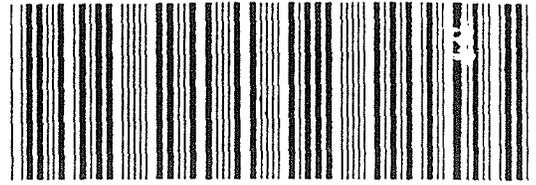


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THIRD AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND EASEMENTS
FOR
SAN MARCOS COUNTRY CLUB ESTATES
A PLANNED COMMUNITY

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THIRD AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
FOR SAN MARCOS COUNTRY CLUB ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter "Declaration") is dated September 29, 1993, and is made by FOCUS DEVELOPMENT CORPORATION, an Arizona corporation, (hereinafter "Declarant").

W I T N E S S E T H

WHEREAS, Declarant holds legal title to a portion of the real property located in Chandler, Maricopa County, Arizona, known as "San Marcos Country Club Estates," which real property is described on Exhibit "A" attached to this Declaration and incorporated herein by this reference hereinafter the "Property" or the "Covered Property"; and

WHEREAS, said Property was the subject of that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for San Marcos Country Club Estates recorded at Instrument No. 93-0460783, which superseded and revoked that certain Declaration of Covenants, Conditions and Restrictions for San Marcos Country Club Estates recorded at Instrument No. 92-0259876 (collectively "Prior Declaration");

WHEREAS, pursuant to Section 10 of the Prior Declaration, that Prior Declaration may be amended, restated or revoked by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots and the Declarant is the Owner of not less than seventy-five percent (75%) of the Lots encumbered by such Prior Declaration of Covenants, Conditions and Restrictions; and; and

WHEREAS, Declarant does hereby intend to amend, restate and replace the Prior Declaration with the covenants, conditions, restrictions and easements contained herein; and

WHEREAS, Declarant desires to subdivide and develop San Marcos Country Club Estates into a planned residential community which, at full development, the Declarant intends, without obligation, to include several residential developments; and

WHEREAS, as the development of San Marcos Country Club Estates proceeds, Declarant intends, without obligation, to record various subdivision plats; to dedicate portions of San Marcos Country Club Estates to the public for drainage, to sell parcels to various builders; and to record Tract Declarations

covering portions of San Marcos Country Club Estates, which portions of San Marcos Country Club Estates may be used and may set forth additional covenants, conditions and restrictions applicable to such portions of San Marcos Country Club Estates; and

WHEREAS, Declarant intends or may intend, without obligation, to annex additional land into the San Marcos Country Club Estates planned community, which land is defined and described as "Annexation Property" in Article I. hereafter; and

WHEREAS, Declarant desires to form a nonprofit corporation (hereinafter the "Association") which will (1) own, manage and maintain the Common Areas and certain other areas in San Marcos Country Club Estates; (2) levy, collect and disburse the Assessments and other charges imposed hereunder; and (3) as the agent and representative of San Marcos Country Club Estates Owners, enforce the use restrictions and other provisions of this Declaration; and

WHEREAS, the Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners or other holders of an interest in any portion of San Marcos Country Club Estates, certain mutually beneficial covenants, restrictions and obligations of San Marcos Country Club Estates; and

WHEREAS, Declarant desires and intends that the Owners, mortgagees, beneficiaries, trustees and other persons hereafter acquiring any interest in San Marcos Country Club Estates, shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of San Marcos Country Club Estates; and

WHEREAS the Declarant therefore wishes to subject all of San Marcos Country Club Estates to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements (hereinafter collectively called "Covenants") hereinafter set forth, which Covenants shall run with the land and shall be binding upon and inure to the benefit of all parties having any right, title or interest in San Marcos Country Club Estates; and

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

ARTICLE I

DEFINITIONS

1.1 "Additional Covenants" shall mean the covenants, conditions restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements in addition to those provided for in this Declaration, which are provided for in any Tract Declaration, contract, deed, declaration or other instrument Recorded by Declarant.

1.2 "Annexation Property" shall mean all or any portion of the real property and any improvements located thereon as more fully described in Article XIV hereof, which may be added to San Marcos Country Club Estates, and made subject to this Declaration, in one or more additional phases.

1.3 "Annual Assessment" shall mean the charge levied and assessed each year against each Lot, Parcel and Owner pursuant to Paragraph 7.2 hereof.

1.4 "Architectural Committee" shall mean the Architectural Committee of the Association to be created pursuant to Article XI below.

1.5 "Architectural Guidelines" or "Design Guidelines" shall be established by the Architectural Committee and shall include design standards for the appearance and development of property in San Marcos as well as the review and approval procedures for the Committee.

1.6 "Articles" shall mean the Articles of Incorporation of the Association as amended from time to time.

1.7 "Assessable Property" shall mean any Lot or Parcel in San Marcos Country Club Estates covered by a recorded Tract Declaration, except part or parts thereof as may from time to time constitute Exempt Property.

1.8 "Assessment" or "Assessments" shall mean an Annual Assessment, Special Assessment, Parcel Assessment, Maintenance Charge, Special Use Fee, or any other fees, fines or charges assessed hereunder.

1.9 "Assessment Lien" shall mean the lien created and imposed by Article VII.

1.10 "Assessment Period" shall mean the term set forth in Paragraph 7.7.

1.11 "Association" shall mean the Arizona nonprofit corporation to be organized by Declarant to administer and

enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, and its successors and assigns. Declarant intends to name the Association the "SAN MARCOS COUNTRY CLUB ESTATES HOMEOWNERS ASSOCIATION."

1.12 "Board" shall mean the Board of Directors of the Association.

1.13 "Bylaws" shall mean the Bylaws of the Association as amended from time to time.

1.14 "Common Area and Common Areas" shall mean (1) all land within San Marcos Country Club Estates which the Declarant, by this Declaration or other recorded instrument, makes available for use exclusively by Members of the Association; (2) all land within San Marcos Country Club Estates which the Declarant indicates on a recorded subdivision plat or Tract Declaration is to be used for landscaping, drainage, and/or flood control for the benefit of San Marcos Country Club Estates; (3) all land or right-of-way easements within San Marcos Country Club Estates which are dedicated to the public or to the City of Chandler, but which the City of Chandler or other governmental agency requires the Association to maintain; (4) areas on a Lot or Parcel within easements granted to the Association or its Members for the location, construction, maintenance, repair and replacement of a wall, which easement may be granted or created on a recorded subdivision plat or Tract Declaration or by a deed or other conveyance accepted by the Association; (5) all land or right-of-way which is devoted to private streets or accessways subject to an easement for emergency vehicle access and refuse collection; and (6) any other areas with respect to which the Association has assumed in a recorded document or instrument administrative or maintenance responsibilities, whether or not such areas are located on a Lot or Parcel.

1.15 "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

1.17 "Covered Property" shall mean the property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, plus any property which is annexed into the San Marcos Country Club Estates development in accordance with Article XIV of this Declaration.

1.16 "Declarant" shall mean FOCUS DEVELOPMENT CORPORATION, an Arizona corporation, and the successors and assigns of the Declarant's rights and powers hereunder. Any assignment of all or any portion of the Declarant's rights and powers shall be made by a recorded instrument executed by the assignor Declarant.

1.17 "Declaration" shall mean this THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAN MARCOS COUNTRY CLUB ESTATES, as amended or supplemented from time to time.

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

1.19 "Exempt Property" shall mean the following parts of San Marcos Country Club Estates:

(a) All land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Maricopa County, the City of Chandler or any political subdivision thereof, for as long as any such governmental entity or political subdivision is the owner thereof or for so long as said dedication remains effective; provided, however, that any such land shall be Exempt Property only while it is being used by the governmental entity owner for governmental purposes.

(b) All Common Area, for as long as the Association is the owner thereof.

(c) Any and all residential areas designated in a recorded subdivision plat, deed, Tract Declaration, or other declaration as an area to be used in common by the Owners and Residents of such subdivision.

(d) Property owned by a public or private utility company, (or leased to such company) which is utilized in the provision of utility services to all or portions of the Property and the Owners or occupants thereof, but only if and to the extent designated as Exempt Property in the applicable Tract Declaration.

(e) Property which, because of its history and its location adjacent to the Covered Property, makes it uniquely suited to participate in some manner with the development of San Marcos Country Club Estates as a cohesive residential neighborhood.

Unless otherwise set forth in an applicable Tract Declaration, all Exempt Property shall be exempt from Assessments and Membership in the Association and its associated privileges and responsibilities, but shall nevertheless be subject to all other provisions of this Declaration, including but not limited to, the use restrictions and architectural controls. The Board may restrict or prohibit the use of the Common Areas (except any rights-of-way or drainage areas owned by the Association) by the

Owners of Exempt Property. This Subsection 1.25 may not be amended without the approval of any and all Owners of Exempt Property affected by the amendment.

1.20 "Lot" shall mean any area of real property within San Marcos Country Club Estates designated as a Lot on any subdivision plat approved by Declarant, recorded and limited by a Tract Declaration to single-family residential use.

1.21 "Maintenance Charges" shall mean any and all costs assessed pursuant Paragraphs 10.2 and 10.3.

1.22 "Member" shall mean any person holding a Membership in the Association pursuant to this Declaration.

1.23 "Membership" shall mean a Membership in the Association and the rights granted to the Owners and Declarant pursuant to Article VI to participate in the Association.

1.24 "Owner" (when so capitalized) shall mean the record holder of legal, beneficial or equitable title to the fee simple interest of any Lot or Parcel, including, without limitation, one who is buying a Lot or Parcel under a recorded contract, but excluding others who hold such title merely as security. Owner shall not include a lessee or tenant of a Lot or Parcel. In the case of Lots or Parcels the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the Trustor. In the case of Lots or Parcels the fee simple title to which is vested in a trustee pursuant to a trust agreement in the beneficiary of any such trust entitled to possession shall be deemed to be the Owner. An Owner shall include any person who holds record title to a Lot or Parcel in joint ownership with any other person or holds an undivided fee interest in any Lot or Parcel.

1.25 "Parcel" shall mean an area of real property within San Marcos Country Club Estates as to which a Tract Declaration has been recorded designating the area for single-Family residential use, but which has not yet been subdivided into Lots and related amenities and rights-of-way. Any such area shall cease to be a Parcel upon the recordation of a subdivision plat or other instrument covering the area and creating Lots and related amenities. Notwithstanding the foregoing provisions, a Parcel shall not include a Lot or any Common Area, but, in the case of staged developments, shall include the area not yet included in a subdivision plat, declaration of condominium or other recorded instrument creating Lots and related amenities.

1.26 "Parcel Assessment" shall mean an assessment levied against less than all of the Lots and Parcels in San Marcos

Country Club Estates pursuant to Paragraph 7.12 of the Declaration.

1.27 "Parcel Assessment Area" shall mean any part of San Marcos Country Club Estates designated in a Tract Declaration or on a recorded plat approved by the Declarant in a recorded instrument as an area which is to be maintained, repaired, and replaced by the Association, but which is for the sole or primary benefit of the Owners of less than all of the Lots and Parcels in San Marcos Country Club Estates.

1.28 "Party Walls" shall mean a wall constructed on or immediately adjacent to the common boundary of Lots, Parcels, Common Areas or other areas in San Marcos Country Club Estates.

1.29 "Resident" shall mean:

(a) Each buyer under a contract of sale covering any part of the Assessable Property, regardless of whether the contract is recorded, and each tenant or lessee or any live-in household employee actually residing on any part of the Assessable Property; and

(b) Members of the immediate family of each Owner, lessee, tenant, live-in household employee, and of each buyer referred to in subparagraph (1) actually living in the same household with such Owner, lessee, tenant or buyer.

Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special non-resident fees for use of Common Area if the Association shall so direct), the term "Resident" also shall include the guests or invitees of any such Owner, lessee, buyer or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.30 "San Marcos Country Club Estates" shall mean the real property described on Page 1 and Exhibit A of this Declaration and the development to be completed thereon, together with any real property hereafter annexed pursuant to the provisions of this Declaration.

1.31 "San Marcos Country Club Estates Rules" or "Rules" shall mean the rules for San Marcos Country Club Estates as may be adopted by the Board pursuant to Paragraph 5.3.

1.32 "Single Family" shall mean an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Dwelling Unit.

1.33 "Special Assessment" shall mean any assessment levied and assessed pursuant Paragraph 7.5.

1.34 "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Resident or any other person is obligated to pay to the Association over, above and in addition to any Annual, Parcel and Special Assessments or Maintenance Charges imposed or payable hereunder. The amount of any Special Use Fee shall be determined in the Board's sole discretion, provided all such Fees must be fair and reasonable.

1.35 "Tract Declaration" shall mean a declaration recorded pursuant to Paragraph 4.1 of this Declaration.

