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PROP RSTR (RS)

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

FOR

SHADOW ROCK AT THE FOOTHILLS

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
SHADOW ROCK AT THE FOOTHILLS

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
SHADOW ROCK AT THE FOOTHILLS

This Declaration of Covenants, Conditions and Restrictions is made as of the 3rd day of February, 1989, by TITLE USA COMPANY OF ARIZONA, an Arizona Corporation, as the "Trustee," and REALTY DEALERS, LTD., an Illinois limited partnership, as "Declarant," with reference to the following:

A. Trustee, as trustee of its Trust No. 1393, is the owner of fee title to the Property, and Declarant is the sole beneficiary of said trust.

B. By virtue of the Tract Declaration, the Property is subject to the Master Declaration.

C. Declarant and Trustee intend by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Property. Declarant and Trustee desire to provide a flexible (yet common) and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

NOW, THEREFORE, Declarant and Trustee hereby declare that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said real property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof.

ARTICLE 1

DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

1.1 "Annual Assessments" shall mean those Assessments computed and levied as provided in Section 8.5 of this Declaration.

1 1.2 "Articles" shall mean the articles of incorpora-
2 tion of the Association, as the same may be amended from time
3 to time in accordance with the provisions thereof and with the
4 applicable provisions of this Declaration, the Bylaws and the
5 statutes and regulations of the State of Arizona.

6 1.3 "Assessments" shall mean the Annual Assessments
7 and the Special Assessments.

8 1.4 "Association" shall mean Shadow Rock at The
9 Foothills Neighborhood Association, an Arizona non-profit cor-
10 poration, and its successors and assigns.

11 1.5 "Board" shall mean the group or body of persons
12 elected in accordance with the provisions of the Articles, the
13 Bylaws and the statutes and regulations of the State of
14 Arizona, in which group or body is vested the management of the
15 affairs of the Association, and shall be equivalent in meaning
16 to the term "board of directors," as defined in A.R.S. Section
17 10-1002(6).

18 1.6 "Bylaws" shall mean the bylaws of the
19 Association, as the same may be amended from time to time in
20 accordance with the provisions thereof and with the applicable
21 provisions of this Declaration, the Articles and the statutes
22 and regulations of the State of Arizona.

23 1.7 "Common Area" shall mean all real property
24 (including the improvements thereto and including easement
25 rights) now or hereafter owned by the Association for the com-
26 mon use and enjoyment of the Owners. The Common Area to be
27 owned by the Association at the time of the conveyance of the
28 first Lot to a retail purchaser shall be, at a minimum, the
29 following Tracts, all as established by and depicted on the
30 Plat: A; D through L, inclusive; O; P; Q; S; and T. It is
31 not, however, intended that Tracts B, C, M and N (as estab-
32 lished by and depicted on the Plat) are to be Common Area;
33 rather, said Tracts B, C, M and N will be transferred and
34 conveyed, not later than the time of the conveyance of the
35 first Lot to a retail purchaser, to the Master Association,
36 which shall hold title thereto and be responsible for the main-
37 tenance thereof as "common area" of the Master Association pur-
38 suant to the Master Declaration. It is not intended that Tract
39 R (as established by and depicted on the Plat) is to be Common
40 Area or to be owned by the Master Association; said Tract R
41 will be conveyed to and maintained by the owner of the adjacent
42 golf course as a part of such golf course.

43 1.8 "Common Expenses" shall mean the actual and esti-
44 mated expenses of operating the Association, including any rea-
45 sonable reserves, all as may be found to be necessary and
46 reasonable.

appropriate by the Board pursuant to this Declaration or pursuant to the Articles or the Bylaws.

1.9 "Declarant" shall mean Realty Dealers, Ltd., an Illinois limited partnership, and any assignee of the rights and duties granted or reserved to the Declarant herein, which assignment shall be evidenced by a duly executed and acknowledged Recorded instrument. The term "Declarant" shall in no event mean or refer to a retail Lot buyer.

1.10 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

1.11 "Eligible Mortgage Holder" shall mean any holder (as evidenced by a Recorded instrument) of a First Mortgage who or which shall have made written request to the Association for notice of any proposed action that, pursuant to Section 10.2 or Section 10.11, requires the consent of a specified percentage of Eligible Mortgage Holders (which written request must contain the name and address of the Eligible Mortgage Holder and the Lot number or street address of the Lot against which the First Mortgage held by said Eligible Mortgage Holder is Recorded).

1.12 "First Mortgage" shall mean a Mortgage Recorded against a Lot which has priority over any and all other Mortgages Recorded against that Lot.

1.13 "Lot" shall mean and refer to a lot into which the Property is subdivided as set forth on the Plat. In no event shall the term "Lot" mean or refer to all or any part of the Common Area.

1.14 "Master Association" shall mean The Foothills Community Association, an Arizona non-profit corporation, and its successors and assigns.

1.15 "Master Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions for The Foothills recorded on April 10, 1987, at Recorder's No. 87-218943 in the office of the Maricopa County, Arizona Recorder, as amended from time to time.

1.16 "Maximum Annual Assessment" shall mean the amount determined for each fiscal year of the Association in accordance with Section 8.7 of this Declaration.

1.17 "Member" shall mean any Person entitled to membership in the Association, as provided in this Declaration.

1 1.18 "Mortgage" shall mean a deed of trust, as well as
2 a mortgage, which, in either case, is Recorded against a Lot or
any other part of the Property.

3 1.19 "Mortgagee" shall mean a beneficiary or holder of
4 a deed of trust, as well as a mortgagee under a mortgage,
which, in either case, is Recorded against a Lot or any other
part of the Property.

5 1.20 "Occupant" shall mean any Person other than an
6 Owner who occupies or is in possession of a Lot, whether as a
lessee under a lease or otherwise.

7 1.21 "Owner" shall mean the Person or Persons who
8 individually or collectively: (a) own fee title to a Lot (as
9 evidenced by a Recorded instrument); or (b) hold the seller's
10 or vendor's interest under a contract for conveyance, contract
11 for deed, agreement for sale or similar contract through which
a seller has conveyed to a purchaser equitable title in prop-
erty and under which the seller is obligated to convey to the
12 purchaser the remainder of the seller's title in the property,
13 whether legal or equitable, on payment in full of all sums due
under the contract. The term "Owner" shall not include:
14 (i) any Person who holds an interest in a Lot merely as secu-
rity for the performance of an obligation; or (ii) a lessee,
15 tenant or other Occupant of a Lot. Declarant shall be the
"Owner" of each Lot with respect to which Declarant holds the
16 interest required by this Section and, in addition, shall be
deemed to be the "Owner" of each Lot to which title is held by
17 a trustee (other than the trustee of a deed of trust) for the
benefit of Declarant. Notwithstanding part (a) of this
18 Section, in the case of a Lot, the fee title to which is vested
in a trustee under a deed of trust pursuant to Chapter 6.1 of
Title 33 of the Arizona Revised Statutes, the owner of the
trustor's interest under the deed of trust shall be deemed to
be the "Owner" of that Lot.

19 1.22 "Person" shall mean a natural person, corpora-
20 tion, partnership, trustee or other legal entity.

21 1.23 "Phase" shall mean any one of the portions of the
Property described and identified by a phase number or letter
22 (or number and letter) on Exhibit "B" attached hereto and
incorporated herein by reference. The numbers or letters (or
23 numbers and letters) assigned to Phases hereby are and shall be
for reference only and shall not control the order of develop-
ment or sale of Lots within any Phase or from Phase to Phase.
24 Declarant shall retain full discretion as to the order and
timing of the development and sales of Lots within any Phase or
25 from Phase to Phase.

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1 1.24 "Plat" shall mean that certain plat of Shadow
2 Rock at The Foothills recorded in Book 328 of Maps, page 37, in
the office of Maricopa County, Arizona Recorder, as and if
amended.

3 1.25 "Property" shall mean the real property described
4 in Exhibit "A" attached hereto and shall further refer to such
5 additional property, if any, as may hereafter be annexed
thereto pursuant to Article 6 hereof or as is now or may here-
after be owned in fee simple by the Association.

6 1.26 "Record", "Recording", "Recorded" and
7 "Recordation" shall mean placing or having placed an instrument
of public record in the official records of Maricopa County,
8 Arizona, or of such other governmental authority, office or
9 official with which or whom the applicable laws of the State of
Arizona prescribe that documents affecting title to real prop-
erty in the area including the Property are to be placed of
public record.

10 1.27 "Residential Unit" shall mean any structure
11 constructed on a Lot which is intended for use and occupancy as
12 a residence by a single household.

13 1.28 "Special Assessments" shall mean those
Assessments levied in accordance with Section 8.9 hereof.

14 1.29 "Tract Declaration" shall mean that certain Tract
15 Declaration Recorded on September 29, 1988, at Recorder's
No. 88-482546, whereby the Property was subjected to the Master
16 Declaration.

