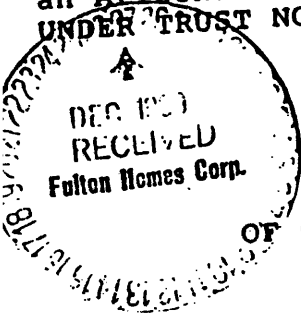


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WHEN RECORDED RETURN TO:
Commonwealth Title of Arizona,
an Arizona corporation as TRUSTEE
UNDER TRUST NO. 535

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PROP RSTR (no)

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COTTONWOOD RANCH

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THIS Declaration of Covenants, Conditions and Restrictions (hereinafter termed the "Declaration") is made on this 18th day of August, 1989, by COMMONWEALTH TITLE OF ARIZONA, an Arizona corporation as TRUSTEE UNDER TRUST NO. 535, (hereinafter sometimes termed "Declarant").

W I T N E S S E T H:

WHEREAS, the Declarant is the Owner of the real property located in Chandler, Arizona, which is described on Exhibit A attached hereto.

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

ARTICLE 1
DEFINITIONS

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

Section 1.2. "Architectural Committee Rules" shall mean the rules adopted by the Architectural Committee, as said rules may be amended from time to time.

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

Section 1.4. "Association" shall mean "Cottonwood

THIS INSTRUMENT IS BEING RE-RECORDED SOLELY FOR THE PURPOSES OF COMPLETING PARAGRAPH 5.3.(a) and to attach Exhibit "A".
This instrument is being re-recorded for the purpose of correcting Paragraph 5.3.(a).

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Ranch Homeowners Association", an Arizona nonprofit corporation, its successors and assigns.

Section 1.5. "Association Rules" shall mean the rules and regulations adopted by the Association, as the same may be amended from time to time.

Section 1.6. "Board" shall mean the Board of Directors of the Association.

Section 1.7. "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.8. "Common Area" shall mean all real property, and all improvements located thereon, owned by the Association for the common use and enjoyment of the Owners.

Section 1.9. "Declarant" shall mean Commonwealth Title of Arizona, an Arizona corporation as TRUSTEE UNDER TRUST NO. 535, its successors and any person or entity to whom it may expressly assign its rights under this Declaration.

Section 1.10. "Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as same may from time to time be amended.

Section 1.11. "First Mortgage" shall mean and refer to any mortgage or deed of trust with first priority over any other mortgage or deed of trust.

Section 1.12. "First Mortgagee" shall mean and refer to the holder of any First Mortgage.

Section 1.13. "Improvement" shall mean buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping Improvements of every type and kind.

Section 1.14. "Lot" shall mean any parcel of real property designated as a Lot on the Plat.

Section 1.15. "Member" shall mean any person, corporation, partnership, joint venture, or other legal entity who is an Owner of a Lot within the Property.

Section 1.16. "Owner" shall mean the record Owner, whether one (1) or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) the Purchaser of a Lot under an executory contract for the sale of real property, (ii) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (iii) a lessee or tenant of a Lot. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust shall be deemed to be the Owner.

Section 1.17. "Plat" shall mean the Plat of survey of Cottonwood Ranch, which Plat is recorded with the County Recorder of Maricopa County, Arizona.

Section 1.18. "Project Documents" shall mean this Declaration and the Articles, Bylaws, Association Rules, and Architectural Committee Rules.

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Section 1.19. "Property" or "Project" shall mean the real property described on Exhibit A attached to this Declaration.

Section 1.20. "Purchaser" shall mean any person other than the Declarant who by means of a voluntary transfer acquires a legal or equitable interest in a Lot other than (a) a leasehold interest (including renewable options) of less than five (5) years or (b) as security for an obligation.

Section 1.21. "Single Family" shall mean a group of one (1) or more persons each related to the other by blood, marriage or legal adoption; or a group of persons not all so related, together with their domestic servants not to exceed three (3) in number, who maintain a common household in a dwelling.

Section 1.22. "Single Family Residential Use" shall mean the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county, or municipal rules and regulation.