1.36 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object, or any portion thereof, is or would be visible to a person six feet tall standing on any portion of the adjoining Lot or adjoining Common Area, on the same plane as the object being viewed.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.1 General Declaration. Declarant hereby declares that all of San Marcos Country Club Estates (except any property which is hereafter excluded or abandoned pursuant to the provisions of this Declaration) 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. In addition, all of the real property within San Marcos Country Club Estates shall be subject to recorded Tract Declarations as applicable and as amended from time to time. Declarant intends to develop San Marcos Country Club Estates by subdivision into various Lots, Parcels and other areas and to sell and convey such Lots and Parcels. As portions of San Marcos Country Club are developed or sold to others for development, Declarant shall record one or more Tract Declarations covering such property. Said Tract Declarations will specify the permitted uses of property described therein (in accordance with Article IV hereof) and will incorporate this Declaration and establish such additional covenants, conditions and restrictions as may be appropriate for that property. This Declaration and all subsequent Tract Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of San Marcos Country Club Estates and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of San Marcos Country Club Estates and every part thereof. All of this Declaration and applicable Tract Declarations shall run with the land for all

purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and Residents and their successors in interest. This Declaration shall not be construed to prevent the Declarant from dedicating or conveying portions of San Marcos Country Club Estates, including streets or roadways, for uses other than as a Lot, Parcel, Common Area or Association Land, subject to the provisions of Paragraph 4.1.

2.2 Association Bound. Upon approval by the Arizona Corporation Commission of Articles of Incorporation of the Association, the Covenants shall be binding upon and shall benefit the Association.

2.3 Restatement and Replacement. This Third Amended and Restated Declaration restates and replaces that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for San Marcos Country Club Estates recorded at Instrument No. 93-0460783 which superseded and revoked that certain Declaration of Covenants, Conditions and Restrictions for San Marcos Country Club Estates recorded at 92-0259876, said Amended and Restated Declarations to have no further force and effect and are hereby terminated.

2.4 Reserved Rights. Notwithstanding any provision of this Declaration to the contrary, no Owner within the Property does hereby, or by agreement, relinquish any right the Owner may have or had to use private roadways within the Property or rights the Owner had or may have to access via San Marcos Drive north to Dakota or Buffalo Streets or at the Boston Street entrance which are granted by provision of the San Marcos Fairways plat (Book 20 of Maps, Page 33, Official Records of Maricopa County) and San Marcos Fairways Replat (Book 122 of Maps, Page 37, Official Records of Maricopa County).

ARTICLE III

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

3.1 Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment in and to the Common Areas which nonexclusive easement shall be appurtenant to and shall pass with the title to every Lot and Parcel. All Residents, other than Owners, shall have a nonexclusive, nontransferable temporary easement to use and enjoy the Common Areas so long as they remain Residents. The foregoing grant and rights are subject, among other things, to the following limitations:

- (a) The right of the Association to charge reasonable admission and other Special Use Fees for the use of any recreational facility situated upon the Common Areas.

(b) The right of the Association to suspend the voting rights and right to use Common Area recreational facilities by any Member (i) for any period during which any Assessment against his Lot or Parcel remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, a Tract Declaration, the San Marcos Country Club Estates Rules or Architectural Guidelines, and (iii) for successive 60-day periods if any such infraction is not corrected during any preceding 60-day suspension period.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument signed by the Owners of two-thirds (2/3) of the Memberships in each class of Members agreeing to such dedication or transfer has been recorded, except that the Board shall have authority without Membership approval to transfer to such public agencies, authorities or utilities, easements and rights-of-way which are intended to benefit San Marcos Country Club Estates and which do not have any substantial adverse affect on the enjoyment of the Common Areas by the Members.

(d) The right of the Association to regulate the use of the Common Areas through the San Marcos Country Club Estates Rules and to prohibit access to those Common Areas, such as landscaped areas, not intended for use by the Owners or residents.

(e) The right of the Association to change the use of Common Areas and to change the size, shape or location of the Common Areas as provided in Paragraphs 12.4 and 12.5.

3.2 Delegation of Use. Any Owner may, in accordance with this Declaration, San Marcos Country Club Estates Rules and the limitations therein contained, delegate his right of enjoyment in the Common Areas and facilities to the members of his family, his tenants or lessees, his guests or invitees or to his tenant's family, guests or invitees.

3.3 Rights of Ingress and Egress. Every Owner shall have an unrestricted right of ingress and egress to his Lot(s) and/or Parcel(s) (which right shall be perpetual and shall be appurtenant to and shall pass with the title to said Lot(s) or Parcel(s)) over the following areas:

(a) for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas; and

(b) for pedestrian and vehicular traffic over, through and across the Common Area private streets and roadways, if any, which are designated and paved for such purpose.

Any Owner may, in accordance with this Declaration and the San Marcos Country Club Estates Rules, delegate his right of ingress and egress to the members of his family, his guests, his household staff and his tenants (including his tenant's family and guests).

3.4 Easements for Encroachments. Each Lot and Parcel, the Common Areas, and all other areas in San Marcos Country Club Estates shall be subject to an easement of not more than eighteen (18) inches for encroachments of walls, ledges, roofs and other structures created by construction, settling and overhangs as originally designed and constructed by the Declarant or other developer. If any such improvement on the Common Areas encroaches upon any Lot, Parcel or other area, or if any such improvement on any Lot, Parcel or other area encroaches upon any portion of the Common Areas, or if any such improvement on any Lot, Parcel or other area encroaches upon another Lot, Parcel or other area, a valid easement for said encroachments and for the maintenance thereof shall exist. In the event any structure on any Lot, Parcel, Common Area or other area is repaired, altered or reconstructed in accordance with the original plans and specifications, similar encroachments shall be permitted and a valid easement for said encroachments and for the maintenance thereof shall exist.

ARTICLE IV

USE RESTRICTIONS

4.1 Covenants Applicable to Lots, Parcels and Other Areas. Except as otherwise expressly provided herein, the following Covenants and rights shall apply to all Lots, Parcels and other areas in San Marcos Country Club Estates, and the Owners, Residents and tenants thereof, whether or not a Tract Declaration has been recorded on said property:

4.1.1 Architectural Control. Except as otherwise expressly provided in this Declaration, the Architectural Guidelines or any applicable Tract Declaration which has been approved by the Declarant, (i) no improvements (whether temporary or permanent), alterations, repairs, excavation, grading, lighting, landscaping or other work which in any way alters the exterior appearance of any property within San Marcos Country Club Estates or improvements thereon from its natural or improved state existing on the date this Declaration is recorded shall be made or done, and (ii) no building, fence, exterior wall, residence or other structure

shall be commenced, erected, maintained, improved, altered or made without the prior written approval of the governing Architectural Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade, lighting or landscaping of any area in San Marcos Country Club Estates, shall be subject to the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the governing Architectural Committee shall be made without the prior written approval of the Architectural Committee. Once construction of an improvement has been commenced on the Property, Owner shall diligently pursue completion of such improvement in accordance with approved plans. The Declarant shall be exempt from the requirements of this Subsection and therefore all improvements, alterations, repairs, excavation, grading, lighting, landscaping or other work performed, constructed or installed by the Declarant shall be deemed approved by the Architectural Committee. Such review shall be in addition to any or all review, regulation, ordinance, rule, requirement, or permit, imposed by any governmental agency.

4.1.2 Animals. No animals, birds, fowl or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot, Parcel or other area in San Marcos Country Club Estates and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept in a fenced yard or on a leash at all times. No animal, bird, fowl, poultry or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance or an annoyance to other Owners. It shall be the responsibility of each Owner to remove immediately any droppings from their pets.

4.1.3 Temporary Occupancy and Temporary Buildings. No trailer, incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures may be used on any property for construction, repair or sales purposes, with the prior written approval of the Architectural Committee and for the time period approved by the Architectural Committee.

4.1.4 Maintenance of Landscaping and Driveways. Unless otherwise provided in a recorded instrument approved by Declarant or the Association, each Owner shall be responsible for the proper maintenance of all landscaping in the following locations: (i) his Lot or Parcel (including set back areas and Common Areas located thereon); (ii)

portions of Common Area adjacent to the Owner's Lot or Parcel and which lie on the Lot's or Parcel's side of a wall erected on the Common Area; and (iii) other public or easement areas adjacent to his Lot or Parcel. However, in the event the maintenance of the above areas is the responsibility of the Association, a utility, or a governmental or similar authority, then the Owners shall be responsible for such maintenance only for so long as such other entities are not performing such maintenance. As used herein maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free from trash, weeds and unsightly material. Each Owner will be required to comply with Design Guidelines for landscaping and approved plant palette established by the Architectural Committee, including but not limited to specific plant selections and the timing of landscape installation. Each Owner shall also maintain in good condition and repair all paved and concrete areas, including driveways, roadways, sidewalks and parking areas, located on his Lot or Parcel.

4.1.5 Nuisances; Construction Activities. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Parcel or other area in San Marcos Country Club Estates, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot, Parcel or other area in San Marcos. The Architectural Committee shall have the exclusive right to determine the existence of any nuisance. Without limiting the generality of any of the foregoing provisions and except as otherwise permitted herein or in any recorded Tract Declaration, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. Normal construction activities and parking in connection with the building of improvements in San Marcos Country Club Estates shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and Parcels shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the governing Architectural Committee. An Owner shall be responsible for and shall promptly perform all on-site and construction cleanup occasioned by his contractors or subcontractors. In addition, any construction equipment and building materials stored or kept on any Lot or Parcel during construction of

improvements may be kept only in areas approved by the governing Architectural Committee, which may also require screening of the storage areas.

4.1.6 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot, Parcel or other area which shall induce, breed or harbor diseases or insects.

4.1.7 Repair of Building. No building or structure on any area in San Marcos Country Club Estates shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Subsection 4.1.1 above, such building or structure shall be promptly repaired, rebuilt or demolished. In the event an Owner fails to comply with this provision, the Board may give notice to the offending Owner, and may then proceed to repair the building or improvement and charge the Owner therefore as permitted in Paragraph 10.3.

4.1.8 Exterior Accessories. No antenna, satellite receiving station or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any area in San Marcos Country Club Estates (whether attached to a building or structure or otherwise) so as to be Visible from Neighboring Property, unless approved by the Architectural Committee. No basketball backboards, goals or flagpoles shall be installed so as to be Visible From Neighboring Property, unless approved by the Architectural Committee.

4.1.9 Mineral Exploration. No area in San Marcos Country Club Estates shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

4.1.10 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, Parcel or other area in San Marcos Country Club Estates except in covered containers of a type, size and style which are approved by the Architectural Committee. Unless otherwise approved by the Architectural Committee, such containers shall be maintained and stored so as to not be Visible From Neighboring Property except to make the same available for collection. All rubbish, trash and garbage shall be removed from the Lots, Parcels and other areas in San Marcos Country Club Estates and shall not be allowed to accumulate thereon.

No outdoor incinerators shall be kept or maintained in San Marcos Country Club Estates.

4.1.11 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be placed or maintained in San Marcos Country Club Estates unless they are not Visible From Neighboring Property.

4.1.12 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained in San Marcos Country Club Estates, except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of an approved building, appurtenant structures, or other improvements; (ii) that which Declarant or the Association may require for the operation and maintenance of San Marcos Country Club Estates; or (iii) that used or displayed in connection with any business permitted under a Tract Declaration. Solar energy devices may not be Visible From Neighboring Property and must be approved by the Architectural Committee prior to installation.

4.1.13 Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot or Parcel shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot or Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Declarant or the Architectural Committee. This provision shall not, in any way, limit Declarant from subdividing or separating into Lots or Parcels any property at any time owned by Declarant. Unless otherwise approved by the Declarant, no buildings or other permanent structures shall be constructed on any area in San Marcos Country Club Estates until a Tract Declaration has been recorded on such property. No subdivision plat, Tract Declaration or further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any property in San Marcos Country Club Estates unless the provisions thereof have first been approved in writing by the Declarant while the Declarant still owns property within San Marcos Country Club Estates or the Architectural Committee and any plan, Tract Declaration or other covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. Once a Parcel has been subdivided into Lots by a recorded plat, that Parcel may not be re-subdivided into a greater number of Lots without the approval of the Declarant. No application for rezoning of any Lot or Parcel, and no applications for variances or use

permits shall be filed with any governmental authority unless the proposed use of the property has been approved by the Declarant or the Architectural Committee and the proposed use otherwise complies with this Declaration, any applicable Tract Declaration and the general plan of development for San Marcos Country Club Estates.

4.1.14 Utility Service and Easements. There is hereby created a blanket easement upon, across, over and under San Marcos Country Club Estates, for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television cable or communication lines and other systems as such utilities are installed in connection with the initial development of San Marcos Country Club Estates. Pursuant to this easement, a providing utility or service company may install or maintain facilities or equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the property. Notwithstanding anything to the contrary contained in this Subsection, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any area in San Marcos Country Club Estates except as initially programmed and approved by the Declarant or the Architectural Committee, or, if installed after recordation of the Tract Declaration, as approved by the Owner and the Architectural Committee.

4.1.15 Party Walls. Except as hereinafter provided, the rights and duties of Owners of contiguous properties which have Party Walls shall be as follows:

4.1.15.1 Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment thereof.

4.1.15.2 If a Party Wall is damaged or destroyed through the act or failure to act of an Owner or any of his tenants, 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 to promptly rebuild and repair the Party Wall without cost to the Owner of the adjoining property.

4.1.15.3 In the event any Party Wall is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act or failure to act of an adjoining Owner, his tenants, agents, guests or family, it shall be the obligation of

all Owners whose properties adjoin such Party Wall to rebuild and repair such Wall at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their respective properties on the damaged or destroyed Party Wall.

4.1.15.4 In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be binding. Notwithstanding any such decision, an Owner may seek indemnity from any party causing the damage.