17 1.30 "Trustee" shall mean Title USA Company of
Arizona, an Arizona corporation, serving in its capacity as
18 trustee of its Trust No. 1393, and its successors and assigns.

19 ARTICLE 2

20 PROPERTY RIGHTS

21 Every Owner shall have a non-exclusive right and ease-
22 ment of enjoyment in, to and over the Common Area, subject to
any restrictions or limitations contained herein or in any
23 instrument conveying to the Association or subjecting to this
Declaration such property, and subject further to the reason-
24 able rules and regulations of the Association. Any Owner may
assign his, her or its right of enjoyment to (and share the
25 same with) the members of his or her household and assign the
same to and share the same with his, her or its tenants and
invitees subject to the provisions of this Declaration and to
26 reasonable regulation by the Board and otherwise in accordance

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with such procedures as the Board may adopt. An Owner who leases his, her or its Lot shall be deemed to have delegated such Owner's rights and easements under this Article 2 to the Lessee of such Lot for the term of such lease (except to the extent reasonably necessary for such Owner to inspect, repair and otherwise care for such Owner's Lot and to assure compliance by the lessee with the terms of such lease).

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 Votes of Owners of Lots. Every Owner of a Lot automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the membership is attributable. In the event any Lot is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall make such designation and such designation shall be binding for all purposes. Notwithstanding the foregoing, so long as the Class B membership is in existence, no Class B Member shall at the same time be a Class A Member nor shall a Class B Member have any Class A votes, and the membership and number of votes of the Class B Member(s) shall be determined in accordance with Subsection 3.3.2. Subject to Section 3.3.1 below, each Owner (other than Declarant, so long as the Class B membership is in existence) shall have one (1) vote for each Lot owned by such Owner.

3.2 Declarant. Declarant shall be a Member of the Association for so long as it holds a Class A or Class B membership.

3.3 Voting Classes. The Association shall have two classes of voting Members:

3.3.1 Class A. Class A Members shall be all Owners except Declarant (until the conversion of Declarant's Class B membership to Class A membership as provided below). Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, and except as provided in this Subsection 3.3.1, a Class A Member shall have the number of votes provided in Section 3.1; and

1 3.3.2 Class B. The Class B Member shall be
 2 Declarant. The Class B Member shall be entitled to the number
 3 of votes equal to three times the number of votes which would
 4 otherwise be attributable to Lots owned by Declarant as deter-
 5 mined pursuant to Section 3.1 above. Declarant shall have the
 6 right, at any time and from time to time, to assign all or any
 7 part of its voting rights appurtenant to its Class B membership
 8 (as well as all or any other rights appurtenant thereto) to one
 9 or more Persons acquiring, for purposes of development and
 10 sale, any part of the Property. Further, Declarant shall have
 11 the right, at any time and from time to time, to designate an
 12 individual or individuals to exercise Declarant's voting rights
 13 (whether appurtenant to Class A or Class B membership), pro-
 14 vided, however, that such designation shall not act as an
 15 assignment by Declarant of its membership or voting rights
 16 hereunder. The Class B membership automatically shall cease
 17 and be converted to a Class A membership upon the happening of
 18 the first of the following events:

19 (a) the date which is 90 days after the
 20 date upon which the total number of votes of the Class A
 21 Members equals the total number of votes of the Class B Member;

22 (b) the date which is five (5) years af-
 23 the date this Declaration is Recorded; or

24 (c) the date on which Declarant Records a
 25 written notice electing to convert the Class B membership to
 26 Class A membership.

3.4 Right to Vote. No change in the ownership of a
 Lot shall be effective for voting purposes until the Board
 receives written notice of such change together with satisfac-
 tory evidence thereof. The vote(s) for each Member must be
 cast as a single unit. Split or fractional votes shall not be
 allowed. If any Owner casts a vote or votes representing a
 certain Lot, that Owner will thereafter be conclusively pre-
 sumed to be acting with the authority and consent of all other
 Owners of such Lot unless and until objection thereto is made
 to the Board, in writing. Any Owner of a Lot which is leased
 or which is subject to a valid, outstanding and Recorded execu-
 tory agreement of sale may, in the lease, agreement of sale or
 other written instrument, assign the voting right appurtenant
 to the Lot to the lessee thereof or to the purchaser thereof
 under such agreement of sale, as applicable, provided that a
 copy of the written assignment of such voting rights is fur-
 nished to the secretary of the Association prior to any meeting
 at which such lessee or purchaser seeks to exercise such voting
 right.

1 3.5 Members' Rights. Each Member shall have the
2 rights, duties and obligations set forth in this Declaration,
the Articles, the Bylaws and any rules and regulations adopted
pursuant to any of the foregoing.

3 3.6 Transfer of Membership. Except as otherwise pro-
4 vided in this Declaration, the rights, duties and obligations
5 of a Class A Member cannot and shall not be assigned, trans-
ferred, pledged, conveyed or alienated in any way except upon
6 transfer of ownership of such Class A Member's Lot, and then
7 only to the transferee thereof. Such transfer may be effected
8 by deed, intestate succession, testamentary disposition, fore-
closure or other legal process authorized under Arizona law,
shall operate to transfer the membership appurtenant thereto to
the new Owner and any attempt to make any other form of trans-
fer shall be void.

9 ARTICLE 4

10 MAINTENANCE

11 4.1 Association's General Responsibilities. The
12 Association shall maintain and keep in good repair the Common
13 Area (and certain other areas, as more expressly provided in
14 this Section 4.1), the costs of such maintenance to be Common
Expenses of the Association (subject to any insurance then in
effect). This maintenance shall include, but not be limited to:

15 4.1.1 maintenance, repair and replacement of any
16 and all private streets or roadways constituting a part of the
17 Common Area, and any and all streetlights and related equipment
18 installed by Declarant or the Association on or adjacent to
such private streets or roadways, as well as all landscaping
and other flora, structures and improvements situated upon the
Common Area, including any perimeter or boundary walls;

19 4.1.2 maintenance, repair and replacement of land-
20 scaping and signs within areas designated on the Plat as "land-
21 scape easements," "landscape and wall easements" or "landscape
and sign easements" (or similar designations) unless and to the
extent such maintenance is performed by the Master Association
pursuant to the Master Declaration;

22 4.1.3 maintenance, repair and replacement of the
23 side facing a street or portion of the Common Area of any
24 boundary or perimeter wall situated within areas designated on
the Plat as "wall easements" (or similar designations); and

25 4.1.4 maintenance and repair of any drainage ease-
26 ments upon or across the Common Area.

1 4.2 Maintenance of Owner's Structures. Each Owner
2 shall be responsible for the maintenance, cleaning, painting,
3 repair and general care of all structures existing or
4 constructed upon such Owner's Lot, and, in particular, each
5 Owner shall cause the exterior of said structures to be main-
6 tained in good condition and repair and in an attractive state
7 consistent with general community standards within the
8 Property. In the event that the Association shall determine,
9 by the affirmative vote of a majority of the votes of each
10 class of Members represented in person or by valid proxy at a
11 meeting called for such purpose, that any Owner is in breach of
12 such Owner's obligations under the preceding sentence, the
13 Association shall promptly give such Owner written notice of
14 such determination, including a reasonably detailed list or
15 description of the repairs, maintenance or other work required
16 to cure such Owner's breach, and in the event the Owner shall
17 not have cured such breach within thirty (30) days after the
18 date of said written notice, the Association may cause the
19 repairs, maintenance or other work to be performed so as to
20 cure such Owner's breach, and the Association's costs in doing
21 so, together with interest from the date of expenditure at the
22 rate set forth in Section 10.8 of this Declaration, shall con-
23 stitute a lien on such Owner's Lot, which lien shall have the
24 priority and may be enforced in the manner described in
25 Section 8.3 of this Declaration; the Association shall also
26 have standing and authority to request that a court of compe-
tent jurisdiction compel such Owner to cure such breach, and to
the extent not inconsistent with an order of such court, the
Association may pursue either or both of the courses of action
described in this sentence. The Association shall have an
easement on, over, across and through each Lot to permit it to
carry out its duties and obligations under this Article 4.

17 4.3 Publicly-Dedicated Areas. Except as expressly
18 provided in this Article 4 (and, in particular, in
19 Subsection 4.1.2), and except as may otherwise be required by
20 applicable law, the Association shall have no responsibility to
21 maintain any areas within the Property (including, but not
22 limited to, public streets) which are dedicated to or the
23 responsibility of a municipality or other governmental entity.

21 4.4 No Discrimination. The provision of services in
22 accordance with this Article shall not be deemed to be discrim-
23 ination in favor of or against any Owner.

ARTICLE 5INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES5.1 Insurance to be Obtained by the Association.5.1.1 Hazard Insurance.

