brumm
Its: SECRETARY

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this
20th day of August, 1984, by Royce Thomas
as Senior Vice President of Stewart Title & Trust of Phoenix,
Inc., a Delaware corporation, for the purposes therein stated.

Mary D. Crackley
Notary Public

My Commission Expires:
August 23, 1984

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this
3rd day of August, 1984, by Stephen J. Brumm
as SECRETARY/TREASURER of The Gainney Ranch Community
Association, an Arizona non-profit association, for the purposes
therein stated.

Mary D. Crackley
Notary Public

My Commission Expires:
Aug 23, 1984