4.1.15.5 Notwithstanding the foregoing and unless otherwise indicated in an applicable Tract Declaration or other recorded document, in the case of Party Walls (1) between Common Areas and Lots or Parcels, or (2) constructed by the Declarant or the Association on Common Areas within a Lot or Parcel, the Association shall be responsible for all maintenance thereof, subject to the provisions of Paragraphs 10.2 and 10.3; except that each Owner of a Lot or Parcel shall remain responsible for painting and maintaining the surface of the portion of the Party Wall facing his Lot or Parcel and/or the portion of the Party Wall which is not a portion of the Common Area, and except that an adjoining Owner shall reimburse the Association for one-half of the costs incurred by the Association for any structural repair of the Party Wall located on that Owner's property.

4.1.15.6 The provisions of this Subsection 4.1.15 shall not apply to any Party Wall which separates the interiors of two Dwelling Units or to any Party Wall which also constitutes an exterior wall of a Dwelling Unit. The rights of the Owners of such Dwelling Units with respect to such Party Walls shall be governed by the applicable Tract Declaration, by any additional covenants or by the plats recorded by the developer of the Dwelling Units.

4.1.16 Perimeter Walls. Perimeter walls and other fencing shall be constructed in accordance with Design Guidelines to be promulgated by the Architectural Committee. All fences adjoining the Common Areas, golf course, parks or drainage ways shall be constructed and maintained in accordance with specifications established by the Architectural Committee for the purpose of preserving and protecting the views from adjoining properties and shall be maintained by the Association except that each Owner shall remain responsible for painting and maintaining the surface

of the portion of the perimeter wall facing his Lot or Parcel and except that the Owner shall reimburse the Association for one-half of the costs of any structural repair of that portion of the perimeter wall located on that Owner's property or on or near that Owner's property boundary. The Board shall have sole discretion with respect to the maintenance of the exterior surface facing the private streets and public right-of-way and the structural repair of the perimeter walls. The Association shall be responsible for the maintenance of

(i) all landscaping immediately outside the perimeter walls and fences and adjoining the private streets and public right-of-way, and

(ii) all areas immediately outside a perimeter wall and adjoining Common Area,

except any maintenance assumed by the Owner of the adjoining Lot or Parcel.

4.1.17 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in San Marcos Country Club Estates unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures, except for boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices. Notwithstanding the foregoing, no above ground electrical apparatus shall be installed without the approval of the Declarant or the Architectural Committee. All lines for the transmission of water and sewage shall also be installed and maintained underground or concealed in, on or under structures approved by the Architectural Committee. The installation and location of all utility lines and equipment must be approved in advance by the Declarant or the Architectural Committee. Temporary above ground power or telephone structures and water lines incident to construction activities, shall be permitted with the prior written approval of the Architectural Committee.

4.1.18 Trucks, Trailers, Campers and Boats. No motor vehicle (classed by manufacturer rating as exceeding 3/4-ton), mobile home, motor home, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle may be parked or stored on any area in San Marcos Country Club Estates so as to be Visible From Neighboring Property, Common Area or street for more than

four (4) consecutive days; provided, however, this provision shall not apply to (i) pickup trucks of less than 3/4-ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level and mini-motor homes not exceeding seven (7) feet in height and eighteen (18) feet in length which are used on a regular and recurring basis for basic transportation; or (ii) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Committee.

4.1.19 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot shall be allowed to veer, hang, or otherwise encroach upon any sidewalk, street, pedestrian way or other similar area from ground level to a height of seven feet (7') without the prior approval of the Architectural Control Committee established pursuant to this Declaration.

4.1.20 Motor Vehicles. No motor vehicle of any kind shall be constructed, reconstructed or repaired upon any Lot, Parcel, street or other area in San Marcos Country Club Estates, and no inoperable vehicle may be stored or parked so as to be Visible From Neighboring Property or to be visible from Common Areas or streets; provided, however, that this provision shall not apply to (i) emergency vehicle repairs; or (ii) the parking of motor vehicles in garages or other parking areas in San Marcos Country Club Estates designated or approved by the Declarant or the Architectural Committee so long as such vehicles are in good operating condition and appearance and are not under repair.

4.1.21 Parking. Each Lot shall have a garage which provides parking for at least two (2) motor vehicles. Vehicles of all Owners and Residents, and of their employees, guests and invitees, are to be kept in garages, and other parking areas designated or approved by the Declarant and the Architectural Committee; provided, however, this Paragraph shall not be construed to permit the parking or storing in the above described areas of any vehicle whose parking or storage in San Marcos Country Club Estates is otherwise prohibited herein. The San Marcos Country Club Estates Rules may permit temporary parking on private streets or other San Marcos Country Club Estates areas for private social events or other permitted activities.

4.1.22 Roofs; Tanks. All solar panel, air conditioning unit, evaporative cooler, heating, cooling or ventilation equipment or other apparatus, structure or object shall be screened from view and located so as not to be Visible From Neighboring Property, streets or Common

Areas. Roof-mounted heating, cooling and ventilation equipment shall be permitted to be placed on the roof of a Dwelling Unit only where complete visual screening is integral with the form and building materials of the building or structure upon which said equipment is located and such placement has been approved by the Architectural Committee. Any solar panel approved by the Architectural Committee for placement on a roof must be flush mounted if Visible From Neighboring Property. No elevated tanks of any kind shall be erected, placed or permitted upon any of the Lots. Any tanks for use in connection with any residential construction, including tanks for the storage of gas an fuel oil, must be buried or walled in or kept screened by adequate planting so it will not be Visible from Neighboring Property, streets, or Common Areas.

4.1.23 Window Treatments. Within one hundred and twenty (120) days of occupancy, each Owner of a Dwelling Unit shall install permanent draperies or suitable window treatments on all windows Visible From Neighboring Property. In no event shall windows be covered with paper, aluminum foil, bed sheets or any other materials or temporary coverings not specifically intended for such purpose. No interior or exterior reflective material shall be used as a window covering unless such material has been approved by the Architectural Committee. Further, no metal or rigid plastic awnings of any nature whatsoever shall be permitted to be placed or installed on or attached to the outside of any building or elsewhere on a parcel, except as has been approved by the Architectural Committee.

4.1.24 Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over his Lot or Parcel from or to any other Lot or Parcel as that pattern may be established or altered by the Declarant.

4.1.25 Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot or Parcel, any member of the Architectural Committee, any member of the Board or any authorized representative of either of them, shall have the right to enter upon and inspect any Lot, Parcel or other area, and the improvements constructed or being constructed thereon (except for the interior portions of any completed and occupied Dwelling Unit), to determine compliance with this Declaration, the Architectural Guidelines, or any approval stipulations issued by the Architectural Committee or to perform repairs and maintenance as provided in Paragraph 10.3, and such persons shall not be deemed guilty of trespass by reason of such entry. In addition, the Association shall have an easement and right of entry upon any Lot, Parcel or other

area at any time or times without notice in order to perform emergency repairs.

4.1.26 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant of structures, improvements or signs necessary or convenient to the development or sale of property within San Marcos Country Club Estates if those structures, improvements or signs have been approved by the Declarant and the Architectural Committee.

4.1.27 Health, Safety and Welfare. In the event additional uses, activities and facilities are deemed by the Architectural Committee to be a nuisance or to adversely affect the health, safety or welfare of Owners or Residents, the Architectural Committee may make rules restricting or regulating their presence in San Marcos Country Club Estates as part of the Architectural Guidelines.

4.1.28 Model Homes. The provisions of this Declaration and of Tract Declarations which prohibit nonresidential use of Lots and Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes and sales offices and parking areas incidental thereto by persons engaged in the construction or marketing of Dwelling Units in San Marcos Country Club Estates, provided that the location and the opening and closing hours of such model homes are approved by the Declarant and the Architectural Committee, and provided that the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Declaration and with the ordinances of the City of Chandler. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or builder thereof is not actively engaged in the construction and sale of Dwelling Units in San Marcos Country Club Estates and no home shall be used as a model home for the sale of homes not located in San Marcos Country Club Estates.

4.1.29 Leases. Any agreement for the lease of all or any portion of a Lot or Parcel must be in writing and must be expressly subject to this Declaration, the San Marcos Country Club Estates Rules, the Design Guidelines, the Articles and the Bylaws. Any violation of these documents shall be a default under the lease. An Owner shall notify the Association regarding the existence of all leases. The Owner shall remain liable for compliance with the Declaration, Articles, Bylaws, San Marcos Country Club Estates Rules, and Design Guidelines and shall be responsible for any violations thereof by his tenant or his tenant's family and guests. All notices shall be sent to the Owner.

4.1.30 Landscaping Limitations. All landscaping materials used on the Property, including individual Lots, Parcels and Common Areas shall be limited to plant materials from the list approved by the Architectural Committee. That portion of any Lot which is Visible From Neighboring Property, streets or Common Areas shall be completely landscaped and planted prior to issuance of a certificate of occupancy. All trees existing on any Lot at the time of purchase of said Lot shall remain in the location where situated at the time of said purchase except where the trees removal or relocation is required by the construction or installation of any improvement or facility upon said Lot.

4.1.31 Effect of Combining Lots. Notwithstanding anything contained herein to the contrary, an Owner who acquires two (2) or more contiguous Lots may combine those contiguous Lots for the purpose of erecting a single Dwelling Unit. At such time as a certificate of occupancy is issued for the Dwelling Unit, those Lots shall thenceforth be treated as one (1) Lot for purposes of voting and assessments and no further subdivision of such Lot shall be permitted.

4.2 Use Restrictions. The following Covenants shall apply to all Lots and the Owners and Residents thereof:

4.2.1 Residential Use. All Lots within the Property are hereby restricted to single family residential use and typical residential activities incidental thereto, such as the construction and use of private swimming pools, together with common recreational facilities or other common areas or amenities, if any. All Lots shall be used, improved and devoted exclusively to residential uses and no occupation, business, profession, trade or other nonresidential use shall be conducted thereon. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business as defined herein. This restriction shall not apply to any activity conducted by the Declarant or other developer with respect to its development and sale of property within San Marcos Country Club Estates.

4.2.2 Tenants. The entire Dwelling Unit and Lot may be let to a single family tenant or lessee from time to time by the Owner, subject to the provisions of this Declaration, the San Marcos Country Club Estates Rules, any applicable Architectural Guidelines and the Tract Declaration.

4.3 Variances. The Board or governing Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in Article IV of this Declaration or in any Tract Declaration if the Board or Architectural Committee determines in its discretion (a) either

(i) that a restriction would create an unreasonable hardship or burden on an Owner or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and (b) that the activity permitted under the variance will not have any substantial adverse affect on the Owners and Residents of San Marcos Country Club Estates and is consistent with the high quality of life intended for Residents of San Marcos Country Club Estates. The request for a variance must be made in writing and must be accompanied by adequate supporting documentation.

ARTICLE V

ORGANIZATION OF ASSOCIATION

5.1 Formation of Association. The Association shall be a non-profit Arizona corporation. Upon incorporation, the Association shall be charged with the duties and invested 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.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the Manager and any employees of the Association. The Board's responsibilities shall include, but not be limited to, the following:

- (a) administration, including administrative support as required for the Architectural Committee;
- (b) preparing and administering an operational budget;
- (c) establishing and administering an adequate reserve fund;
- (d) scheduling and conducting the annual meeting and other meetings of the Members;
- (e) collecting and enforcing the assessments;
- (f) accounting functions and maintaining records;

(g) promulgation and enforcement of the San Marcos Country Club Estates Rules (but not the Architectural Guidelines);

(h) maintenance of the Common Areas; and

(i) all the other duties imposed upon the Board pursuant to this Declaration, the Bylaws, the Articles, the San Marcos Country Club Estate Rules.

The Board shall not, however, be responsible for those duties and areas of operation specifically designated under the Declaration, the Articles, the Bylaws, or the San Marcos Country Club Estate Rules as the responsibility of the Architectural Committee.

5.3 The San Marcos Country Club Estates Rules and Architectural Guidelines. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as the San Marcos Country Club Estates Rules. The Rules may restrict and govern the use of the Common Area by any Member or Resident, by the family of such Member, or by any invitee, licensee or tenant of such Member; provided, however, that the Rules shall not discriminate among Members and shall not be inconsistent with this Declaration, the Articles and the Bylaws. In addition, from time to time and subject to the provisions of this Declaration, the Architectural Committee shall have the right to adopt, amend and repeal Architectural Guidelines; provided, however, that such rules and guidelines shall be fair and reasonable and shall be consistent with the provisions of this Declaration, the Articles and Bylaws. The authority granted herein to develop rules and guidelines by the Architectural Committee, and the enforcement powers of the committee, are given for the purpose of insuring that San Marcos Country Club Estates is developed and used according to a high standard of architecture and construction which will enhance the aesthetic value of the Property. Upon adoption, the San Marcos Country Club Estates Rules and/or Architectural Guidelines shall be enforceable in the same manner as this Declaration and shall have the same force and effect as if set forth in and a part of this Declaration. The Architectural Committee is specifically responsible for the administration and enforcement of the provisions of Article IV of this Declaration; the administration and enforcement of the guidelines promulgated by such Committee; and all other duties and obligations designated to such Committee by the Declaration, Articles, Bylaws and the Rules. In the event of any inconsistency between the rules and regulations adopted by the Board and the guidelines adopted by the Architectural Committee, the guidelines adopted by the Architectural Committee shall control. Copies of the San Marcos Country Club Estates Rules and all Architectural Guidelines as adopted or amended

shall be available for inspection at the office of the Association during reasonable business hours.