(a) The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Arizona), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount equal to 100% of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage, but including fixtures and building service equipment and personal property and supplies owned by the Association), with such amount to be redetermined annually by the Board with the assistance of the insurer or insurers providing such coverage.

(b) The policy or policies providing the insurance required by this Subsection 5.1.1 shall provide that: (i) any insurance trust agreement will be recognized; (ii) the insurer shall waive any right of subrogation against the Owners, the Board or the Association, and their respective agents, employees, guests and household members; (iii) such insurance shall not be cancelled, invalidated or suspended by reason of any acts or omissions of any Owner (or of such Owner's invitees, agents, tenants, servants, employees, guests or household members), or of any member, officer or employee of the Board without a prior written demand to the Board that any such act or omission be cured and without providing a sixty (60) day period within which the Board may cure such act or omission (or cause the same to be cured); (iv) such insurance coverage shall be primary, and shall in no event be brought into contribution with any insurance maintained by individual Owners or their Mortgagees; and (v) the coverage afforded by such policy or policies shall not be prejudiced by any act or omission of any Owner or Occupant (or their agents) when such act or omission is not within the control of the Association.

(c) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain

1 (if available at no additional cost or at such additional cost
2 as is not demonstrably unreasonable) the following endorsements
3 (or their equivalents): (i) "agreed amount" and "inflation
4 protection" endorsements; (ii) "increased cost of construction"
5 endorsement; (iii) "contingent liability from operation of
6 building laws or codes" endorsement; and (iv) "demolition cost"
7 endorsement.

8 (d) The policy or policies providing the
9 insurance required by this Subsection 5.1.1 shall also contain
10 a steam boiler and machinery endorsement providing coverage in
11 an amount not less than the lesser of \$2,000,000 or the insur-
12 able value of the building(s) housing such boiler and
13 machinery, if any.

14 (e) Unless a higher maximum deductible
15 amount is required by applicable law, each policy providing the
16 insurance coverage required by this Subsection 5.1.1 shall pro-
17 vide for a deductible not to exceed the lesser of \$10,000 or
18 one percent (1%) of the face amount of such policy.

19 5.1.2 Liability Insurance. The Board, acting on
20 behalf of the Association, shall obtain and maintain at all
21 times a comprehensive general liability policy insuring the
22 Association, each member of the Board and each Owner (and, so
23 long as Declarant, or any Person with whom Declarant contracts
24 directly for the performance of all or a substantial portion of
25 Declarant's rights and obligations hereunder, or for the con-
26 struction of substantial improvements on the Property, retains
an interest in the Property or any Lot, insuring Declarant and
such Person, if identified by Declarant to the Association,
provided that any added premium cost or other expense resulting
from naming Declarant or such Person as insureds shall be borne
by Declarant or such other Person), against any liability to
the public or to any Owner or Occupant (and such Owner's or
Occupant's invitees, agents, employees, tenants, guests,
servants and household members) for death, bodily injury and
property damage arising out of or incident to the ownership or
use of the Common Area or arising out of or incident to the
performance by the Association of its maintenance and other
obligations hereunder. The Board, with the assistance of the
insurer(s) providing such coverage, shall review annually the
amounts of coverage afforded by said comprehensive general lia-
bility policy or policies and adjust such amounts of coverage
as the Board deems appropriate, but in no event shall said pol-
icy or policies provide coverage less than One Million Dollars
(\$1,000,000.00) for death, bodily injury and property damage
for any single occurrence. The policy or policies providing
such insurance shall, by specific endorsement or otherwise
preclude denial by the insurer(s) providing such insurance of a
claim under such policy or policies because of negligent acts

1 or omissions of the Association or any Owner(s) (or of
2 Declarant or any other Person named as an insured or additional
insured thereunder).

3 5.1.3 Flood Insurance. In the event any part of
4 the Common Area is in a "special flood hazard area," as defined
5 by the Federal Emergency Management Agency (or its successors),
6 the Board, acting on behalf of the Association, shall obtain
7 (and maintain at all times during which any part of the Common
8 Area is in such a "special flood hazard area") a "master" or
9 "blanket" policy of flood insurance covering all insurable
10 improvements on the Common Area and covering any personal prop-
11 erty situated from time to time within such improvements (to
12 the extent such personal property is normally covered by the
13 standard flood insurance policy available from time to time in
the State of Arizona). Said insurance shall be in an amount
not less than the lesser of: (a) 100% of the current replace-
ment cost, from time to time, of all such insurable improve-
ments (and such insurable personal property) located in the
"special flood hazard area"; or (b) the maximum coverage avail-
able for such insurable improvements and insurable personal
property under the National Flood Insurance Program. Unless a
higher maximum deductible amount is required by applicable law,
the policy providing such insurance shall provide for a deduct-
ible not to exceed the lesser of \$5,000 or one percent (1%) of
the face amount of such policy.

14 5.1.4 General Provisions Governing Insurance. The
15 insurance required to be obtained under Subsections 5.1.1,
16 5.1.2 and 5.1.3 shall be written in the name of the Association
as trustee for each of the Owners and for each Mortgagee (as
their respective interests may appear) and shall be governed by
the provisions hereinafter set forth:

17 (a) All policies shall be written with one
18 or more companies authorized to provide such insurance in the
19 State of Arizona;

20 (b) Exclusive authority to adjust losses
21 under policies in force on property owned or insured by the
Association shall be vested in the Board;

22 (c) In no event shall the insurance cover-
23 age obtained and maintained by the Board hereunder be brought
24 into contribution with insurance purchased by individual
Owners, Occupants or their Mortgagees, and the insurance
carried by the Association shall be primary;

25 (d) The Board shall be required to make
26 every reasonable effort to secure insurance policies that will
provide for a waiver of subrogation by the insurer as to any

1 claims against the Board or the Owners and their respective
2 tenants, servants, agents, employees, guests and household mem-
3 bers (if securing same will impose on the Association no addi-
4 tional cost or only such reasonable cost as the Board may
5 approve, in its discretion);

6 (e) Each policy providing insurance cover-
7 age required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall
8 require the applicable insurer to give not less than ten (10)
9 days written notice to the Association, and to each Mortgagee
10 which shall have given such insurer written notice of such
11 Mortgagee's interest in a Lot (which notice must include the
12 name and address of such Mortgagee), of any cancellation,
13 refusal to renew or material modification of such policy; and

14 (f) To the extent reasonably available,
15 each policy providing insurance coverage required by
16 Subsections 5.1.1, 5.1.2 and 5.1.3 shall contain a waiver by
17 the applicable insurer of its rights to repair and reconstruct
18 instead of paying cash.

19 5.1.5 Fidelity Bonds. The Board, acting on behalf
20 of the Association, shall obtain and maintain at all times ade-
21 quate fidelity bond coverage to protect against dishonest act
22 on the part of officers, directors and employees of the
23 Association and all others who handle, or are responsible for
24 handling, funds held or administered by the Association,
25 whether or not such officers, directors, employees or others
26 receive compensation for services they render to or on behalf
of the Association. Any independent management agent which
handles funds for the Association shall also obtain (and pay
for) such fidelity bond coverage with respect to its own
activities (and those of its directors, officers and employees,
whether or not such directors, officers or employees receive
compensation for services rendered). Such fidelity bonds:
(a) shall name the Association as obligee; (b) shall be issued
by one or more companies authorized to issue such bonds in the
State of Arizona; and (c) shall be in an amount sufficient to
cover the maximum total of funds reasonably expected by the
Board to be in the custody of the Association or such agent at
any time while such bond is in force, but in no event shall the
amount of such fidelity bond coverage be less than twenty-five
percent (25%) of the total of Annual Assessments payable at the
time with respect to all Lots, plus the total of funds held in
the Association's reserves. Each such fidelity bond shall pro-
vide that the issuer thereof shall provide not less than ten
(10) days written notice to the Association and to each
Eligible Mortgage Holder before such bond may be cancelled or
substantially modified for any reason.

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5.1.6 Workers' Compensation Insurance. The Board, acting on behalf of the Association, shall obtain and maintain workers' compensation insurance if and to the extent necessary to meet the requirements of applicable law.

5.1.7 Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 5.1 shall be Common Expenses (except that, as provided in Subsection 5.1.5 above, the cost of the fidelity bond required to be furnished by any independent management agent shall be paid by such agent, and, as provided in Subsection 5.1.2 above, any added cost of naming Declarant, or any Person with whom or which Declarant contracts directly for the performance of all or a substantial portion of Declarant's obligations hereunder, or for the construction of improvements on the Property, shall be borne by Declarant or such other Person). The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Section 5.1, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such insurance coverage from reputable companies authorized to provide such insurance in the State of Arizona, or if such insurance coverage is available only at an unreasonable cost.