Section 1.23. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is, or would be, visible to a person six (6) feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE 2
THE ASSOCIATION

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

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

Section 2.3. Association Rules. 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. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee, or lessee of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption and recording with the County Recorder of Maricopa County, Arizona, the Association Rules shall

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have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 2.4. Architectural Committee. The Board shall establish an Architectural Committee consisting of not less than three (3) members appointed by the Board to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board. No Improvement of any kind may be made on any Lot without prior approval from the Architectural Committee and no change to an Improvement previously approved by the Architectural Committee may be made without prior written approval of the Architectural Committee.

ARTICLE 3 MEMBERSHIP

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

Section 3.2. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. ~~Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.~~

ARTICLE 4 VOTING RIGHTS

Section 4.1. Classes of Members. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Class A vote outstanding for as long as there is a Class B membership. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) Within ninety (90) days after the number of Class A votes equal the number of Class B votes; or

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

(c) January 1, 1999.

Section 4.2. Joint Ownership. When more than one (1) person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one (1) ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 4.3. Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership or association shall have the power to vote the membership, and if there is no chief executive officer, then the Board of Directors or general partner of such corporation, partnership or association shall designate who shall have the power to vote the membership.

Section 4.4. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of the Project Documents for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including attorneys' fees, are brought current, and for a period not to exceed sixty (60) days for any infractions of the Project Documents and for successive sixty (60) day periods if the infraction has not been corrected.

ARTICLE 5
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments, (2) supplemental assessments, and (3) special assessments for capital improvements. The annual, supplemental, and special assessments, together with costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with costs,

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and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of the Assessments. The assessments levied by the Association shall be used exclusively for the upkeep, maintenance, and improvement of the Common Area and such portions of the Lots, and such portions of the Improvements located thereon, as the Association is obligated to maintain under Sections 9.1 and 9.2 of this Declaration, and for promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property.

Section 5.3. Maximum Annual Assessment.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum annual assessment for each Lot shall be ~~TWENTY FOUR AND TWO HUNDRED NO/100 DOLLARS~~ (\$24.00). Eighty-eight & 00/100 Dollars (\$288.00).

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the Board may, without a vote of the membership, increase the maximum annual assessment during each fiscal year of the Association by an amount proportional to the amount of increase during the prior fiscal year in the Consumer Price Index for All Urban Consumers (All Items), U.S. City Average, published by the United States Department of Labor, Bureau of Labor Statistics (1967 = 100), or in the event said index ceases to be published, by any successor index recommended as a substitute therefor by the United States government; or ten (10%), whichever is greater.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to a Purchaser, the maximum annual assessment may be increased by an amount greater than the maximum increase allowed pursuant to (a) above, only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose, or by a two-thirds (2/3) majority of each class of vote as long as there is a Class B vote.

(d) The Board may fix the annual assessment in any amount not in excess of the maximum annual assessment.

Section 5.4. Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are, or will become, inadequate to meet all expenses of the Association, for any reason, including, without limitation, nonpayment of assessments by the Members, it shall immediately determine the approximate amount of such inadequacies for such fiscal year, prepare a supplemental budget, determine the amount of such inadequacies for such fiscal year, and levy a supplemental assessment against each Lot in such amount as the Board deems necessary in order to obtain the amount of such inadequacies. Notice of any such supplemental assessment shall be given to each Owner. The supplemental assessment shall be paid on such dates, and in such installments, as may be

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determined by the Board. No supplemental assessment shall be levied by the Board until such assessment has been approved by Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose, or a two-thirds (2/3) majority of each class as long as there is a Class B vote.

Section 5.5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose, or a two-thirds (2/3) majority of each class as long as there is a Class B vote.