5.4 Personal Liability. No board member, committee member (including, but not limited to, the Architectural Committees), officer or employee of the Association shall be personally liable to any Member or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error negligence; provided, however, the limitations set forth in this Paragraph 5.4 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct. The Association shall indemnify its committee members, directors and officers when acting on behalf of the Association, to the full extent permitted by law.

ARTICLE VI

MEMBERSHIPS AND VOTING

6.1 Owners of Lots and Parcels. Every Owner of a Lot or Parcel which is subject to assessment shall be a Member of the Association. Each such Owner shall have the following number of Memberships:

6.1.1 One (1) Membership for each Lot owned by the Member;

6.1.2 In the case of the Owner of a Parcel with a land use classification of Single Family Residential Use or one (1) Membership for each Dwelling Unit permitted upon the Parcel under the applicable Tract Declaration. If a subdivision plat or other instrument creating Lots is recorded covering all or part of the area within the Parcel, the Parcel shall be reduced in size by the area so platted and the number of Memberships held by the Owner, as Owner of the Parcel, shall be reduced by a number equal to the number of Lots in the recorded subdivision plat. All Memberships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted or otherwise dedicated to the public; and

Each such Membership shall be appurtenant to and may not be separated from ownership of the Lot or Parcel to which the Membership is attributable. There shall be only one Membership for each Lot and for each acre or fraction thereof in a Parcel as described above, which Memberships shall be shared by any joint owners of, or owners of undivided interests in, a Lot or Parcel. Notwithstanding the foregoing provisions of Paragraph 6.1, in the event an Owner of two adjoining Lots, or an Owner of a Lot and portion of an adjoining Lot, combines said areas for use as one

residence, upon approval by the Board of Directors, the combined Lots or the combined Lot and adjoining property, as the case may be, shall be treated as one Lot hereunder and shall be entitled to one Membership and charged only one Annual Assessment.

6.2 Declarant. The Declarant shall be a Member of the Association for so long as the Declarant owns any land in San Marcos Country Club Estates.

6.3 Voting. The Association shall have two classes of voting Memberships:

Class A. Class A Memberships shall be all Memberships except the Class B Memberships. An Owner shall be entitled to one vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the Owner's voting rights for violations of this Declaration as provided herein.

Class B. The Class B Memberships shall be all Memberships held by the Declarant. Except as otherwise provided in this Declaration, the Declarant shall be entitled to four (4) votes for each Class B Membership owned. The Class B Memberships shall be deemed to be the Owner of that number of Memberships which is the maximum number of Dwelling Units permitted on the Covered Property times four (4). In the event all or any portion of the Annexation Property is hereafter annexed under this Declaration pursuant to Article XIV hereunder, then the number of Memberships attributable to the Class B Member pursuant to this Paragraph shall be increased by the number of residential Memberships attributable to such Annexation Property which are owned by Declarant multiplied by four (4). The number of Memberships attributable to such Annexation Property which is not owned by Declarant shall be one (1) Class A Membership for each Dwelling Unit contained therein. The Class B Memberships shall cease and be converted to Class A Memberships (on the basis of the number of Lots and Parcels owned by the Declarant) on the happening of the first of the following events:

(a) One Hundred and Twenty (120) days after the date when the total votes outstanding in the Class A Memberships equal the total votes outstanding in the Class B Memberships,

(b) Seven (7) years from the date of the recording of this Declaration, or

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

6.4 Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote of each such Membership must be cast as a unit; fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity and such 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 Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed that he was acting with the authority and consent of all other Owners of the same Membership unless objection thereto is made to the Board, in writing at or prior to the time the vote is cast. In the event more than one vote is cast for a particular Membership, all said votes shall be deemed void.

6.5 Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Articles, Bylaws, the Rules, and Architectural Guidelines as the same may be amended from time to time.

6.6 Transfer of Membership. The rights and obligations of the Owner of a Class A Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot or Parcel and then only to the transferee thereof. A transfer of ownership of a Lot or Parcel may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record or such other legal process as permitted by Arizona law. Any attempt to make a prohibited transfer shall be void. Any transfer or ownership of a Lot or Parcel shall automatically transfer the Membership(s) appurtenant to said Lot or Parcel to the new Owner. Upon the transfer of ownership of any Lot or Parcel (excluding the initial sale by the Declarant), the Board, in its discretion, may assess a reasonable transfer fee to cover administrative costs associated with said transfer of ownership.

6.7 Adjustment in Votes of Class B Member. In the event annexation of additional land is made in accordance with Paragraph 14.1 hereunder, Declarant shall be entitled to additional votes under Paragraph 6.4, in an amount equal to four votes for each "lot" within the annexation property (the applicable portions thereof) owned by Declarant as determined by Paragraph 6.1 herein.

ARTICLE VII

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation for Assessments and Maintenance Charges. The Declarant, for each Lot and Parcel, hereby covenants and agrees, and each Owner by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to accept and be subject to mandatory Membership in the Association, and to pay to the Association the following: (1) Annual Assessments, (2) Special Assessments, (3) Parcel Assessments, (4) Maintenance Charges, and (5) Special Use Fees incurred by the Owner or any Resident occupying the Owner's Lot or Parcel or any portion thereof. The Annual Assessments, Special Assessments, Parcel Assessment, Maintenance Charge, Special Use Fees and other fees, fines and charges which are the obligation of an Owner hereunder, together with interest, costs, collection agency fees, and reasonable attorneys' fees of the Association incurred in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien upon the Lot or Parcel against which each such Annual, Special or Parcel Assessment, Maintenance Charge or other charge is made and against the Lot or Parcel of an Owner liable for a Special Use Fee or other charge and, in addition, shall be the personal obligation of the Owner of such Lot or Parcel at the time when such payment becomes due and payable. The Annual, Special and Parcel Assessments against each Lot or Parcel shall be based on the number of Memberships appurtenant to the Lot or Parcel. The personal obligation for delinquent Assessments and other charges shall not pass to the successors in title of the Owner unless expressly assumed by them; however, the Lot or Parcel shall remain subject to the lien of the delinquent Assessment except as provided in Paragraph 8.3 below. No Assessments may be charged against any Lot or Parcel which is not covered by a Tract Declaration; however, Maintenance Charges may be assessed against any property initially covered by or annexed under this Declaration. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein, including, but not limited to, by nonuse of Common Areas or abandonment of his Lot or Parcel. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution, abatement or set-off shall be allowed by reason of any action or failure to act of the Board or Association.

7.2 Annual Assessments. In order to provide for the uses and purposes specified in Article IX hereof, including the establishment of replacement and maintenance reserves, in each year, commencing with the first Assessment Period, the Board shall prepare and adopt a budget and shall assess against each Lot and Parcel covered by a Tract Declaration (except any Exempt

Property) an Annual Assessment. Subject to the provisions of Paragraph 7.4 hereof, the amount of the Annual Assessment shall be in the sole discretion of the Board, but shall be determined with the objective of fulfilling the Association's obligations under this Declaration and providing for the uses and purposes specified in Article IX.

7.3 Uniform Rate of Annual Assessment. No Annual, Parcel or Special Assessments shall be levied on any property until a Tract Declaration has been recorded with respect to that property. The amount of any Annual, Parcel or Special Assessment against each Lot or Parcel shall be fixed at a uniform rate per Membership, except as may be provided in a Tract Declaration.

7.4 Maximum Annual Assessment. The Annual Assessment to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Annual Assessment," which Maximum Annual Assessment shall be determined and shall vary in accordance with the following provisions:

(a) Until January 1, 1996, the Maximum Annual Assessment against each Owner shall be Twelve Hundred and No/100 Dollars (\$1,200.00) per each Membership, which is equivalent to One Hundred Dollars (\$100.00) per month.

(b) From and after January 1, 1996, the Maximum Annual Assessment shall be increased effective January 1 of each year without a vote of the Membership by a maximum of five percent of the Maximum Annual Assessment for the previous year or in applicable conformance with the percentage rise, if any, in the Consumer Price Index as hereinafter defined, whichever is greater. The Maximum Annual Assessment attributable to the Consumer Price Index for each such period shall be computed by reference to statistics published in the Monthly Labor Review by the United States Department of Labor, Bureau of Labor Statistics, designated "Consumer Price Index for All Urban Consumers, 1982 Equals 100, All Items", hereinafter called the "Consumer Price Index."

X = Consumer Price Index for September of the calendar year immediately preceding the year of the first Annual Assessment.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the Maximum Annual Assessment is to be determined.

$\frac{(Y - X)}{X}$ plus one multiplied by the initial Maximum Annual Assessment figure equals the Maximum Annual Assessment for the year in question.

In the event the Bureau of Labor Statistics shall cease to publish the Consumer Price Index and such information is not available from any other source, public or private, then a new formula for determining the automatic annual increase of the Maximum Annual Assessment pursuant to Subparagraph (b) (ii) shall be adopted by the Board.

(c) From and after January 1, 1996, the Maximum Annual Assessment may be increased above the Maximum Annual Assessment otherwise determined under Subsection (b) above by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

(d) Notwithstanding the foregoing limitations described in (a), (b) and (c) above, in the Board's discretion, the Maximum Annual Assessment may be increased as required by increased utility and water costs charged to the Association.

7.5 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments authorized above, the Association may levy a Special Assessment 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 Areas, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose. The provisions of this Paragraph are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

7.6 Notice and Quorum for any Action Authorized Under Paragraphs 7.4 and 7.5. Written notice of any meeting called for the purpose of taking any action authorized under Paragraphs 7.4 and 7.5 shall be sent to all Members no less than thirty (30) 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 sixty percent (60%) of all the votes (exclusive of suspended voting rights) of 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.

7.7 Establishment of Assessment Period. The period for which the Annual Assessment and Parcel Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence (a) upon the recording of the first Tract Declaration covering property which is not Exempt Property; or (b) upon such later date as the Board shall determine and shall terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by recording with the County Recorder of Maricopa County, Arizona, an instrument specifying the new Assessment Period.

7.8 Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments, provided that said procedures are not inconsistent with the provisions hereof. Annual Assessments and Parcel Assessments may be collected on a monthly, quarterly or annual basis as determined by the Board and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the Members of the Association approving the Special Assessment. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than fifteen (15) days written notice prior to such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. Each Member shall be obligated to inform the Association in writing of any change of address. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Lots or Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case the Owner of a Membership becomes liable for payment of an increased sum pursuant to Paragraph 7.3 during the Assessment Period, he shall notify the Association, but his failure to notify the Association shall not relieve him of the liability for such amounts. The amount of the Annual and Parcel Assessments against Members who become such during an Assessment Period due to the recordation of a Tract Declaration shall be prorated and such new Member shall not be liable for any previously levied Special Assessments.

7.9 Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when

due shall be deemed delinquent and shall bear interest from ten (10) days after the due date until paid at a rate equal to the greater of (a) twelve percent (12%) per annum, or (b) the rate set by the Board, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting the same. In addition, the Board may charge a late fee for all delinquent payments. The Board may also record a Notice of Delinquent Assessment against any Lot or Parcel as to which an Assessment is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Association for the Association's cost in recording such Notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association secured by the Assessment Lien. The Association shall not be obligated to release any notice recorded pursuant to this Paragraph until all Delinquent Assessments, interest and collection costs have been paid in full, whether or not all of such amounts are set forth in the Notice of Delinquent Assessment.

7.10 Evidence of Payment of Assessments. Upon receipt of a written request, and within a reasonable period of time thereafter, the Association shall issue to the requesting party a written certificate stating (a) that all Annual, Parcel and Special Assessments, Special Use Fees and Maintenance Charges (including interest, costs and attorneys' fees, if any, as provided in Paragraph 7.9 above) have been paid with respect to any specified Lot or Parcel as of the date set forth in such certificate, or (b) if such have not been paid, the amounts due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot or Parcel in question.

7.11 Property Exempted from the Annual, Parcel and Special Assessments. Except as otherwise provided in the Tract Declaration, Exempt Property shall be exempt from the Assessment of the Annual, Parcel and Special Assessments, but such property shall not be exempt from fines, Special Use Fees or the Maintenance Charges provided for in Paragraphs 10.2 and 10.3; from attorneys' fees, costs and expenses as described in Paragraph 7.2; or from the Assessment Lien to secure said Maintenance Charges, attorneys' fees, fines, costs and expenses; provided, however, that in the event any change of ownership or use of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the assessment of the Annual, Parcel and Special Assessments (prorated as of the date it became Assessable Property) and the Assessment Lien therefor. Except as otherwise provided in the Tract Declaration, the Owner of Exempt Property

shall not be entitled to any Memberships for such Exempt Property.