5.1.8 Subsequent Changes in Insurance Requirements. It is the intention of this Article 5 (and, in particular, of this Section 5.1), to impose upon the Association the obligation to obtain and maintain in full force and effect at least those types and amounts of insurance as are required, at the time this Declaration is Recorded, by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration and Federal Housing Administration. However, notwithstanding any provision of this Declaration to the contrary, should any or all of said agencies subsequently amend or modify their respective requirements regarding the insurance coverage required to be maintained by the Association, the Board, acting on behalf of the Association, shall, promptly upon receiving notice of such amendment or modification from any such agency, from any Owner or Eligible Mortgage Holder or from Declarant, obtain such additional, modified or amended policy or policies of insurance as may be necessary to conform to such amended or modified requirements. Should such requirements of any such agency conflict with the requirements of any other such agency or with applicable provisions of law, the Board, acting on behalf of the Association, shall diligently work with such agency or agencies to resolve such conflict and shall thereafter obtain and maintain such additional, modified or amended policy or policies of insurance as may be necessary to conform with the requirements of such agencies, taking into account the resolution of said conflict. In the event the Board, after exercise

1 of such diligence, is unable to resolve such conflict, the
2 Board, acting on behalf of the Association, shall exercise its
3 good faith business judgment and obtain and maintain in full
4 force and effect such insurance coverage as the Board, in the
5 exercise of such judgment, deems to conform as closely as possible
6 with the applicable requirements of all such agencies,
7 and of law, taking into account such conflict. Nothing in this
8 Subsection 5.1.8 shall be deemed to require the Board to reduce
9 the insurance coverage then in effect for the Association in
10 the event any such agency modifies its requirements to permit
11 lesser coverages.

7 5.2 Insurance to be Obtained by the Owners.

8 5.2.1 Public Liability Insurance. It shall be the
9 individual responsibility of each Owner to provide, as such
10 Owner sees fit and at such Owner's sole expense, such comprehensive
11 public liability insurance as such Owner may desire
12 against loss or liability for damages and any expense of
13 defending against any claim for damages which might result from
14 the ownership, use or occupancy of such Owner's Lot.

12 5.2.2 Hazard and Contents Insurance. It shall be
13 the individual responsibility of each Owner to provide, as such
14 Owner sees fit and at such Owner's sole expense, such fire,
15 liability, theft and any other insurance as such Owner may
16 desire covering the Residential Unit and any other structure on
17 such Owner's Lot, as well as any and all fixtures and personal
18 property upon such Lot or in such Residential Unit or other
19 structure(s).

16 5.3 Casualty Losses.

17 5.3.1 Damage and Destruction.

18 (a) Immediately after any damage or
19 destruction by fire or other casualty to all or any part of the
20 property required to be insured by the Association under
21 Section 5.1 above, the Board or its duly authorized agent
22 shall: (i) proceed with the filing and adjustment of all
23 claims arising under such insurance; (ii) obtain reliable and
24 detailed estimates of the cost of repair or reconstruction of
25 the damaged or destroyed property; and (iii) upon receipt of
26 the proceeds of such insurance and except as is otherwise provided
in this Subsection 5.3.1, use such proceeds to repair or
reconstruct the damaged or destroyed property. Repair or
reconstruction, as used in this Article 5, means repairing or
restoring the property in question to substantially the same
condition as that in which it existed prior to the fire or
other casualty (or, where applicable, replacing the damaged or
destroyed property with property substantially similar to the

1 damaged or destroyed property as it existed prior to such
2 damage or destruction).

3 (b) Any major damage or destruction to the
4 property required to be insured by the Association under
5 Section 5.1 above shall be repaired or reconstructed unless:
6 (i) at a special meeting of the Members of the Association duly
7 noticed and convened within sixty (60) days after the occur-
8 rence of such damage or destruction, the Members determine, by
9 a vote of Owners owing not less than seventy-five percent (75%)
10 of all Lots, not to so repair or reconstruct; and (ii) Eligible
11 Mortgage Holders representing at least fifty-one percent (51%)
12 of all Lots subject to First Mortgages held by Eligible
13 Mortgage Holders concur in such determination not to so repair
14 or reconstruct. If for any reason either the amount of the
15 insurance proceeds to be paid as a result of such damage or
16 destruction, or reliable and detailed estimates of the cost of
17 repair or reconstruction, or both, are not made available to
18 the Association within said period, then the period shall be
19 extended until such information shall be made or become avail-
20 able; provided, however, that such extension shall not exceed
21 an additional sixty (60) days. The Board shall determine
22 whether any minor damage or destruction to the Common Area
23 should be repaired or reconstructed.

24 (c) In the event that it is determined in
25 the manner described above that the damage or destruction of
26 any part of the Common Area shall not be repaired or
reconstructed and no alternative improvements are authorized,
then and in that event such property shall be maintained by the
Association in a neat and attractive condition as an undevel-
oped portion of the Common Area.

5.3.2 Excess or Deficiency of Proceeds. If the
damage or destruction for which the insurance proceeds are paid
is to be repaired or reconstructed and such proceeds are not
sufficient to pay the cost thereof, the Board shall, without
the necessity of a vote of the Members, levy an equal assess-
ment against the Owner of each Lot. Additional assessments may
be made in like manner at any time during or following the com-
pletion of any repair or reconstruction. Any assessments
levied pursuant to this Subsection 5.3.2 shall be deemed to be
a part of the Assessments and shall be secured by the lien cre-
ated by Section 8.3 below. If the funds available from insur-
ance exceed the cost of repair, such excess shall be used to
meet Common Expenses or, in the discretion of the Board, placed
in a reserve account for contingencies or capital improvements.

5.3.3 Repair or Reconstruction of Residential
Units. In the event of the destruction of a Residential Unit
or other structure on a Lot, or of damage to such Residential

1 Unit or other structure which, in the reasonable judgment of
2 the Board, materially affects the exterior appearance thereof,
3 the Board shall have the right, at its option, exercisable by
4 written notice to the Owner of the Lot upon which such
5 Residential Unit or other structure is situated, to require
6 such Owner to repair or reconstruct (or cause to be repaired or
7 reconstructed), at such Owner's expense (subject to any insur-
8 ance proceeds as such Owner may then or thereafter receive in
9 respect of such destruction or damage), such Residential Unit
10 or other structure within such period of time as shall be spec-
11 ified by the Board in such notice (which period of time shall
12 in no event be less than eight (8) months from the date of such
13 destruction or damage). The Board may exercise such right and
14 establish such time period notwithstanding such Owner's failure
15 to maintain hazard or casualty insurance upon such Owner's Lot
16 or any structures thereon and notwithstanding any unavailabili-
17 ty or delay in receipt of proceeds of any insurance policy or
18 policies, although the Board may take such matters into account
19 in establishing or extending the time period within which such
20 repair or reconstruction must be completed. Any such repair or
21 reconstruction work shall be performed in compliance with all
22 applicable provisions hereof and of the Master Declaration, and
23 the Owner of such Lot shall take such steps as are reasonably
24 necessary to prevent damage to surrounding property and injur
25 to persons as may result from or arise in connection with th
26 destroyed or damaged Residential Unit or other structure or the
repair or reconstruction activities with respect thereto.

ARTICLE 6

RESTRICTIONS ON ANNEXATION OF ADDITIONAL PROPERTY

17 6.1 Limitations on Annexations. As of the date this
18 Declaration is Recorded, neither Trustee nor Declarant intends
19 to annex any additional residential property or common area to
20 the Property, and additional residential property and common
21 area may be annexed to the Property only: (a) by the affirma-
22 tive vote of two-thirds (2/3) of the votes of each class of
23 Members represented in person or by valid proxy at a meeting of
24 Members duly called for that purpose; and (b) with the approval
25 of the applicable percentage of Eligible Mortgage Holders, as
26 provided in Section 10.2 hereof; and (c) with the express
written consent of each owner of all or any part of the prop-
erty proposed to be annexed; and (d) with such consents or
approvals as may be required by the Master Declaration.

24 6.2 FHA and VA Approval. In addition to the require-
25 ments imposed by Section 6.1 above, so long as the Class R
26 membership is in existence no additional property may
annexed to the Property without the prior approval of the

1 Federal Housing Administration and the Veterans
Administration.

2 6.3 Recordation of Annexation Instrument. Upon
3 approval to the extent required by this Article 6 of any annex-
4 ation of property to the Property, the President and Secretary
5 of the Association shall execute, acknowledge and Record an
6 instrument effecting and evidencing such annexation (which
7 instrument shall also be duly executed and acknowledged by each
8 owner of all or any part of the property being annexed), and
9 such annexation shall be deemed effective only upon such
10 Recordation. Such instrument (or a separate instrument
11 Recorded against any property annexed to the Property pursuant
12 to this Article 6 and executed by the owner of such annexed
property) may subject the annexed property to such additional
covenants, conditions and restrictions as the owner thereof may
deem appropriate or desirable (subject, however, to approval
thereof by the Association and to such other approval rights as
may be granted hereby or by the Master Declaration to other
parties in connection with such annexation), provided, however,
that any and all such additional covenants, conditions and
restrictions shall be subordinate and subject to the provisions
of this Declaration and of the Master Declaration.