Section 5.6. Notice and Quorum for Any Action Authorized Under Sections 5.3, 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3, 5.4 or 5.5 shall be sent to all Members not 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 proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.7. Uniform Rate of Assessment. Annual, supplemental, and special assessments must be fixed at a uniform rate for all Lots. However, as long as there is a Class B membership, Declarant shall not be subject to assessments for Lots not sold to individual Purchasers, but instead shall be required to pay the difference between actual operating costs for the Association and all income from assessments and other sources. When the Class B membership ceases as prescribed in Article 4, Section 4.1, Declarant shall become a Class A Member and will be subject to assessment for each Lot owned by Declarant. Declarant shall pay twenty-five percent (25%) of the full assessment amount until such time as the Lot is conveyed by Declarant to an individual Owner or is occupied, whichever occurs sooner. The one hundred percent (100%) assessment permanently attaches upon initial occupancy regardless of its state of occupancy thereafter.

Section 5.8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the

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number of months remaining in the fiscal year of the Association. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 5.9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment, or any installment of an assessment, not paid within fifteen (15) days after the assessment, or the installment of the assessment, first became due shall bear interest from the due date at the rate of twelve (12%) per annum, in addition to a flat five dollars and no cent (\$5.00--) penalty charge per late occurrence. Any assessment, or any installment of an assessment, which is delinquent shall become a continuing lien on the Lot against which such assessment was made. The lien shall be perfected by the recording of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2) legal description, street address and number of the Lot against which of lien is made, (3) the amount claimed as of the date of the recording of the notice including lien recording fees, interest and reasonable attorneys' fees, (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recording of the Notice of Claim of Lien except for tax liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and the liens which are specifically described in Section 5.10 of this Declaration.

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

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with lien fees, interest, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (a) bringing an action at law

against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 5.11. Exemption of Owner. No Owner of a Lot may exempt himself from liability for annual, supplemental, or special assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities, or by the abandonment of his Lot.

ARTICLE 6
PERMITTED USES AND RESTRICTIONS

Section 6.1. Scope. Except as otherwise specified, the provisions of this Article shall apply to all of the Property.

Section 6.2 Residential Use. All Lots shall be used, improved, and devoted exclusively to Single Family Residential use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot. Nothing herein shall be deemed to prevent the leasing of a Lot to a Single Family from time to time by the Owner thereof, subject to all of the provisions of the Project Documents. Any Owner who leases his Lot shall promptly notify the Association and shall advise the Association of the term of the lease and the name of each lessee. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property without the prior written approval of the Architectural Committee.

Section 6.3 Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any property and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be visible from neighboring property. Upon the written request

of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable to the same extent as other restrictions contained in this Declaration.

Section 6.4. Antennas. No antenna, satellite dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any property, whether attached to a building or structure or otherwise, without prior written approval by the Architectural Committee.

Section 6.5. Roof Mounted Equipment. No roof mounted equipment of any kind including, but not limited to, solar collectors, evaporative coolers, air conditioners, and ventilating systems shall be permitted without the written approval of the Architectural Committee.

Section 6.6. Utility Service. Except as approved in writing by the Architectural Committee, no lines, wires, or other devices for the communication of transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incidental to the construction of buildings or structures approved by the Architectural Committee.

Section 6.7. Improvements and Alterations. No Improvements, alterations, repairs, excavations, landscaping (except for such planting and landscaping as is installed in accordance with the initial construction of buildings on a Lot, or such planting or landscaping as is enclosed by a fence or wall, or in area not maintained by the Association) or other work which in any way alters the exterior appearance of any property or the Improvements located thereon, from its natural or improved state existing on the date such property was first conveyed in fee by Declarant to a Purchaser, shall be made or done without the prior written approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, landscaping, residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Committee. No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other parties shall have recourse against the Architectural Committee for its refusal to approve any such plans and specifications or plot plan, including lawn area and landscaping.

Section 6.8. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used

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at any time, on any portion of the Property, for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such property shall be removed immediately after the completion of construction.

Section 6.9. Trailers and Motor Vehicles. No motor vehicle classed by manufacturer rating as exceeding 3/4-ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street so as to be Visible From Neighboring Property; provided, however, that the provisions of this Section shall not apply to pickup trucks of 3/4-ton or less 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 bases for basic transportation.

Section 6.10. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property, and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such property.