7.12 Parcel Assessments. All estimated costs and expenses, including any allocations to reserves, of the Association pertaining to the maintenance, repair and replacement of Parcel Assessment Areas (the "Parcel Expenses") shall be shown separately in the budget adopted by the Board. The Parcel Expenses pertaining to the maintenance, repair and replacement of a Parcel Assessment Area, together with any other expenses attributable to the Parcel Assessment Area referenced in the applicable Tract Declaration, shall be assessed solely against the Lots and Parcels which are benefitted by the Parcel Assessment Area as established by the applicable Tract Declaration or a recorded plat approved by Declarant designating the Parcel Assessment Area. Parcel Assessments shall be used exclusively to pay Parcel Expenses and no Parcel Expense shall be used in computing the Annual Assessments to be levied pursuant to Paragraph 7.2. Parcel Assessments shall be levied against the Lots and Parcels benefitted by the Parcel Assessment Area at a uniform rate per Membership determined in the sole discretion of the Board, with the objective of fulfilling the Association's obligations to maintain the Parcel Assessment Area. Parcel Assessments shall commence upon the date established by the Board for the particular Parcel Assessment. If the Board determines during any Assessment Period that Parcel Assessments with respect to any Parcel Assessment Area are, or will become, inadequate to meet all Parcel Expenses pertaining to that Parcel Assessment Area for any reason, including without limitation, non-payment of Parcel Assessments by Members, it may increase the Parcel Assessment for that Assessment Period and the revised Parcel Assessment shall commence on the date designated by the Board. Notwithstanding the foregoing, the applicable Tract Declaration may set forth the amount of the Parcel Assessment for specified Lots and Parcels and may restrict increases in that Parcel Assessment. Such restrictions or increases may be similar to the restrictions regarding the amount of and increases in the Maximum Annual Assessment as set forth in Paragraph 7.4. In no event shall the Association bear any share of the costs or expenses of a Parcel Assessment Area.

ARTICLE VIII

ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND ASSESSMENT LIEN

8.1 Association as Enforcing Body. As provided in Paragraph 12.2, the Declarant, the Association, the governing Architectural Committee and the Members shall have the right to enforce the provisions of this Declaration.

8.2 Association's Remedies to Enforce Payment of Assessments. If any Member fails to pay the Annual, Parcel or Special Assessments, Special Use Fees or Maintenance Charges when due, the Association may enforce the payment thereof by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy):

(a) Bring an action at law and recover judgment against the Member personally obligated to pay the Annual, Parcel or Special Assessments, Special Use Fees or Maintenance Charges;

(b) Foreclose the Assessment Lien against the Lot or Parcel in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency), and the Lot or Parcel may be redeemed after foreclosure sale as provided by law. The Association may bid on the subject property at such a foreclosure sale.

Notwithstanding subordination of an Assessment Lien as described in Paragraph 8.3, the delinquent Member shall remain personally liable for the Assessments and related costs after his Membership is terminated for foreclosure or deed in lieu of foreclosure or otherwise.

8.3 Subordination of Assessment Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has lent funds with the Lot or Parcel as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot or Parcel. Sale or transfer of any Lot or Parcel shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or a deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot or Parcel free of the Assessment Lien for all Annual, Parcel and Special Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such mortgage or deed of trust foreclosure sale purchaser or grantee shall take title subject to all Annual, Parcel and Special Assessments, Special Use Fees, Maintenance Charges and the Assessment Lien therefor

accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

ARTICLE IX

USE OF FUNDS; BORROWING POWER

9.1 Purposes for Which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source, except for the Parcel Assessments) for the common good and benefit of San Marcos Country Club Estates and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any kind and all land, properties, improvements, facilities, services, projects programs, studies and systems, within or without San Marcos Country Club Estates, which may be necessary, desirable or beneficial to the general common interests of San Marcos Country Club Estates, the Members and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit; social interaction among Members and Residents, maintenance of private streets, amenities and landscaping on Common Areas and public rights-of-way, maintenance of golf cart paths, washes and drainage areas within San Marcos Country Club Estates, recreation, liability insurance, communications, ownership and operation of recreational and other facilities, vehicle storage areas, transportation, health, utilities, public services, safety and indemnification of officers and directors of the Association. Subject to this Declaration and the Articles and Bylaws, the Association may expend its funds in any manner permitted under the laws of the State of Arizona.

9.2 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate.

9.3 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual, Parcel or Special Assessments, fees or otherwise), and may carry forward as surplus any remaining balances. The Association shall not be obligated to reduce the amount of an Annual or Parcel Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

9.4 Eminent Domain. The term "taking" as used in this Paragraph shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Areas, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards made or to be made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a total or partial taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners and all holders of liens and encumbrances, as their interest may appear of record, at a uniform rate per Membership.

9.5 Insurance.

9.5.1 Authority to Purchase. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas or upon other areas maintained by the Association, in the total amount of not less than One Million Dollars (\$1,000,000.00). If reasonably available, the Association shall obtain officers and directors liability insurance in an amount deemed prudent by the Board. In addition, the Association may carry any other insurance coverage which the Board in its discretion deems necessary or desirable. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance.

9.5.2 Individual Responsibility. Unless otherwise provided in a recorded Tract Declaration or other declaration approved by the Declarant, it shall be the responsibility of each Owner and Resident or other person to provide for himself insurance on his property interests within San Marcos Country Club Estates, including, but not limited to, his additions and improvements thereon, furnishings and personal property therein, his personal liability to the extent not covered by the property and public liability insurance obtained by the Association, if any, and such other insurance as such person desires. No person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the casualty insurance maintained by the Association in the event of damage to the improvements or fixtures on the Common Areas. Neither the Association nor any Board Member nor the Declarant shall be liable to any person or mortgagee if any risks or hazards are not covered by the insurance

obtained by the Association or if the amount of insurance is not adequate.

9.5.3 Insurance Claims. The Association is hereby irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Association in this regard and may, at its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association. All proceeds from insurance acquired by the Association shall be payable to the Association. Any proceeds resulting from damage to the Common Areas shall be used to repair the damage, unless otherwise approved by a majority of the votes of each class of Members at a meeting called for such purpose. Any excess proceeds may be retained by the Association as reserves or to reduce future assessments or, if distributed to Members, such proceeds shall be distributed to Members and their mortgagees as their interests may appear of record at a uniform rate per Membership.

9.6 Reserve Fund. From the Annual Assessments received by the Association, the Board shall establish a reserve fund for the maintenance, repair and replacement of the Common Areas.

ARTICLE X

MAINTENANCE

10.1 Common Areas and Public Rights-of-Way.

10.1.1 Areas of Association Responsibility. The Association, or in its duly delegated representative, shall maintain and otherwise manage all Common Areas, Parcel Assessment Areas and the improvements thereon; provided, however, the Association shall not be responsible for providing or maintaining the landscaping or structures on any Common Areas which are part of Lots or Parcels unless (i) such landscaping or structures are available for use by all Owners and Residents or are within easements intended for the general benefit of San Marcos Country Club Estates and (ii) the Association assumes in writing the responsibility as set forth in a recorded instrument as hereinafter provided.

(a) The Association shall maintain any landscaping and other improvements not located on Lots and Parcels which are within the boundaries of San Marcos Country Club Estates and are identified on a recorded instrument as Common Areas intended for the general benefit of the Owners and Residents of San Marcos Country Club Estates, except the Association shall not be required to maintain (but may elect to maintain) areas which (i) the City of Chandler, an improvement district or other government entity is maintaining, or (ii) are to be maintained by the Owners of a Lot or Parcel pursuant to Paragraph 4.1.4 of this Declaration. Specific areas to be maintained by the Association may be identified on recorded subdivision plats approved by the Declarant, and/or in deeds from the Declarant to the Association or to a transferee of a Lot or Parcel, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect to Common Areas or the Association's rights with respect to other areas intended for the general benefit of San Marcos Country Club Estates.

(b) Notwithstanding anything to the contrary herein, the Association may assume responsibility for maintenance and management of certain retention or other common areas within a Parcel. Such maintenance and management responsibility shall not be effective unless (i) the Board assumes in writing the responsibility as set forth in a recorded instrument; and (ii) the additional maintenance area is dedicated to the Association and such dedication is accepted in writing by the Association. The costs and expenses for such maintenance and management shall be assessed against the Parcel and the Owners thereof, as Parcel Assessments pursuant to Paragraph 7.12.

10.1.2 Standard of Care. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of the Common Areas and other properties maintained by the Association; however, the Board shall be the sole judge as to the appropriate maintenance of all such areas. The Common Areas and the Parcel Assessment Areas, including, but not limited to, the golf cart paths, bike paths and any playground or other play areas or equipment furnished or maintained by the Association shall be used at the risk of the user; and the Declarant and the Association shall not be liable to any person or entity for any claim, damage, or injury occurring thereon or related to the use thereof.

10.1.3 Delegation of Responsibilities. In the event any subdivision plat, Tract Declaration, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots or Parcels will be responsible for maintenance of certain Common Areas, Parcel Assessment Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Residents of San Marcos Country Club Estates for the Association or for an individual Owner or an Ancillary Association to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Lots and Parcels in exchange for the payment of such fees as the Association and Owner may agree.

10.2 Assessment of Certain Maintenance Costs. In the event that the need for maintenance or repair of Common Areas, structures and other property maintained by the Association is caused through the willful or negligent act of any Owner, or that Owner's family, guests or tenants, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot or Parcel pursuant to Paragraph 10.1.3 in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a party of such Assessment and shall be secured by the Assessment Lien.

10.3 Improper Maintenance and Use of Lots and Parcels. In the event any portion of any Lot or Parcel is so maintained as to present a nuisance, or substantially detract from the appearance or quality of the surrounding Lots and Parcels or other areas of San Marcos Country Club Estates which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Parcel is being used in a manner which violates this Declaration or any applicable Tract Declaration, or in the event the Owner of any Lot or Parcel is failing to perform any of its obligations under this Declaration, any Tract Declaration, the Rules or Architectural Guidelines, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto, give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period of time the requisite corrective

action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot or Parcel is subject and shall be secured by the Assessment Lien.

10.4 Easement for Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Lots, Parcels and all other areas in San Marcos Country Club Estates for the purpose of repairing, maintaining and replacing the Common Areas, Common Area improvements, and other areas maintained by the Association and for the purpose of performing all of the Association's other rights, duties and obligations hereunder.

ARTICLE XI

ARCHITECTURAL COMMITTEES

11.1 Establishment. The Architectural Committee shall be established and shall perform the functions set forth in this Declaration. Each Committee shall adopt rules, regulations and guidelines for the performance of its duties, including procedures for the preparation, submission and determination of the application for any approvals required by this Declaration or any Tract Declaration.

11.2 Composition of Committee. The Committee shall be composed of not less than three (3) regular members. Appointees need not be architects, engineers, Lot Owners or residents and need not possess any specific qualifications of any type. Initially, the Committee shall be appointed by the Declarant. Unless otherwise provided in the Tract Declaration, at such time as Additional Property is brought within this Declaration pursuant to a Tract Declaration the term of one Committee member appointed by the Declarant shall expire and that position shall be filled by a person selected by the Owners of the property which is the subject of such Tract Declaration. At such time as Declarant no longer owns any Lots within the Property the Committee shall be composed of resident Owners elected by the Members of the Association, provided there is equal representation of the Owners of each Parcel covered by a subdivision plat or Tract Declaration on the Committee at all times, unless otherwise agreed by majority of the Members. The members of the Architectural Committee shall be elected by a vote of a majority of the Memberships voting at a meeting called for that purpose. Committee members shall be elected to one (1) year terms (or until replaced). Architectural Committee elections shall occur at the same time as the annual elections of the Board. In the event of a temporary or permanent vacancy on a Committee, an alternate member selected by the Committee shall

serve as a replacement until the next election or until the regular Member is again available. The Declarant may voluntarily relinquish (either temporarily or permanently) its right to appoint all or some of the members of one or both of the Architectural Committees by recording an amendment to the Declaration executed by the Declarant alone.

11.3 Meetings; Guidelines. The Architectural Committees shall keep a record of the minutes of all meetings. A quorum for any meeting shall consist of a majority of the regular members of the Committee and the concurrence of a majority of the regular Committee members shall be necessary for any decision of either Architectural Committee. Alternate member(s) may participate at any meeting in lieu of any absent regular member(s), may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. As provided in Paragraph 5.3, the Architectural Committees shall promulgate Architectural Guidelines to be used in rendering decisions, including procedures for the preparation, submission and determination of applications for approval. Each Committee may promulgate its own Architectural Guidelines or the Committees may cooperate in the preparation and adoption of one form of Architectural or Design Guidelines for the entire San Marcos Country Club Estates community. The decision of the governing Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. Members of the Committees shall not be entitled to compensation for their services, unless otherwise approved by the Board.

The Architectural Guidelines shall interpret and implement procedures for the Architectural Committee's review of, and the standards for development within San Marcos Country club Estates, including, but not limited to, architectural design, placement of buildings, landscaping, plant selection, color schemes, exterior finishes and materials, signage, wall design and similar matters and shall have the same force and effect as the Association Rules. The Guidelines may also include provisions requiring the establishment of landscaping on parcels pursuant to specific timetables.