13 6.4 Effect of Annexation. Upon the effective date of
14 an annexation pursuant to this Article 6, as provided above:
15 (a) the property so annexed shall immediately be and become a
16 part of the Property and subject to all of the provisions
17 hereof; (b) any Lot then or thereafter constituting a part of
18 the annexed property, and the Owner of any such Lot, shall
19 thereupon be subject to all of the provisions of this
20 Declaration; (c) any part or parts of the property annexed
which is or are designated or declared to be Common Area shall
thereupon be subject to the provisions of this Declaration; and
(d) improvements then or thereafter situated upon the annexed
property shall be subject to the provisions of this Declaration
and shall be reasonably consistent, in terms of quality of con-
struction, with the improvements situated upon other portions
of the Property prior to such annexation.

21 ARTICLE 7

22 RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

23 7.1 Common Area. The Association, subject to the
24 rights of the Owners set forth in this Declaration, shall be
25 responsible for the management and control of the Common Area
and shall keep the Common Area in good, clean, attractive and
26 sanitary condition, order and repair, pursuant to the terms and
conditions hereof.

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7.2 Personal Property and Real Property for Common Use. The Association, through action of the Board, may acquire, hold and dispose of tangible and intangible personal property and real property, except that, subject to the provisions of Sections 10.2, 10.10, and 10.11, no dedication, sale or transfer of all or any part of the Common Area shall be made or effective unless approved by not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within, adjacent to or related to all or any part of the Property as may be conveyed or assigned to the Association by Declarant or Trustee (including, but not limited to, such parts of the Common Area as may now or hereafter be held by Declarant or Trustee).

7.3 Rules and Regulations. The Association, through the Board, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violation of such rules and regulations or of this Declaration may be imposed by the Board and may include suspension of the right to vote and the right to use the recreational facilities on the Common Area, and, where approved by a majority vote of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, may also include reasonable monetary fines. No suspension of an Owner's right to vote or of the right of such Owner (or any Occupant of such Owner's Lot) to use the recreational facilities on the Common Area due to a violation of the rules and regulations of the Association may be for a period longer than sixty (60) days (except where such Owner or Occupant fails or refuses to cease or correct an on-going violation or commits the same or another violation, in which event such suspension may be extended for additional periods not to exceed sixty (60) days each until such violation ceases or is corrected).

7.4 Availability of Books, Records and Other Documents. The Association shall maintain complete and current copies of this Declaration, the Articles, the Bylaws and all rules and regulations of the Association (as well as any amendments to the foregoing) and of the books, records and financial statements of the Association, and, upon the prior written request to the Association by any Owner or by any holder, insurer or guarantor of a First Mortgage, shall make the same available for inspection, at reasonable times and under reasonable circumstances, by such Owner or such holder, insurer or guarantor.

1 7.5 Audited Financial Statements. In the event any
2 holder, insurer or guarantor of a First Mortgage submits to the
3 Association a written request for an audited financial state-
4 ment of the Association for the most recently concluded fiscal
5 year of the Association, the Association shall promptly deliver
6 such an audited financial statement to such holder, insurer or
7 guarantor, and in the event no such audited financial statement
8 has been prepared for the most recently concluded fiscal year,
9 the Association shall cause the same to be prepared and deliv-
10 ered to such holder, insurer or guarantor as soon as reasonably
11 possible. The cost of having such an audited financial state-
12 ment prepared shall be a Common Expense.

13 7.6 Implied Rights. The Association may exercise any
14 other right or privilege given to it expressly by this
15 Declaration, the Articles or the Bylaws, and every other right
16 or privilege reasonably to be implied from the existence of any
17 right or privilege given to it herein or reasonably necessary
18 to effectuate any such right or privilege.

19 ARTICLE 8

20 ASSESSMENTS

21 8.1 Creation of Assessment Right. In order to pro-
22 vide funds to enable the Association to meet its financial and
23 other obligations and to create and maintain appropriate
24 reserves, there is hereby created a right of assessment exer-
25 cisable on behalf of the Association by the Board. Annual
26 Assessments and Special Assessments shall be for Common
Expenses and shall be allocated among all Lots as provided in
this Article 8.

1 8.2 Covenants with Respect to Assessments. Each
2 Owner, by acceptance of his, her or its deed (or other instru-
3 ment of transfer or conveyance) with respect to a Lot, is
4 deemed to covenant and agree to pay the Assessments levied pur-
5 suant to this Declaration with respect to such Owner's Lot,
6 together with interest from the date due at a rate equal to ten
7 percent (10%) per annum, and together with such costs and rea-
8 sonable attorneys' fees as may be incurred by the Association
9 in seeking to collect such Assessments. Each of the
10 Assessments with respect to a Lot, together with interest,
11 costs and reasonable attorneys' fees as provided in this
12 Section 8.2, shall also be the personal obligation of the
13 Person who or which was the Owner of such Lot at the time such
14 Assessment arose with respect to such Lot, provided, however,
15 that the personal obligation for delinquent Assessments shall
16 not pass to a successor in title of such Owner unless expressly
17 assumed by such successor. No Owner shall be relieved of his,
18 her or its obligation to pay any of the Assessments by

1 abandoning or not using his, her or its Lot or the Common Area,
 2 or by leasing or otherwise transferring occupancy rights with
 3 respect to his, her or its Lot. However, upon transfer by an
 4 Owner of fee title to such Owner's Lot, as evidenced by a
 5 Recorded instrument, such transferring Owner shall not be
 6 liable for any Assessments thereafter levied against such Lot.
 7 The obligation to pay Assessments is a separate and independent
 8 covenant on the part of each Owner. No diminution or abatement
 9 of Assessments or set-off shall be claimed or allowed by reason
 10 of the alleged failure of the Association or Board to take some
 11 action or perform some function required to be taken or per-
 12 formed by the Association or Board under this Declaration, the
 13 Articles or the Bylaws, or for inconvenience or discomfort
 14 arising from the making of repairs or improvements which are
 15 the responsibility of the Association, or from any action taken
 16 to comply with any law or ordinance or with any order or direc-
 17 tive of any municipal or other governmental authority.

10 8.3 Lien for Assessments; Foreclosure. There is
 11 hereby created and established a lien against each Lot which
 12 shall secure payment of all present and future Assessments
 13 assessed or levied against such Lot or the Owner or Occupant
 14 thereof (together with any present or future charges, fines,
 15 penalties or other amounts levied against such Lot or the Owner
 16 or Occupant thereof pursuant to this Declaration or the
 17 Articles, the Bylaws, or the rules and regulations of the
 18 Association). Such lien is and shall be prior and superior to
 19 all other liens affecting the Lot in question, except: (a) all
 20 taxes, bonds, assessments and other levies which, by law, would
 21 be superior thereto; (b) the lien or charge of any First
 22 Mortgage made in good faith and for value; and (c) the lien for
 23 assessments created or arising under the Master Declaration.
 24 Such liens may be foreclosed in the manner provided by law for
 25 the foreclosure of mortgages. The sale and transfer of any Lot
 26 pursuant to a mortgage foreclosure or any proceeding in lieu
 thereof shall extinguish the lien of the Assessments as to pay-
 ments which became due prior to such sale or transfer, but no
 such sale or transfer shall relieve such Lot from liability for
 any Assessments becoming due after such sale or transfer, or
 from the lien thereof. The Association shall have the power to
 bid for any Lot at any sale to foreclose the Association's lien
 on the Lot, and to acquire and hold, lease, mortgage and convey
 the same. During the period any Lot is owned by the
 Association, no right to vote shall be exercised with respect
 to said Lot and no Assessment (whether Annual or Special) shall
 be assessed or levied on or with respect to said Lot, provided,
 however, that the Association's acquisition and ownership of a
 Lot under such circumstances shall not be deemed to convert the
 same into Common Area. The Association may maintain a suit to
 recover a money judgment for unpaid Assessments, rent, interest
 and attorneys' fees without foreclosing or waiving the lien

1 securing same. Recording of this Declaration constitutes
2 record notice and perfection of the liens established hereby,
3 and further Recordation of any claim of a lien for Assessments
4 or other amounts hereunder shall not be required, whether to
5 establish or perfect such lien or to fix the priority thereof,
6 or otherwise (although the Board shall have the option to
7 Record written notices of claims of lien in such circumstances
8 as the Board may deem appropriate).