Section 6.11. Trash Containers and Collection. No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection. The Board shall have the right to require all Owners to place their garbage or trash containers at a specific location for collection, or to require all Owners to subscribe to a trash collection service. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

Section 6.12. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any property so as to be Visible From Neighboring Property.

Section 6.13. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any property except such machinery or equipment as is usual and customary in connection with the use,

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maintenance, or construction of a residence, appurtenant structures, or other Improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Property.

Section 6.14. Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board.

Section 6.15. Signs. No signs whatsoever (including, but not limited to, commercial, advertising, political, and similar signs) shall be erected or maintained anywhere on the Property including but not limited to, the inside or outside of windows in any building located on the Property, except such signs as may be required by legal proceedings or otherwise approved herein. The use of "For Sale" or "For Lease" signs is specifically prohibited except as provided in Section 6.16 herein.

Section 6.16. Declarant's Exemption. Notwithstanding any other provision of the Project Documents, it shall be expressly permissible for the Declarant or its duly authorized agents, employees, and representatives to maintain during the period of the sale of Lots, such facilities, structures, and signs as are necessary or convenient, in the sole opinion of the Declarant, to the sale of the Lots, including, but without limitation, a business office, storage area, construction yards, homes, and sales offices; provided, however, that such use of the Common Area by the Declarant must be reasonable and must not interfere with any Owner's use and enjoyment of the Common Area.

Section 6.17. Planting and Landscaping. No planting or landscaping shall be done, and no fences, hedges, or walls shall be erected or maintained on any Lot without the prior written approval of the Architectural Committee.

Section 6.18. Mineral Exploration. No property shall be used in any manner to explore for, or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 6.19. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 6.20. Trash and Debris. Each Owner of a Lot, when installing or constructing Improvements on the Lot, shall provide a place for the daily collection and storage of trash and debris and will remove such trash and debris on a reasonable schedule. No Owner of a Lot will allow any nuisance to occur on his Lot or adjacent to his Lot other than the reasonable result of construction activity. The Board shall be the sole judge as to whether or not undue nuisance is occurring and upon notice from the Board to the Lot Owner, any such nuisances identified by the Board shall be corrected.

ARTICLE 7

EASEMENTS

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Section 7.1. Utility Easement. There is hereby created a blanket easement upon, across, over, and under the Common Area for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to water, sewers, gas, telephones, electricity, and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

Section 7.2. Easement for Encroachments. In the event a wall, landscaping, or other approved Improvement on a Lot or the Common Area encroaches upon another Lot or the Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is hereby given and the right to determine whether such encroachment causes a significant adverse impact shall be determined by the Architectural Committee upon request by either of the parties. When such determination is made by the Architectural Committee, that determination is binding on all parties.

Section 7.3. Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Declarant, the Owners, and their family, guests, tenants, and invitees for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

Section 7.4. Association's Right of Entry. During reasonable hours, the Association, any member of the Architectural Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any Lot, excluding the interior of any residence located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration, the Association Rules and the Architectural Committee Rules are being complied with by the Owner of said Lot.

Section 7.5. Association's Easement For Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and those portions of the Lots which the Association is obligated to maintain under Article 9 of this Declaration.

Section 7.6. Use and Drainage Easements Among Owners. Wherever drainage, as estimated by the Declarant, flows from one (1) Lot under or through one (1) or more other Lots, said drainage flow shall not be impeded, diverted, or otherwise changed. These easements shall include, but are not limited to,

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receiving the runoff from roofs and drainage under and through garden walls.

**ARTICLE 8
PROPERTY RIGHTS**

Section 8.1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area. Said easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

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

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no such dedication or transfer shall be effective unless evidenced by an instrument signed by at least two-thirds (2/3) of each class of Members, except that the Board may make a dedication for transfer without consent of the Members, providing such transfer is of minimal value and causes no adverse impact to the Members;

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

Section 8.2. Delegation of Use. Any Owner may delegate, subject to this Declaration and the Association Rules, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times, and in accordance with reasonable Association Rules.

Section 8.3. Limitations. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.