11.4 Discretion of Committees. The Architectural Committee shall be under no duty or obligation to pass upon, approve or disapprove any structural stability matters or matters pertaining to the stability of footings or foundations or matters pertaining to geological conditions involved in any foundation or footings and may indicate on any plans or specifications or drawings or other materials or in any certificate that a Committee has not passed upon, approved or disapproved any such referred to matters. All actions of said Committee authorized under this Declaration, including without limitation the approval or disapproval of plans, specifications, drawings, plot plans, grading plans and height, as well as other matters in which the

Committee is authorized hereunder to act, shall be in the sole and complete discretion of said Committees. Neither the Architectural Committee nor any member thereof shall be liable 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 of any property within San Marcos Country Club Estates;

(d) the execution of any estoppel certificate, whether or not the facts therein are correct; or

(e) the enforcement of this Declaration and the Architectural Guidelines;

provided, however, that with respect to the liability of a Committee member, such member has acted in good faith on the basis of such information as may be possessed by him. The approval by the Architectural Committee of any plans, specifications or other matter shall not be deemed to constitute a waiver of any right to withhold approval of any similar plans, specifications or other matter subsequently submitted for approval. Subject to Paragraph 11.1, the vote or written consent of a majority of its regular members, at a meeting or otherwise, shall constitute the act of the Architectural Committee.

11.5 Response Within Forty-five (45) Days. Any approval required under this Declaration by the Architectural Committee shall not be withheld unreasonably. Failure by such Committee to approve or disapprove a request within forty-five (45) days after such request is filed with the Committee (or within any shorter period of time set forth in the applicable Architectural or Design Guidelines) shall waive the approval requirement. Notice of disapproval shall be written and it shall set forth the reason or reasons for the disapproval. Notwithstanding Paragraph 15.10, no request shall be deemed filed with the Committee until it is actually received by the Committee, and all submissions to the Committee shall be made by certified mail or personal delivery. In any event, after the expiration of one (1) year from the completion of construction of any structure, work, improvement or alteration, the said structure, work, improvement or alteration shall, in favor of purchasers or encumbrances in good faith and for value, be deemed to be in compliance with this Declaration and the applicable Architectural Guidelines, unless actual notice of non-compliance executed by the Architectural

Committee shall appear of record in the office of the County Recorder of Maricopa County, or a complaint has been filed to enforce compliance.

11.6 Committee's Certificate. Any approval of any plans and specifications or other matter by the Architectural Committee given or made pursuant to the provisions of this Declaration which is evidenced by a certificate signed by at least a majority of the members of said Committee shall be irrevocable and not subject to change by such Committee. Any such certificate may be conclusively relied upon by all parties, including, but not limited to, any Owner, tenant or purchaser of any Lot or residence, or of any interest therein; by any lender taking any Lot as security; and by any title insurance company. Any such certificate may be recorded by said Committee in the office of the Maricopa County Recorder.

11.7 Fee. The Board may establish a reasonable processing fee to defer the costs of the Association and the Architectural Committee in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

ARTICLE XII

RIGHTS AND POWERS OF ASSOCIATION

12.1 Association's Rights and Powers As Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws, which shall include all rights and powers as may be reasonably necessary in order to effect the purposes of the Association as set forth herein. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be available for inspection by Members, prospective purchasers, mortgagees and other persons or entities with an interest in San Marcos Country Club Estates at the office of the Association during reasonable business hours.

12.2 Enforcement of Provisions of This and Other Instruments. The Association, in the first instance, and the Architectural Committee, each as the agent and representative of the Owners or any Owner (including Declarant, so long as Declarant is an Owner), shall have the right (without obligation) to enforce, by any proceeding at law or in equity, the Covenants set forth in this Declaration, the Articles, Bylaws, the Rules and Architectural Guidelines and any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been

executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant. The Association is authorized to impose sanctions for violations without court approval. Such sanctions may include reasonable monetary fines and suspension of the right to vote or use any recreational facilities on the Common Area as provided in Paragraph 3.1. In the event suit is brought or arbitration is instituted or an attorney is retained by the Association or an Architectural Committee to enforce the terms of this Declaration or other document as described in this Paragraph 12.2 and the Association or an Architectural Committee prevails, the Association or Architectural Committee, as applicable, shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys fees, court costs, costs of investigation and other related expenses incurred in connection therewith, including, but not limited to, the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot or Parcel. If the Association and the Architectural Committee shall fail or refuse to enforce this Declaration or any provisions hereof for an unreasonable period of time after written request by a Member to do so, then any Member may enforce the provisions of the Declaration at his own expense by any appropriate action, whether in law or in equity, but regardless of the outcome, no expenses of the action shall be paid for by the Association.

12.3 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including the Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested. Notwithstanding anything to the contrary contained herein, during the period when the Declarant has a Class B vote, any professional management contract entered into by the Association must be terminable with or without cause,

upon no more than ninety (90) days written notice and without payment of any penalty.

12.4 Procedure for Change of Use of Common Area. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion, the then present use of a designated part of the Common Area or of the Association's interest in other Common Areas is no longer in the best interests of the Owners and Residents and (b) the approval of such resolution by a majority of the votes of each class of Members at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Residents, and (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the land. Alternatively, the Board, upon satisfaction of Subsection (a) above, may, in lieu of calling a meeting, notify in writing all Owners of the proposed change of use and of their right to object thereto and, if no more than ten percent (10%) of the Class A Memberships eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

12.5 Procedure for Alteration of Common Area; Contracts Concerning the Common Area. The Association shall have the right to dedicate or transfer all or any part of the Common Areas to any public authority or utility as provided in Paragraph 3.1.3. In addition, the Association shall have the right to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon or otherwise transfer Common Areas (to a non-public authority) upon (i) the adoption of a resolution by the Board stating that ownership and/or use of the relevant Common Areas is no longer in the best interests of the Owners and Residents and that the change desired shall be for their benefit and shall not substantially adversely affect them and (ii) the approval of such resolution by a majority of the votes of each class of Members, voting in person or by proxy, at a meeting called for such purpose. Alternatively, the Board, upon satisfaction of Subsection (i) above, may, in lieu of calling a meeting pursuant to Subsection (ii) above, notify in writing all Owners of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Members eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

ARTICLE XIII

TERM; AMENDMENTS; TERMINATIONS

13.1 Term; Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each. Subject to FHA and/or VA approval as provided in Paragraph 15.11 of below, this Declaration may be terminated at anytime if seventy-five percent (75%) of the authorized votes of each class of Members shall be cast in favor of termination at an election duly called and held for such purpose. If the necessary votes are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon, these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles. Any Association funds remaining following such termination and dissolution shall be distributed to the Members and their mortgagees as their interest may appear at a uniform rate per Membership.

13.2 Amendments. Until the first sale of a Lot within the Property to an Owner for use and occupancy as a Dwelling Unit, this Declaration may be amended by recorded instrument duly executed by Declarant, without the necessity of calling a meeting of Owners or obtaining the consent of Owners. Thereafter, this Declaration may be amended either during the initial twenty-year term or during any extension thereof, pursuant to Paragraph 13.1 by recording with the County Recorder of Maricopa County, Arizona, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Paragraph 13.1. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided hereafter, shall certify that at an election duly called and held for this purpose pursuant to the provisions of the Articles and Bylaws, the Members casting seventy-five percent (75%) of the votes cast at the election voted affirmatively for the adoption of the amendment. The Declaration may be amended with respect to all or any portion of the Lots and Parcels covered hereby. A Tract Declaration may be amended in the same manner as this Declaration, with the approval of sixty-seven percent (67%) of the votes attributable to the Owners of all Lots and Parcels subject to the Tract Declaration. So long as there is a Class B Membership, any amendment or termination of this Declaration or any Tract Declaration shall require the approval of FHA or VA, as applicable, if such agency has guaranteed or insured any loan on

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a Lot or Parcel subject to the Tract Declaration. Within seven (7) years from the date of recording this Declaration and so long as the Declarant is the Owner of any Lot or Parcel in San Marcos Country Club Estates, this Declaration and any Tract Declaration may be amended or terminated only with the written approval of the Declarant. Thereafter, except as otherwise provided herein, any amendment to a Tract Declaration must be approved by the Board. This Declaration may not be amended to reduce or alter the rights of the Declarant without the approval of the Declarant. The Declarant alone may amend this Declaration at any time (a) to annex additional property hereunder as provided in Article XIV, (b) to exclude from Exhibit A any property not then covered by a recorded Tract Declaration, (c) to relinquish its right to appoint the members of either or the Architectural Committee as provided in Section 11.1, or (d) to amend as permitted in Section 13.3 hereafter. In addition, at any time, the Declarant alone shall have the right to amend the Declaration or any Tract Declaration to comply with applicable law or to correct any error or inconsistency in the Declaration or the Tract Declaration if the amendment does not adversely affect the rights of any Owner.

13.3 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such extent and with such language as may be requested by the Federal Housing Administration ("FHA"), the Veterans Administration ("VA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Corporation ("FNMA") and to further amend to the extent requested by any other federal, state or local government agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or Parcel(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of the Amendment duly signed by or on behalf of the authorized agents of Declarant with their signatures acknowledged, specifying the federal, state or local government agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all of the San Marcos Country Club Estates and all persons having an interest therein.

ARTICLE XIV

ANNEXATION OF ADDITIONAL PROPERTY

14.1 Right of Annexation. Declarant hereby expressly reserves the right until fifteen (15) years from the date of recording of this Declaration to expand San Marcos Country Club Estates, without the consent of any Owner, Mortgagee or any other party with an interest in San Marcos Country Club, by annexing all or any portion of the Annexable Property. The annexation of any or all of the Annexable Property shall be accomplished by the Declarant recording with the County Recorder of Maricopa County, Arizona, a Declaration, which establishes the land use classification of the property being annexed. Declarant shall not be obligated to annex all or any portion of the Annexable Property. The Declarant may annex non-contiguous property hereunder. A Tract Declaration annexing property as permitted hereunder may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such document revoke, modify or add to the Covenants established by this Declaration and applicable to property previously covered by a Tract Declaration.

14.2 Declarations of Annexation. The annexations authorized under Paragraph 14.1 shall be made by recording a Declaration of Annexation. A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof).

ARTICLE XV

MISCELLANEOUS

15.1 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board and Architectural Committee, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the Covenants hereof.

15.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is

invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

15.3 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.

15.4 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association (through its Board and Committee) shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration or any applicable Architectural Guidelines.

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

15.6 No Warranty of Enforceability. While Declarant has no reason to believe that any of the Covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such Covenants. Any Owner acquiring a Lot or Parcel in San Marcos Country Club Estates in reliance on one or more of the Covenants shall assume all risks of the validity and enforceability thereof and by acquiring any Lot or Parcel agrees that Declarant shall have no liability therefor.

15.7 Golf Course Disclaimer. Anything contained in this Declaration to the contrary notwithstanding, Declarant is not now, nor has it ever been, the Owner of the adjacent golf course known as the San Marcos Country Club Golf Course. Neither Membership in the Association nor ownership or occupancy of a Lot or Parcel shall confer any ownership in or right to use that golf course. No representations or warranties have been made or will be made by Declarant or any other person or entity with regard to the continuing ownership or operation of that golf course.

15.8 References to the Covenants in Deeds. Deeds or any instruments affecting any part of San Marcos Country Club Estates may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference to this Declaration is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

15.9 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and works in the plural shall include the singular.

15.10 Captions and Titles. All captions, titles or headings of the Articles and Paragraphs in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

15.11 Notices. If notice of any action or proposed action by the Board of or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within the City of Chandler or San Marcos Country Club Estates. This Paragraph shall not be construed to require that any notice be given if not otherwise required, and shall not prohibit satisfaction of any notice requirement in any other manner. If notice is made by mail, it shall be deemed to have been received twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such person at the address given by that person to the Association for the purpose of service of such notice, or to the address if the Lot or Parcel owned by such person if no address has been given. Notice to the Board or to the Architectural Committee shall be delivered or sent certified mail to the office of the Association.

15.12 FHA/VA Approval. If this Declaration has been approved by FHA or VA in connection with any loan programs made available by FHA or VA, then as long as there is a Class B Membership, the dedication of Common Areas (except where such dedication is required by the City of Chandler), the annexation of Annexable Property, and the termination or amendment of this Declaration will require the prior approval of FHA or VA, as

applicable, unless the need for such approval has been waived by FHA or VA.

15.13 Litigation. No Judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Members holding seventy-five (75%) percent of the outstanding votes. This Paragraph shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided in Article VII hereof, (c) proceedings involving challenges to taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Paragraph shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes necessary to institute proceedings as provided above.

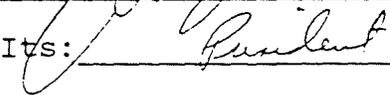
15.14 Use of the Words "San Marcos Country Club Estates" or "San Marcos Country Club Estates Homeowners' Association". No person shall use the words "San Marcos Country Club Estates" or "San Marcos Country Club Estates Association" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the terms "San Marcos Country Club Estates" or "San Marcos Country Club Estates Association" in printed or promotional material where such term is used solely to specify the particular property is located within San Marcos Country Club Estates.

15.15 Exhibits. The following exhibits are attached to this Declaration, and, except as otherwise indicated, are incorporated herein.

Exhibit A: Legal Description of the Property.

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

FOCUS DEVELOPMENT CORPORATION, an Arizona corporation

By: 
Its: 

STATE OF ARIZONA)
) ss.
County of Maricopa)

THE FOREGOING INSTRUMENT was acknowledged before me this
29th day of SEPT, 1993, by Joe L Cook, the
President of FOCUS DEVELOPMENT CORPORATION, an Arizona
corporation, for and on behalf thereof.