5 8.4 Dates Assessments Commence. Assessments shall be
6 payable in respect of a Lot (including any Lot owned by
7 Declarant) from the date upon which title to said Lot, or any
8 other Lot within the Phase containing such Lot, shall first be
9 conveyed to a retail purchaser, and such Assessments shall be
10 payable regardless of whether a Residential Unit or other
11 structure shall be situated upon such Lot on such date. As to
12 any Lot owned by Declarant with respect to which Assessments
13 shall have commenced as provided in the preceding sentence, the
14 Assessments payable by Declarant with respect to such Lot shall
15 be an amount equal to twenty-five percent (25%) of the
16 Assessments which would otherwise be payable hereunder with
17 respect to such Lot if it were owned by an Owner other than
18 Declarant. No Assessments shall be payable with respect to a
19 Lot so long as Declarant shall own all of the Lots within the
20 Phase containing such Lot. As to any Lot conveyed by Declarant
21 to a retail purchaser, Assessments as to such Lot shall be
22 prorated as of the close of escrow with respect to such Lot
23 (or, if no escrow is utilized, as of the date of Recordation of
24 the deed conveying such Lot to such retail purchaser). The
25 numbers or letters (or numbers and letters) assigned to the
26 Phases are for reference only, and Declarant shall retain full
discretion as to the order and timing of its development and
sales of Lots within any Phase or from Phase to Phase within
property owned by Declarant.

18 8.5 Computation of Assessments; Annual Budget. The
19 Board shall prepare and adopt an estimated annual budget for
20 each fiscal year of the Association, which annual budget shall
21 serve as the basis for determining the Annual Assessments for
22 the applicable fiscal year (subject to the limitations of
23 Section 8.7 hereof). Such budget shall take into account the
24 estimated Common Expenses and cash requirements of the
25 Association for the year. The annual budget shall also take
26 into account the estimated net available cash income for the
year, if any, from the operation or use of any of the Common
Area. The annual budget shall also provide for a reserve for
contingencies for the year (and for subsequent fiscal years)
and a reserve for replacements, all in such reasonably adequate
amounts as shall be determined by the Board, taking into
account the number and nature of replaceable assets, the
expected life of each asset, and each asset's expected repair

1 or replacement cost. Not later than sixty (60) days following
2 the meeting of the Board at which the Board adopts the annual
3 budget for the year in question, the Board shall cause to be
4 delivered or mailed to each Owner a copy of the budget and a
5 statement of the amount of the Annual Assessments to be levied
6 against such Owner's Lot for the fiscal year in question. In
7 the event the Board fails to adopt a budget for any fiscal year
8 prior to commencement of such fiscal year, then until and
9 unless such budget is adopted, the budget (and the amount of
10 the Annual Assessments provided for therein) for the year imme-
11 diately preceding shall remain in effect. Subject to the pro-
12 visions of this Section 8.5 and of Sections 8.7 and 8.9,
13 neither the annual budget (nor any amended budget) adopted by
14 the Board, nor any Assessment levied pursuant thereto, shall be
15 required to be ratified or approved by the Owners. If, at any
16 time during a fiscal year of the Association the Board deems it
17 necessary to amend the budget for such year, the Board may do
18 so and may levy an additional Annual Assessment for such year
19 (subject to the limitations imposed by Section 8.7) or may call
20 a meeting of the Members to request that the Members approve a
21 Special Assessment pursuant to Section 8.9. Within sixty (60)
22 days after adoption of an amended budget (if the Board elects
23 to levy an additional Annual Assessment), the Board shall cause
24 a copy of the amended budget and a statement of the additional
25 Annual Assessments to be levied against the Lots and Parcels to
26 be delivered or mailed to each Owner; if, instead, the Board
elects to call a meeting of Members to seek approval of a
Special Assessment, the Board shall cause a copy of the amended
budget proposed by the Board to be delivered or mailed to each
Owner with the notice of such meeting, and if a Special
Assessment is duly approved by the Members at such meeting,
shall cause a statement of the Special Assessment to be levied
against each Lot to be promptly mailed or delivered to each
Owner.

18 8.6 Due Dates. Annual Assessments for each fiscal
19 year shall be due and payable in equal periodic installments,
20 payable not more frequently than monthly nor less frequently
21 than semiannually, as determined for such fiscal year by the
22 Board, with each such installment to be due and payable on or
23 before the first day of the applicable period during that fis-
24 cal year. Special Assessments, if any, shall be paid in such
25 manner and on such dates as may be fixed by the Board. In
26 addition to any other powers of collection or enforcement
granted hereunder, in the event any Assessments with respect to
a Lot are delinquent, the Board shall have the right, in its
sole discretion, to accelerate the date on which all
Assessments with respect to such Lot are due and payable. For
purposes of this Declaration, Assessments shall be deemed
"paid" when actually received by the Association or by its man-
ager or agent designated by the Association to collect the same

1 (provided, however, that if any Assessments are paid by check
 2 and the bank or other institution upon which such check is
 3 drawn thereafter dishonors and refuses to pay such check, those
 Assessments shall not be deemed "paid" and shall remain due and
 payable with interest accruing from the date such Assessments
 were originally due).

4 8.7 Maximum Annual Assessment. The Annual
 5 Assessments provided for herein shall not at any time exceed
 6 the Maximum Annual Assessment, as determined in accordance with
 7 this Section 8.7. For the fiscal year ending December 31,
 8 1989, the Maximum Annual Assessment shall be Four Hundred
 9 Eighty Dollars (\$480.00) for each Lot. Thereafter, unless a
 10 greater increase is approved by the affirmative vote of two-
 11 thirds (2/3) of the votes of each class of Members represented
 12 in person or by valid proxy at a meeting of Members duly called
 13 for such purpose, the Maximum Annual Assessment for any fiscal
 14 year shall be equal to the Maximum Annual Assessment for the
 15 immediately preceding fiscal year increased at a rate equal to
 16 the greater of: (a) the percentage increase for the applicable
 17 fiscal year over the immediately preceding fiscal year in the
 18 Consumer Price Index -- All Urban Consumers -- All Items
 19 (1982-1984 Weighted Average = 100 Base) published by the Bureau
 20 of Labor Statistics of the U.S. Department of Labor (or its
 21 successor governmental agency), or, if such index is no longer
 22 published by said Bureau or successor agency, in the index most
 23 similar in composition to such index; or (b) ten percent
 24 (10%). Notwithstanding the foregoing, the Board may, without
 25 the approval of the Members, increase the Maximum Annual
 26 Assessment for any fiscal year by an amount sufficient to
 permit the Board to meet any increases over the preceding fis-
 cal year in: (i) premiums for any insurance coverage required
 by the Declaration to be maintained by the Association; or
 (ii) charges for utility services necessary to the
 Association's performance of its obligations under this
 Declaration, in either case (i) or (ii) notwithstanding the
 fact that the resulting increase in the Maximum Annual
 Assessment is at a rate greater than otherwise permitted under
 the preceding sentence. Nothing herein shall obligate the
 Board to levy, in any fiscal year, Annual Assessments in the
 full amount of the Maximum Annual Assessment for such fiscal
 year, and the election by the Board not to levy Annual
 Assessments in the full amount of the Maximum Annual
 Assessments for any fiscal year shall not prevent the Board
 from levying Annual Assessments in subsequent fiscal years in
 the full amount of the Maximum Annual Assessment for such sub-
 sequent fiscal year (as determined in accordance with this
Section 8.7). In the event that, for any fiscal year, the
 Board elects to levy an Annual Assessment at less than the full
 amount of the Maximum Annual Assessment for such fiscal year,
 the Board may, in its reasonable discretion circumstances so

warrant, subsequently levy a supplemental Annual Assessment during said fiscal year so long as the total of the Annual Assessments levied during said fiscal year does not exceed the Maximum Annual Assessment for such fiscal year.

8.8 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or rules and regulations of the Association, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 8.9 hereof; or (b) approving any increase in the Maximum Annual Assessment greater than that permitted by application of the formula as set forth in Section 8.7 hereof, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date or said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Annual Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

8.9 Special Assessments. In addition to the Annual Assessments authorized by this Article 8, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment. Subject to Section 8.4, Special Assessments shall be allocated equally among all Lots.

8.10 Certificates. The Association shall, upon the written request of any Owner or the holder, insurer or guarantor of any Mortgage, and upon payment of such reasonable charge as may be determined by the Board, furnish to the requesting party a certificate, executed by an officer of the Association, stating the date to which Assessments with respect to such Owner's Lot (or the Lot against which such Mortgage is Recorded) have been paid and the amount, if any, of any Assessments which have been levied with respect to said Lot (which remain unpaid as of the date of such certificate; said certificate shall be binding upon the Association as to the matters set forth therein as of the date thereof.

1 8.11 Surplus Monies. Unless otherwise expressly
2 determined by the Board, any surplus monies of the Association
3 shall be held by the Association and placed in one or more
4 reserve accounts as determined by the Board, and shall not be
5 paid to the Owners or credited against the Owners' respective
6 liabilities for Assessments.