**ARTICLE 9
MAINTENANCE**

Section 9.1. Maintenance of Common Area by the Association. The Association shall be responsible for the

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maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

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

(c) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

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

Section 9.2. Exterior Maintenance By Association. In addition to the maintenance, repair and replacement of the Common Area and the Improvements located thereon, the Association shall maintain, repair and replace the landscaping and other Improvements on any area within, or immediately adjacent to, Cottonwood Ranch, providing the Board agrees that such maintenance shall be in the best interest of all the Members and agrees to such maintenance in writing.

Section 9.3. Maintenance By Owners. Each Owner shall be solely responsible for that portion of the maintenance, repair and replacement of his Lot and Improvements which are not maintained by the Association as described in Sections 9.1 and 9.2.

Section 9.4. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association, in connection therewith. No Owner shall in any way interfere with the maintenance responsibilities of the Association, including, but not limited to, landscaping, street maintenance, and wall maintenance. Any expenses incurred by the Association by reason of any such act of an Owner, his grantees or assignees, shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under Arizona law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of assessments.

Section 9.5. Nonperformance by Owners. If any Owner fails to maintain any portion of his Lot, and the Improvements located thereon, which he is obligated to maintain under the provisions of the Project Documents, the Association shall have the right, but not the obligation, after fourteen (14) days

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

ARTICLE 10
PARTY WALLS

Section 10.1. Rights and Duties of Adjoining Owners.
The rights and duties of Owners of Lots with respect to party walls shall be governed by the following provisions:

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

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

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one (1) of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense;

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

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

(f) In addition to meeting the other requirements of this Declaration and of any other city code or similar regulations or ordinances, any Owner proposing to modify, make additions to build or rebuild a

party wall in any manner which requires construction, extension or other alteration, shall first obtain the written consent of the adjoining Owner and the Architectural Committee;

(g) In the event of a dispute between Owners with respect to the repair or the rebuilding of a party wall or with respect to sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Architectural Committee whose decision shall be final; and

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

ARTICLE 11
INSURANCE

Section 11.1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to an individual Owner other than the Declarant, the Association shall maintain adequate insurance for Common Area liability to extend to those areas the Association may agree to maintain pursuant to Article IX herein, officers and directors liability, committees appointed by the Board, property, fidelity and any other coverage deemed necessary by the Board.

Section 11.2. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 11.3. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

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Section 11.4. Owner's Responsibility. It is the responsibility of each Owner of a Lot to maintain insurance on his Lot and Improvements thereon.

ARTICLE 12
GENERAL PROVISIONS

Section 12.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.2. Severability. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 12.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 12.4. Amendment by Owners. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners representing not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by Owners representing not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded.

Section 12.5. Amendment by Board. Notwithstanding anything to the contrary in this Declaration, the Board shall have the right, but not the obligation, to amend this Declaration, without obtaining the approval or consent of any other Owner or mortgagee, in order to conform the Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or other government or government approved agencies when such modification is required to qualify for the use of the services, insurance, or other guarantees provided by such agencies.

Section 12.6. Violations and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner.

Section 12.7. Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement

procedures set forth herein.

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Section 12.8. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

Section 12.9. Delivery of Notices and Documents. Any written notice or other documents relating to, or required by, this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

Section 12.10. Binding Effect. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

Section 12.11. Management Agreements. Any agreement for professional management of the Association, the Project, or any other contract providing for services of the Declarant, or other developer, sponsor or builder of the Project shall not exceed one (1) year. Any such agreement must provide for termination by either party without cause, and without payment of a termination fee on thirty (30) days or less written notice.

Section 12.12. Gender. The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 12.13. Topic Headings. The marginal or topical headings of the Sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Sections or this Declaration.

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Section 12.14. Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with such membership and the covenants and obligations incidental thereto.

Section 12.15. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, Association Rules or Architectural Committee Rules, the provisions of this Declaration shall prevail.

Section 12.16. Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Declaration, shall be joint and several.