Sail Weaver Melts
NOTARY PUBLIC

My Commission Expires:

2-3-95

bearing North 215.00 feet; thence Westerly 225.51 feet along the arc of said curve through 60 degrees 05 minutes 45 seconds of central angle to a point on the Southwesterly right-of-way line of said Fairway Drive; thence along said right-of-way line as follows; North 29 degrees 54 minutes 15 seconds West 369.13 feet to the beginning of a curve to the left having a radius point bearing South 60 degrees 05 minutes 45 seconds West 200.00 feet; thence Northwesterly 419.54 feet along the arc of said curve through 120 degrees 11 minutes 30 seconds of central angle; thence South 29 degrees 54 minutes 15 seconds West 369.13 feet to the beginning of a curve to the right having a radius point bearing North 29 degrees 54 minutes 15 seconds West 215.00 feet; thence Southwesterly 225.51 feet along the arc of said curve through 60 degrees 05 minutes 45 seconds of central angle to a point on the Southerly boundary of said San Marcos Drive to a point marking the beginning of a compound curve to the right having a radius point bearing North 480.00 feet; thence Westerly 242.65 feet along said centerline and the arc of said curve through 28 degrees 57 minutes 50 seconds of central angle; thence North 28 degrees 57 minutes 50 seconds East 15.00 feet to the POINT OF BEGINNING; AND

That part of the North half of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

The basis for the bearings used in this description are from SAN MARCOS FAIRWAYS, a subdivision recorded in Book 20 of Maps, Page 33, Records of Maricopa County and SAN MARCOS FAIRWAYS REPLAT, a subdivision recorded in Book 122 of Maps, Page 37, Records of Maricopa County.

BEGINNING at the centerline of San Marcos Drive (a private drive) at the Western most point thereof as shown and delineated on the plat of the said SAN MARCOS FAIRWAYS; thence North 28 degrees 57 minutes 50 seconds East 15.00 feet to the Southwest corner of Lot 63 of the said SAN MARCOS FAIRWAYS this point being on a curve concave to the North and having a radius point bearing North 28 degrees 57 minutes 50 seconds East 450.00 feet; thence Easterly 227.48 feet along the arc of this curve through 28 degrees 57 minutes 50 seconds of central angle to a point of a compound curve to the left having a radius point bearing North 185.00 feet; thence Northeasterly 194.04 feet along the arc of this curve through 60 degrees 05 minutes 45 seconds of central angle to a point on the Northwesterly right-of-way line of Crescent Drive; thence along the said right-of-way line as follows: North 29 degrees 54 minutes 15 seconds East 369.14 feet to the beginning of a curve to the right having a radius point bearing South 60 degrees 05 minutes 45 seconds East 230.00 feet; thence Northeasterly 302.56 feet along the arc of this curve through 75 degrees 22 minutes 15 seconds of central angle to a point of a reverse curve to the left having a radius point bearing North 15 degrees 16 minutes 30 seconds East 50.00 feet; thence

Northeasterly 93.82 feet along the arc of this curve through 107 degrees 30 minutes 30 seconds of central angle to a point of a reverse curve to the right having a radius point bearing North 87 degrees 46 minutes 00 seconds East 375.00 feet, also this point being a point on the Westerly right-of-way line of Midway Drive; thence Northerly along the said Westerly right-of-way line and along the arc of this curve 221.41 feet through 33 degrees 49 minutes 45 seconds of central angle; thence North 31 degrees 35 minutes 45 seconds East along the said right-of-way line a distance of 40.00 feet to the beginning of a curve to the left having a radius point bearing North 58 degrees 24 minutes 15 seconds West 20.00 feet; thence Northerly 18.96 feet along the arc of this curve through 54 degrees 18 minutes 53 seconds of central angle to a point of a reverse curve having a radius point bearing North 67 degrees 16 minutes 52 seconds East 40.00 feet; thence along the arc of this curve a distance of 201.50 feet through 288 degrees 37 minutes 46 seconds of central angle to a point of a reverse curve to the left having a radius point bearing South 04 degrees 05 minutes 22 seconds East 20.00 feet; thence Southwesterly 18.96 feet along the arc of this curve through 54 degrees 18 minutes 53 seconds of central angle to a point on the Easterly right-of-way line of the said Midway Drive; thence South 31 degrees 35 minutes 45 seconds West along the said right-of-way line a distance of 40.00 feet to the beginning of a curve to the left having a radius point bearing South 58 degrees 24 minutes 15 seconds East 345.00 feet; thence Southeasterly along the said right-of-way line and along the arc of this curve a distance of 370.32 feet through 61 degrees 30 minutes 00 seconds of central angle to a point on the Easterly right-of-way line of the said Crescent Drive; thence South 29 degrees 54 minutes 15 seconds East along the said right-of-way line a distance of 369.14 feet to the beginning of a curve to the left having a radius point bearing North 60 degrees 05 minutes 45 seconds East 185.00 feet; thence Southeasterly along the said right-of-way line and along the arc of this curve a distance of 78.87 feet through 24 degrees 25 minutes 35 seconds of central angle to a point on the West line of the said SAN MARCOS FAIRWAYS REPLAT; thence South 44 degrees 50 minutes 50 seconds West 3.01 feet to a corner of the said SAN MARCOS FAIRWAYS REPLAT; thence South 14.60 feet to the centerline intersection of the said Crescent Drive with the Westerly line of the said REPLAT this point being a point on a curve having a radius point bearing North 33 degrees 22 minutes 01 seconds East 200.00 feet; thence along the centerline of Crescent Drive and the centerline of San Marcos Drive as follows: Northwesterly 93.30 feet along the arc of this curve through 26 degrees 43 minutes 44 seconds of central angle; thence North 29 degrees 54 minutes 15 seconds West 369.14 feet to the beginning of a curve to the left having a radius point bearing South 60 degrees 05 minutes 45 seconds West 215.00 feet; thence Northwesterly and Westerly along the arc of this curve a distance of 451.01 feet through 120 degrees 11 minutes 30 seconds of central angle; thence South 29 degrees 54 minutes 15 seconds West 369.14 feet to the beginning of a curve to the right

having a radius point bearing North 60 degrees 05 minutes 45 seconds West 200.00 feet; thence Southwesterly 209.77 feet along the arc of this curve through 60 degrees 05 minutes 45 seconds of central angle to a point of a compound curve to the right having a radius point bearing North 465.00 feet; thence Westerly 235.06 feet along the arc of this curve through 28 degrees 57 minutes 50 seconds of central angle to the POINT OF BEGINNING; AND

That part of the North half of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

The basis for the bearings used in this description are from SAN MARCOS FAIRWAYS REPLAT, a subdivision recorded in Book 122 of Maps, Page 37, Records of Maricopa County.

BEGINNING at the Southwest corner of Lot 30 of the said SAN MARCOS FAIRWAYS REPLAT this point being on a curve concave to the North and having a radius point bearing North 35 degrees 40 minutes 10 seconds East 185.00 feet; thence following the Northerly and Westerly right-of-way lines of Quarty Drive (a private drive) as follows: Southeasterly along the arc of this curve a distance of 115.17 feet through 35 degrees 40 minutes 10 seconds of central angle; thence East 860.31 feet to the beginning of a curve to the left having a radius point bearing North 429.24 feet; thence Easterly 228.50 feet along the arc of this curve through 30 degrees 30 minutes 00 seconds of central angle; thence North 59 degrees 30 minutes 00 seconds East 208.65 feet to the beginning of a curve to the left having a radius point bearing North 30 degrees 30 minutes 00 seconds West 30.00 feet; thence Northerly 50.92 feet along the arc of this curve through 97 degrees 15 minutes 00 seconds of central angle; thence North 37 degrees 45 minutes 00 seconds West 66.55 feet to the Northeast corner of Lot 12 of the said SAN MARCOS FAIRWAYS REPLAT; thence North 61 degrees 34 minutes 00 seconds East 30.40 feet; thence South 37 degrees 45 minutes 00 seconds East 63.67 feet to the beginning of a curve to the left having a radius point bearing North 52 degrees 15 minutes 00 seconds East 30.00 feet; thence Easterly 50.92 feet along the arc of this curve through 97 degrees 15 minutes 00 seconds of central angle; thence North 45 degrees 00 minutes 00 seconds East 180.08 feet to the beginning of a curve to the left having a radius point bearing North 45 degrees 00 minutes 00 seconds West 310.00 feet; thence Northerly 237.66 feet along the arc of this curve through 55 degrees 55 minutes 30 seconds of central angle; thence North 5 degrees 04 minutes 30 seconds East 145.02 feet to the beginning of a curve to the right having a radius point bearing North 88 degrees 55 minutes 30 seconds East 218.16 feet; thence Easterly 164.74 feet along the arc of this curve through 43 degrees 16 minutes 02 seconds of central angle to the point of intersection of the said North right-of-way line of Quarty Drive and the Easterly right-of-way line of San Marcos Drive (a private drive) as shown and delineated on SAN MARCOS FAIRWAYS, a

subdivision recorded in Book 20 of Maps, Page 33, Records of Maricopa County; thence leaving the said North right-of-way line of Quarty Drive South 45 degrees 39 minutes 28 seconds East 30.00 feet to a point on the South right-of-way line of the said Quarty Drive this point being on a curve concentric to the last described curve and having a radius point bearing South 45 degrees 39 minutes 28 seconds East 188.16 feet; thence Southwesterly 142.09 feet along the arc of this curve through 43 degrees 16 minutes 02 seconds of central angle; thence South 01 degrees 04 minutes 30 seconds West 145.02 feet to the beginning of a curve to the right having a radius point bearing North 88 degrees 55 minutes 30 seconds West 340.00 feet; thence leaving the Easterly right-of-way line of the said Quarty Drive Southwesterly along the Easterly right-of-way line of the said San Marcos Drive and along the arc of this curve a distance of 260.66 feet through 43 degrees 55 minutes 30 seconds of central angle to a point on the South right-of-way line of the said Quarty Drive; thence along the said South right-of-way line as follows: South 45 degrees 00 minutes 00 seconds West 193.84 feet to the beginning of a curve to the right having a radius point bearing North 45 degrees 00 minutes 00 seconds West 245.00 feet; thence Southwesterly 62.00 feet along the arc of this curve through 14 degrees 30 minutes 00 seconds of central angle; thence South 59 degrees 30 minutes 00 seconds West 270.47 feet to the beginning of a curve to the left having a radius point bearing South 30 degrees 30 minutes 00 seconds East 22.75 feet; thence Southerly 59.36 feet along the arc of this curve through 149 degrees 30 minutes 00 seconds of central angle to a point on the North right-of-way line of Half Moon Way (a private street); thence East along the said North right-of-way line 217.88 feet; thence South 30.00 feet to the Northeast corner of Lot 19 of the said SAN MARCOS FAIRWAYS REPLAT; thence West along the South right-of-way line of the said Half Moon Way, a distance of 217.88 feet to the beginning of a curve to the right having a radius point bearing North 492.66 feet; thence Westerly along the said South right-of-way line and along the arc of this curve 112.96 feet through 13 degrees 08 minutes 12 seconds of central angle to the point of a reverse curve to the left having a radius point bearing South 13 degrees 08 minutes 12 seconds West 462.66 feet; thence Westerly 106.08 feet along the arc of this curve through 13 degrees 08 minutes 12 seconds of central angle; thence North 15.00 feet to the monumented centerline of the said Quarty Drive; thence along the said centerline as follows: West 860.31 feet to the beginning of a curve to the right having a radius point bearing North 200.00 feet; thence Westerly 116.47 feet along the arc of this curve through 33 degrees 22 minutes 01 seconds of central angle to a point on the Westerly subdivision line of the said SAN MARCOS FAIRWAYS REPLAT; thence North 14.60 feet to a subdivision corner; thence North 44 degrees 50 minutes 50 seconds East 3.01 feet to the POINT OF BEGINNING; AND

That part of the North half of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows.

The basis for the bearings used in this description are from SAN MARCOS FAIRWAYS, a subdivision recorded in Book 20 of Maps, Page 33, Records of Maricopa County, Arizona and from SAN MARCOS FAIRWAYS REPLAT, a subdivision recorded in Book 122 of Maps, Page 37, Records of Maricopa County, Arizona.

The following described parcel is a portion of the private roadway (San Marcos Drive) as shown and delineated on the map of the said San Marcos Fairways lying North of the Northerly right-of-way line of Quarty Drive as shown and delineated on the map of said San Marcos Fairways Replat.