7 8.12 Declarant's Obligation for Deficiencies. So long
8 as the Class B membership exists, Declarant shall pay and con-
9 tribute to the Association, within thirty (30) days after the
10 end of each fiscal year of the Association, or at such other
11 times as may be requested by the Board, such funds as may be
12 necessary, when added to the Assessments levied by the
13 Association pursuant to this Declaration, to provide for:
14 (a) the operation and maintenance of the Common Area and the
15 recreational facilities located thereon; (b) the maintenance of
16 adequate reserves; and (c) the performance by the Association
17 of all other obligations of the Association under this
18 Declaration or the Articles or Bylaws. Declarant's obligations
19 under this Section 8.12 may be satisfied in the form of a cash
20 subsidy or by "in kind" contributions of services or materials,
21 or a combination of both.

22 8.13 Common Expenses Resulting from Misconduct.
23 Notwithstanding any other provision of this Article 8, if any
24 Common Expense is caused by the misconduct of any Owner (or of
25 any Occupant, tenant, employee, servant, agent, guest or
26 invitee for whose actions such Owner is responsible under
applicable law), the Association may assess that Common Expense
exclusively against such Owner and such Owner's Lot.

8.14 Assessments by Master Association. The
Assessments shall be in addition to the assessments provided
for in and levied pursuant to the terms of the Master
Declaration.

ARTICLE 9

PARTY WALLS

9.1 General Rules of Law to Apply. Each wall or
fence which is located on or as the dividing line between two
Lots (or between a Lot and Common Area) shall constitute a
party wall, and, to the extent not inconsistent with the provi-
sions of this Article 9, the general rules of law regarding
party walls and liability for property damages due to negligent
or willful acts or omissions shall apply thereto. For purposes
of this Article 9 only, in the case of a party wall on the
dividing line between a Lot and Common Area, in interpreting
the provisions of this Article the Common Area bounded by such

1 wall shall be deemed to be a "Lot" and the Association shall be
2 deemed to be the "Owner" of such "Lot."

3 9.2 Repair and Maintenance. No Owner or Occupant of
4 any Lot (or any guest, invitee, employee or agent of such Owner
5 or Occupant) shall do or permit any act (or omit to do any act)
6 that will or does damage, destroy or impair the structural
7 soundness or integrity of any party wall; or which would cause
8 any party wall to be exposed to the elements, and, in the event
9 any such Owner, Occupant, guest, invitee, employee or agent
10 does or permits any such act (or so omits to do any act), such
11 Owner's or Occupant's liability with respect to such damage,
12 destruction, impairment or exposure shall be determined in
13 accordance with applicable law.

14 9.3 Sharing of Repair and Maintenance. In the event
15 any repair, maintenance or reconstruction of any party wall
16 shall be necessary (other than due to the negligence or willful
17 act or omission of the Owner or Occupant of one Lot, or such
18 Owner's or Occupant's guests, invitees, employees or agents)
19 the cost thereof shall be borne equally by the Owners and/or
20 Occupants of the Lots having in common such party wall, and in
21 the event any Owner (or Occupant) fails or refuses timely to
22 pay such Owner's (or Occupant's) share of such cost, the other
23 Owner (or Occupant) shall have the right to pay in full such
24 cost and recover from such Owner (or Occupant) such Owner's (or
25 Occupant's) share of such cost (together with interest as pro-
26 vided in Section 10.8 of this Declaration).

9.4 Consents to Modification. No Owner or Occupant
shall alter or modify any party wall in any respect without
having first obtained the written consent of the Owner of the
other Lot adjoining such party wall, provided that such consent
shall not be required in the case of repair or restoration of
such party wall to its condition prior to any damage or
destruction if the negligence or willful act or omission of the
Owner or Occupant of such other Lot was the cause of such dam-
age or destruction and such Owner or Occupant fails or refuses
to repair or restore such party wall promptly upon the request
of the other Owner or Occupant. Any consent required by this
Section 9.4 shall be in addition to and not in substitution for
any consents or approvals required by the Master Declaration or
of any municipal or other governmental body having jurisdiction
over the Property.

ARTICLE 10

GENERAL PROVISIONS

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10.1 Term. The covenants, conditions and restrictions of this Declaration: (a) shall run with and bind the Property; (b) shall inure to the benefit of and shall be enforceable by the Association or by the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect (as the same may be amended from time to time in accordance with the provisions of this Declaration) until January 1, 2040, at which time said conditions, covenants and restrictions, unless revoked by an affirmative vote of Members owning not less than seventy-five percent (75%) of all Lots, shall automatically be extended for successive periods of twenty-five (25) years each, until revoked in the manner provided above. Notwithstanding any such revocation of this Declaration, each Owner of a Lot (and such Owner's Occupants, tenants, guests and invitees) shall nevertheless have a permanent easement across the Common Area for access to such Lot and for access to and use of such recreational facilities as may exist on the Common Area at the time of such revocation.

10.2 Amendment. Except as otherwise provided herein (and subject to the provisions of Sections 10.10, 10.11, 10.12 and 10.13), this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members owning at least seventy-five percent (75%) of all Lots. No amendment to this Declaration shall be effective unless and until such amendment shall be recorded with the Recorder. In addition to and notwithstanding the foregoing: (a) so long as the Class B membership exists, no amendment to this Declaration shall be effective without the prior approval of the Federal Housing Administration and the Veterans Administration; and (b) no amendment of a material nature to this Declaration (or to the Articles or the Bylaws) shall be effective unless approved by Eligible Mortgage Holders representing at least fifty-one percent (51%) of all Lots subject to First Mortgages held by Eligible Mortgage Holders. A change to any of the following would be considered to be a change of a material nature:

10.2.1 provisions relating to voting rights in the Association;

10.2.2 provisions relating to Assessments, Assessment liens or subordination of Assessments;

10.2.3 provisions relating to reserves for maintenance and repairs;

1 10.2.4 provisions relating to Owners' rights to use
the Common Area;

2 10.2.5 boundaries of any Lot;

3 10.2.6 conversion of any Lot into Common Area or
4 vice versa;

5 10.2.7 addition or annexation of property to, or
6 withdrawal of property from, the Property, or addition or
annexation of any property to, or withdrawal of any property
7 from, the Common Area;

8 10.2.8 provisions relating to insurance or fidelity
bonds;

9 10.2.9 provisions relating to the leasing of Lots
(or Residential Units thereon);

10 10.2.10 provisions relating to the right of an Owner
11 to sell or transfer such Owner's Lot;

12 10.2.11 restoration or repair of any structures or
13 improvements on the Common Area following a hazard damage
Declaration;

14 10.2.12 any action to dissolve or otherwise termi-
15 nate the Association or the legal status of the Property after
substantial destruction or condemnation of improvements on the
16 Property occurs; or

17 10.2.13 any provisions that expressly benefit the
holders, insurers or guarantors of Mortgages.

18 In the event a proposed addition, amendment or change to this
19 Declaration, the Articles or the Bylaws is deemed by the Board
20 as not being of a material nature, the Association shall never-
21 theless provide written notice to each Eligible Mortgage Holder
of the proposed addition, amendment or change (and of the
22 Board's determination that the same is not of a material
23 nature), and each Eligible Mortgage Holder which shall not have
made written negative response to such notice within thirty
(30) days after the date of such notice shall automatically be
deemed to have approved the proposed addition, amendment or
change.

24 10.3 Indemnification. The Association shall indemnify
25 each and every officer and director of the Association
(including, for purposes of this Section, former officers and
26 directors of the Association) against any and all expenses,

1 including attorneys' fees, reasonably incurred by or imposed
 2 upon any officer or director of the Association in connection
 3 with any action, suit, or other proceeding (including settle-
 4 ment of any suit or proceeding, if approved by the Board
 5 serving at the time of such settlement) to which he or she may
 6 be a party by reason of being or having been an officer or
 7 director of the Association, except for their own individual
 8 willful misfeasance, malfeasance, misconduct or bad faith. The
 9 officers and directors shall have no personal liability with
 10 respect to any contract or other commitment made by them, in
 11 good faith, on behalf of the Association (except indirectly to
 12 the extent that such officers or directors may also be Members
 13 of the Association and therefore subject to Assessments here-
 14 under to fund a liability of the Association), and the
 15 Association shall indemnify and forever hold each such officer
 16 and director free and harmless from and against any and
 17 all liability to others on account of any such contract or com-
 18 mitment. Any right to indemnification provided for herein
 19 shall not be exclusive of any other rights to which any officer
 20 or director, or former officer or director of the Association,
 may be entitled. If the Board deems it appropriate, in its
 sole discretion, the Association may advance funds to or for
 the benefit of any director or officer (or former director or
 officer) of the Association who may be entitled to indemnifica-
 tion hereunder to enable such Person to meet on-going costs and
 expenses of defending himself or herself in any action or pro-
 ceeding brought against such Person by reason of his or her
 being, or having been, an officer or director of the
 Association. In the event it is ultimately determined that a
 current or former officer or director to whom, or for whose
 benefit, funds were advanced pursuant to the preceding sentence
 does not qualify for indemnification pursuant to this
Section 10.3 or otherwise under the Articles, Bylaws or appli-
 cable law, such current or former officer or director shall
 promptly upon demand repay to the Association the total of such
 funds advanced by the Association to him or her, or for his or
 her benefit, with interest (should the Board so elect) at a
 rate not to exceed ten percent (10%) per annum from the date(s)
 advanced until paid.