Section 12.17. Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration, or to collect any assessments or other amounts due from an Owner, or to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

Section 12.18. Declarant's Right To Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one (1) or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

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IN WITNESS WHEREOF, Commonwealth Title of Arizona, an Arizona corporation as TRUSTEE UNDER TRUST NO. 535, has hereunto caused its name to be signed by the signatures of its duly authorized officials as of the day and year first above.

Commonwealth Title of Arizona,
an Arizona corporation as
TRUSTEE UNDER TRUST NO. 535

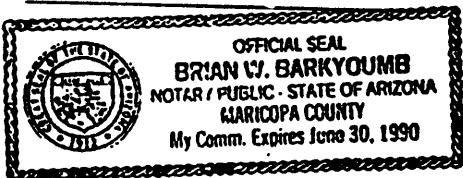
By: David J. Wright
David J. Wright
Trust Officer

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing Declaration was acknowledged before me this
18th day of August 1989, by David J. Wright
a duly authorized officer of Commonwealth Title of Arizona, an
Arizona corporation as TRUSTEE UNDER TRUST NO. 535.

Brian W. Barkyoub
Notary Public

My Commission Expires:



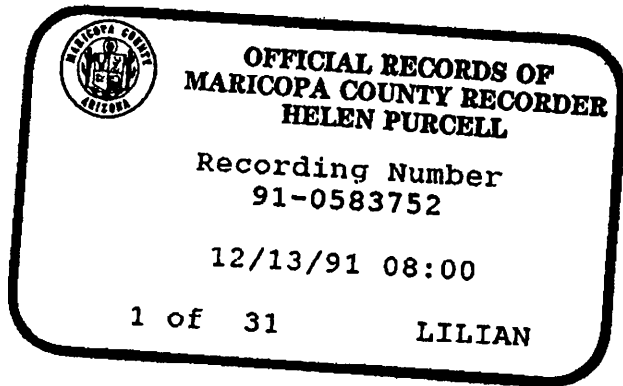
SECURITY TITLE AGENCY

66-10034

WHEN RECORDED RETURN TO:

SECURITY TITLE AGENCY
3620 N 3rd Avenue
Phoenix, Az 85013

ATTN: Trust No. 5916



FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COTTONWOOD RANCH

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Cottonwood Ranch (this "First Amendment") is made this 9th day of December, 1991, by the Cottonwood Ranch Homeowners Association, an Arizona corporation.

R E C I T A L S :

A. A Declaration of Covenants, Conditions and Restrictions for Cottonwood Ranch was recorded as Instrument No. 89-538370, records of Maricopa County, Arizona, imposing certain covenants, conditions and restrictions upon certain real property described in the Declaration. The Declaration of Covenants, Conditions and Restrictions was re-recorded solely for the purposes of completing Paragraph 5.3(a) and to attach Exhibit A by the instruments recorded as Instrument No. 89-391846 and 89-566573. The Declaration of Covenants, Conditions and Restrictions, as re-recorded, shall be hereinafter referred to as the "Declaration".

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

C. The Declaration provides that it may be amended by an instrument signed by Owners representing not less than ninety percent (90%) of the Lots. The Association has collected the written approval of not less than ninety percent (90%) of the Lots.

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NOW, THEREFORE, the Declaration is amended as follows:

1. Exhibit A shall be amended to read as follows:

Lots 1 through 117 (inclusive) and Retention Tracts A and B and Tracts C-1, C-2, C-3, C-4, and C-5, COTTONWOOD RANCH, according to the plat of record in the Office of the County Recorder, Maricopa County, Arizona, in Book 331 of Maps, page 36 and Lots 118-146 (inclusive) and Retention Tract A, COTTONWOOD RANCH UNIT II, according to the plat of record in the Office of the County Recorder, Maricopa County, Arizona, in Book 346 of Maps, page 37.

2. Except as expressly amended by this First Amendment, the Declaration shall remain in full force and effect.

COTTONWOOD RANCH HOME-
OWNERS ASSOCIATION, an
Arizona corporation

BY: Tom Lee Parks

Its: PRE'S.

APPROVED:

Security Title, an Arizona corporation
as Trustee under Trust No. 5916

BY: Manan A. Hader

Its: Senior Trust officer