COMMENCING at the centerline of the said San Marcos Drive at the most Northerly terminus thereof; thence South 45 degrees 59 minutes 00 seconds East 15.00 feet to a point on the Easterly right-of-way line of the said San Marcos Drive; thence along said Easterly right-of-way line as follows: South 44 degrees 01 minutes 00 seconds West 60.00 feet to the beginning of a curve to the left having a radius point bearing South 45 degrees 59 minutes 00 seconds East 158.18 feet; thence Southwesterly 121.52 feet along the arc of this curve through 44 degrees 01 minutes 00 seconds of central angle; thence South 45.00 feet to the beginning of a curve to the right having a radius point bearing West 320.00 feet; thence Southwesterly 168.25 feet along the arc of this curve through 30 degrees 07 minutes 30 seconds of central angle; thence South 30 degrees 07 minutes 30 seconds West 169.22 feet to the TRUE POINT OF BEGINNING; THENCE beginning at a curve to the left having a radius point bearing South 59 degrees 52 minutes 30 seconds East 545.10 feet; thence Southwesterly 96.83 feet along the arc of this curve through 10 degrees 10 minutes 40 seconds of central angle to a point on the Northerly right-of-way line of the said Quarty Drive, said point being a point on a non-tangent curve concave to the Southeast and having a radius point bearing South 45 degrees 39 minutes 28 seconds East 218.16 feet; thence leaving said Easterly right-of-way line of San Marcos Drive Southwesterly along the said Northerly right-of-way line of Quarty Drive and along the arc of this curve a distance of 174.96 feet through 45 degrees 56 minutes 58 seconds of central angle to a point on the Westerly right-of-way line of the said San Marcos Drive this point being on a curve having a radius point bearing South 87 degrees 16 minutes 23 seconds East 575.10 feet; thence along the Westerly right-of-way line of San Marcos Drive and along the arc of this curve Northeasterly 275.00 feet through 27 degrees 23 minutes 53 seconds of central angle; thence South 59 degrees 52 minutes 30 seconds East 30 feet to the POINT OF BEGINNING; AND

That part of the North half of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows.

The basis for the bearings used in this description are from SAN MARCOS FAIRWAYS, a subdivision recorded in Book 20 of Maps, Page 33, Records of Maricopa County and SAN MARCOS COUNTRY CLUB ESTATES I, a subdivision recorded in Book 350 of Maps, Page 36, Records of Maricopa County.

The following described parcel contains those portions of the private streets (San Marcos Drive and S. Fairway Drive) as shown and delineated on the map of said SAN MARCOS COUNTRY CLUB ESTATES I.

Commencing at the centerline of San Marcos Drive (a private street) at the Western most point thereof as shown and delineated on the plat of said SAN MARCOS FAIRWAYS and SAN MARCOS COUNTRY CLUB ESTATES I said point marking the beginning of a curve concave to the North and having a radius point bearing North 28 degrees 57 minutes 50 seconds East 465.00 feet; thence Southeasterly 235.07 feet along the centerline of said San Marcos Drive and along the arc of said curve through 28 degrees 57 minutes 50 second of central angle; thence leaving said centerline of San Marcos Drive South 15.00 feet to a point of the Southerly right-of-way line of said San Marcos Drive said point being the TRUE POINT OF BEGINNING; THENCE East along said Southerly right-of-way line 503.81 feet to the point of intersection of said San Marcos Drive with said S. Fairway Drive; thence along the right-of-way line of said S. Fairway Drive as follows; South 123.00 feet; thence South 45 degrees 00 minutes 00 seconds West 28.28 feet to the point of intersection of S. Fairway Drive with Frye Road (a public street); thence continuing along the right-of-way line of said S. Fairway Drive as follows: East 120.00 feet; thence North 45 degrees 00 minutes 00 seconds West 28.28 feet; thence North 123.00 feet to the point of intersection of said S. Fairway Drive with said San Marcos Drive; thence East along the Southerly right-of-way line of said San Marcos Drive 503.78 feet to the beginning of a curve concave to the Northeast having a radius point bearing North 215.00 feet; thence leaving said Southerly right-of-way line Westerly 225.51 feet along the arc of said curve to a point marking the beginning of a curve concave to the Northwest and having a radius point bearing South 60 degrees 05 minutes 45 seconds West 51.93 feet; thence Southerly 108.66 feet along the arc of said curve through 119 degrees 54 minutes 15 seconds of central angle to a point on the Northerly right-of-way of said San Marcos Drive; thence along said Northerly right-of-way line as follows; West 240.11 feet to the beginning of a curve to the right having a radius point bearing North 25.00 feet; thence Westerly 46.02 feet along the arc of said curve through 105 degrees 27 minutes 58 seconds of central angle to the beginning of a reverse curve to the left having a radius point bearing

North 74 degrees 32 minutes 02 seconds West 50.00 feet; thence Northerly 184.07 feet along the arc of said curve through 210 degrees 55 minutes 56 seconds of central angle to the beginning of a reverse curve to the right having a radius point bearing South 74 degrees 32 minutes 02 seconds West 25.00 feet; thence Southerly 46.02 feet along the arc of said curve through 105 degrees 27 minutes 58 seconds of central angle; thence West 240.11 feet to the beginning of a curve to the right having a radius point bearing North 51.93 feet; thence leaving said Northerly right-of-way Westerly 108.66 feet along the arc of said curve through 119 degrees 54 minutes 15 seconds of central angle to a point marking the beginning of a curve concave to the Northwest having a radius point bearing North 60 degrees 05 minutes 45 seconds West 215.00 feet; thence Southwesterly 225.51 feet along the arc of said curve through 60 degrees 05 minutes 45 seconds of central angle to the POINT OF BEGINNING; AND

Lots 1-29 and Tracts A and B of SAN MARCOS COUNTRY CLUB ESTATES II, according to Book 355 of Maps, Page 28, Records of Maricopa County, Arizona; AND

COMMENCING at the West quarter corner of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being the TRUE POINT OF BEGINNING; THENCE North (assumed bearing) along the West line of said Section 33, a distance of 587.49 feet; thence East 444.71 feet; thence South 33 degrees 18 minutes 41 seconds East, 204.50 feet; thence South 150.33 feet (150.00 feet record); thence East 149.89 feet (150.00 feet record) to a point at the terminus and centerline of San Marcos Drive (a private drive) as shown on the plat of SAN MARCOS FAIRWAYS, according to Book 20 of Maps, Page 33, Maricopa County Recorder, Maricopa County, Arizona; thence South 28 degrees 57 minutes 50 seconds West, along the terminus of San Marcos Drive, a distance of 15.00 feet to the Northwest corner of Lot 44 of said SAN MARCOS FAIRWAYS; thence South along the Westerly line of said Lot 44 and the projection thereof, a distance of 253.13 feet (South 253.04 feet record) to a point on the Southerly line of the Northwest quarter of said Section 33; thence West along said Southerly line a distance of 699.64 feet to the TRUE POINT OF BEGINNING;

EXCEPT the Southerly 33.00 feet and the Westerly 33.00 feet for roadway purposes as shown on said SAN MARCOS FAIRWAYS plat;

EXCEPT a parcel of land for street right of way purposes located in the Northwest quarter of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at a point lying 82.0 feet East and 48.0 feet North of the Southwest corner of said Northwest quarter of Section 33;

thence Easterly to a point lying 324.98 feet East and 48.0 feet North of said Southwest corner; thence Southeasterly to a point lying 506.02 feet East and 35.0 feet North of said Southwest corner; thence Easterly to a point lying 595.92 feet East and 35.0 feet North of said Southwest corner; thence Northerly to a point lying 595.92 feet East and 48.0 feet North of said Southwest corner; thence Easterly to a point lying 601.92 feet East and 48.0 feet North of said Southwest corner; thence Southerly to a point lying 601.92 feet East and 35.0 feet North of said Southwest corner; thence Easterly to a point lying 699.10 feet East and 35.0 feet North of said Southwest corner; thence Southerly to a point on the midsection line of said Section 33 lying 699.10 feet East of said Southwest corner; thence Westerly along said midsection line to a point lying 82.0 feet East of said Southwest corner; thence Northerly to the POINT OF BEGINNING;

EXCEPT the South 33.0 feet thereof;

EXCEPT a parcel of land for street right of way purposes located in the Northwest quarter of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the West quarter corner of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; thence Northerly along the West line of said Section 33 a distance of 587.49 feet; thence Easterly perpendicular to the said West line of Section 33 a distance of 50.0 feet; thence Southerly parallel with and 50.0 feet East of said West line of Section 33 to a point lying 80.0 feet North and 50.0 feet East of the West quarter corner of said Section 33; thence Southeasterly to a point lying 82.0 feet East and 48.0 feet North of said West quarter corner; thence Southerly perpendicular to the East-West midsection line of said Section 33 a distance of 48.0 feet; thence Westerly along the East-West midsection line to the POINT OF BEGINNING;

EXCEPT the South and West 33.0 feet thereof;

EXCEPT a parcel of land for street right of way purposes located in the Northwest quarter of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, more particularly described as follows:

The East 5.0 feet of the West 55.0 feet of the North 10.0 feet of the South 511.16 feet of said Northwest quarter; AND

COMMENCING at the West quarter corner of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; thence East along the East-West midsection line 3314.75 feet (3314.53 feet plat) to a point from which the East quarter corner bears East 2033.73 feet distant

therefrom; thence North 33.00 feet to the Southwest corner of Lot 17, as shown on the subdivision plat of SAN MARCOS FAIRWAY REPLAT as recorded in Book 122 of Maps, Page 37, Maricopa County Recorder, Maricopa County, Arizona said corner being the TRUE POINT OF BEGINNING; THENCE North 0 degrees 00 minutes 46 seconds East (North plat), along the Westerly line of said Lot 17, 135.00 feet to the Northwest corner of said Lot and being a point on the Southerly line of Half Moon Way (a private road), as shown on said plat; thence continuing North 0 degrees 00 minutes 46 seconds East (North plat), across said Half Moon Way 30.00 feet to a point on the Northerly line of said private roadway; thence East along the Northerly line of said roadway 32.13 feet to the Southwest corner of Lot 8 of said SAN MARCOS FAIRWAYS REPLAT; thence North 25 degrees 02 minutes 29 seconds West (North 25 degrees 03 minutes 09 seconds West plat), along the Westerly line of said Lot 8, 169.99 feet (170.00 feet plat) to the most Westerly corner of said Lot 8; thence North 59 degrees 30 minutes 25 seconds East (North 59 degrees 30 minutes 00 seconds East plat), along the Northwesterly line of said Lot 8 50.49 feet (50.47 feet plat) to a point marking the beginning of a curve to the left and being concave Northwesterly having a radius of 245.00 feet; thence Northeasterly along the arc of said curve through a central angle of 14 degrees 29 minutes 53 seconds (14 degrees 30 minutes 00 seconds plat) 62.00 feet; thence North 45 degrees 00 minutes 32 seconds East (North 45 degrees 00 minutes 10 seconds East plat), along the Northerly line of Lot 6 and Lot 4 of the said SAN MARCOS FAIRWAYS REPLAT, 193.91 feet (193.84 feet plat) to a point marking the beginning of a curve to the left and being concave Westerly having a radius of 340.00 feet; thence Northeasterly and Northerly along the arc of said curve through a central angle of 43 degrees 55 minutes 17 seconds (43 degrees 55 minutes 30 seconds plat) 260.64 feet (260.66 feet plat); thence North 1 degree 05 minutes 15 seconds East (North 1 degree 04 minutes 30 seconds East plat) along the Westerly line of Lots 5 and 3 of said SAN MARCOS FAIRWAYS REPLAT 145.06 feet (145.02 feet plat) to a point marking the beginning of a curve to the right and concave Southeasterly having a radius of 188.16 feet; thence Northerly, Northeasterly and Easterly along the arc of said curve through a central angle of 71 degrees 05 minutes 56 seconds (71 degrees 06 minutes 27 seconds plat) 233.49 feet (233.52 feet plat) to a point; thence North 72 degrees 11 minutes 11 seconds East (North 72 degrees 10 minutes 57 seconds East plat) 155.82 feet (155.73 feet plat) to a point marking the beginning of a curve to the left and being concave Northerly having a radius of 218.16 feet; thence Easterly and Northeasterly along the arc of said curve through a central angle of 13 degrees 56 minutes 21 seconds (13 degrees 56 minutes 30 seconds plat) 53.08 feet to a point; thence North 58 degrees 14 minutes 50 seconds East (North 58 degrees 14 minutes 27 seconds East plat) 91.30 feet (91.27 feet plat) to a point on the Northerly line of the said Quarry Drive at the point at which it intersects the Easterly line of Block J, as shown on the Map of TOWNSITE OF CHANDLER, in Book 5 of Maps, Page 34, Maricopa

County Recorder, Maricopa County, Arizona; thence South 1 degree 04 minutes 30 second West along the Easterly line of Block J 961.95 feet; thence North 88 degrees 55 minutes 30 seconds West 239.07 feet (239.00 feet plat) to the Southeast corner of Lot 13 of said SAN MARCOS FAIRWAYS REPLAT; thence continuing North 88 degrees 55 minutes 30 seconds West and along the Southerly line of said Lot 13 and the projection thereof 186.21 feet (186.15 feet plat) to a point marking the nontangent beginning of the curve Southerly and concave Northwesterly from which the center point of said curve bears South 45 degrees 01 minute 06 seconds West 40.00 feet; thence clockwise along the arc of said curve, through a central angle of 134 degrees 58 minutes 00 seconds (134 degrees 56 minutes 45 seconds plat) 94.25 feet (94.21 feet plat) to a point on the Easterly line of Lot 15 of said SAN MARCOS FAIRWAYS REPLAT; thence South 0 degrees 01 minute 02 seconds West (South plat) along the Easterly line of said Lot 15 170.00 feet to the Southeast corner of Lot 15, said corner being a point 33.00 feet Northerly of the East-West midsection line; thence West along the Southerly lines of Lot 15 and Lot 17 of said SAN MARCOS FAIRWAYS REPLAT, and being a line 33.00 feet Northerly of and parallel with the East-West midsection line, 225.07 feet (225.00 feet plat) to the TRUE POINT OF BEGINNING.