21 10.4 Easements for Utilities. There is hereby
 22 reserved to the Association the power to grant blanket ease-
 23 ments upon, across, over and under all of the Common Area for
 24 installation, replacement, repair, and maintenance of master
 25 television antenna systems, security and similar systems, and
 26 all utilities, including, but not limited to, water, sewers,
 telephones, cable television, gas and electricity, and for
 delivering or providing public or municipal services such as
 refuse collection and fire and other emergency vehicle access
 (which easements shall also include appropriate rights of
 ingress and egress to facilitate such installation,

1 replacement, repair and maintenance, and the delivery or
 2 provision of such public, municipal or emergency services),
 3 provided, that no such easement shall interfere with a
 4 Residential Unit or its reasonable use or with Declarant's con-
 5 struction and sales activities and such easements shall require
 6 the holder of the easement to repair any damage caused to the
 property of any Owner. Should any entity furnishing a service
 covered by the general easement herein provided request a spe-
 cific easement by separate recordable document, the Association
 shall have the right to grant such easement on said property in
 accordance with the terms hereof.

7 10.5 No Partition. No Person acquiring any interest
 8 in the Property or any part thereof shall have a right to, nor
 9 shall any person seek, any judicial partition of the Common
 10 Area, nor shall any Owner sell, convey, transfer, assign, hy-
 11 pothecate or otherwise alienate all or any of such Owner's
 12 interest in the Common Area or any funds or other assets of the
 13 Association except in connection with the sale, conveyance or
 hypothecation of such Owner's Lot (and only appurtenant
 thereto), or except as otherwise expressly permitted herein.
 This Section shall not be construed to prohibit the Board from
 acquiring and disposing of tangible personal property nor from
 acquiring or disposing of title to real property (other than
 disposition of title to the Common Area) which may or may not
 be subject to this Declaration.

14 10.6 Severability; Interpretation; Gender.
 15 Invalidation of any one of these covenants or restrictions by
 16 judgment or court order shall in no way affect any other provi-
 17 sions which shall remain in full force and effect. The provi-
 18 sions hereof shall be construed and interpreted with reference
 19 to the laws of the State of Arizona. Where the context hereof
 so requires, any personal pronouns used herein, whether used in
 the masculine, feminine or neuter gender, shall include all
 genders, and the singular shall include the plural and vice
 versa. Titles of Articles and Sections are for convenience
 only and shall not affect the interpretation hereof.

20 10.7 Perpetuities. If any of the covenants, condi-
 21 tions, restrictions or other provisions of this Declaration
 22 shall be unlawful, void or voidable for violation of the rule
 23 against perpetuities, then such provisions shall continue only
 until twenty-one (21) years after the death of the last survi-
 24 vor of the now living descendants of the President of the
 United States serving in office on the date this Declaration is
 Recorded.

25 10.8 Enforcement. The Association shall have th
 26 standing and power to enforce the provisions of this
 Declaration, the Articles, the Bylaws and the rules and

1 regulations of the Association, and the provisions of any other
2 recorded document pertaining to any Lot or Lots, and its costs
3 in doing so, including, but not limited to, reasonable attor-
4 neys' fees, together with interest thereon from the date the
5 costs are expended at a rate equal to ten percent (10%) per
6 annum, shall constitute a lien on all Lots owned by the Owner
7 or Owners against whom the action is taken (or against whose
8 Occupants the action is taken), which lien shall have the pri-
9 ority and may be enforced in the manner described in
10 Section 8.3. Further, any Owner shall have the standing and
11 the right to bring an action against the Association for any
12 violation or breach by the Association of any provision hereof
13 or of the Articles or the Bylaws. In addition, any Owner or
14 Owners shall have the standing and power to enforce the provi-
15 sions of this Declaration, the Articles and the Bylaws, and the
16 prevailing party or parties in any action by an Owner or Owners
17 to enforce any such provisions shall be entitled to recover
18 from the other party or parties its or their costs in such
19 action (including reasonable attorneys' fees), together with
20 interest thereon at the rate of ten percent (10%) per annum,
21 and shall further be entitled to have all such costs (including
22 such interest) included in any judgment awarded to the
23 prevailing party or parties in such action. Failure by the
24 Association or by any Owner to take any such enforcement action
25 shall in no event be deemed a waiver of the right to do so
26 thereafter.

14 10.9 Property Held in Trust. Any and all portions of
15 the Property which are now or hereafter held in a subdivision
16 or similar trust or trusts (or similar means of holding title
17 to property), the beneficiary of which trust(s) is Declarant,
18 shall be deemed for all purposes hereunder to be owned by
19 Declarant and shall be treated for all purposes hereunder in
20 the same manner as if such real property were owned in fee by
21 Declarant. No conveyance, assignment or other transfer of any
22 right, title or interest in or to any of such real property by
23 Declarant to any such trust (or the trustee thereof) or to
24 Declarant by any such trust (or the trustee thereof) shall be
25 deemed for purposes of this Declaration to be a sale of such
26 real property or any right, title or interest therein.

21 10.10 FHA/VA Approval. So long as the Class B
22 membership is in existence, the following actions shall not be
23 taken without the prior approval of the Federal Housing
24 Administration and the Veterans Administration: (a) annexation
25 of additional properties to the Property; (b) dedication of any
26 part or all of the Common Area; or (c) amendment of this
Declaration.

25 10.11 Notices to Certain Mortgage Holders, Insurers or
26 Guarantors. The Association shall give timely written notice

1 of any of the following actions, events or occurrences to any
 2 holder, insurer or guarantor of a Mortgage who or which, prior
 3 to such action, event or occurrence, shall have made written
 4 request to the Association for such notice (which written
 request shall state the name and address of such holder,
 insurer or guarantor and the Lot number or street address of
 the Lot to which the applicable Mortgage pertains):

5 10.11.1 Any condemnation or casualty loss that
 6 affects either a material portion of the Property or the Lot
 securing the applicable Mortgage;

7 10.11.2 Any delinquency lasting sixty (60) days
 8 or more in payment of any assessments or other charges owed to
 the Association by the Owner of the Lot securing the applicable
 9 Mortgage, or any other breach or default hereunder by the Owner
 of the Lot securing the applicable Mortgage which is not cured
 10 within sixty (60) days after notice thereof from the
 Association to such Owner;

11 10.11.3 Any lapse, cancellation or material
 12 modification of any insurance policy or fidelity bond main-
 tained by the Association; or

13 10.11.4 Any proposed action which requires the
 14 consent of a specified percentage of Eligible Mortgage Holders,
 as provided in Section 10.2 hereof.

15 10.12 Dissolution or Termination of the Association or
Legal Status of the Property. No action to dissolve or other-
 16 wise terminate the Association or the legal status of the
 Property for any reason other than the substantial destruction
 17 or condemnation of the Property shall be taken without the con-
 sent of Eligible Mortgage Holders representing not less than
 18 sixty-seven percent (67%) of all Lots subject to First
 Mortgages held by Eligible Mortgage Holders.

19 10.13 Amendments Requested by Governmental Agency.
 20 Notwithstanding any other provision of this Declaration,
 Declarant shall have the right to amend all or any part of this
 21 Declaration to such extent and with such language as may be
 requested by the Federal Housing Administration, Veterans
 22 Administration, Federal National Mortgage Association, Federal
 Home Loan Mortgage Corporation or other similar governmental or
 23 quasi-governmental agency which issues, guarantees, insures or
 purchases Mortgages (or securities or other debt instruments
 24 backed or secured by Mortgages), or otherwise governs transac-
 tions involving Mortgages or instruments evidencing same, as a
 25 condition to such agency's approval of this Declaration or
 the residential development encompassing the Property. Any
 26 such amendment shall be effected by Declarant's Recording an

1 instrument executed by Declarant and appropriately
2 acknowledged, specifying the governmental or quasi-governmental
3 agency requesting such amendment and setting forth the appro-
4 priate amendatory language. Recording of such amendment shall
5 constitute presumptive proof of such governmental or quasi-
6 governmental agency's request for such amendment. Such amend-
7 ment shall be effective, without the consent or approval of any
8 other Person (except as provided in the following sentence), on
9 and as of the date the same is Recorded, and shall thereupon
10 and thereafter be binding upon any and all Owners or other
11 Persons having any interest in all or any part of the
12 Property. Notwithstanding the foregoing, such amendment shall
13 not be effective unless and until approved in writing by the
14 Master Association, which consent shall not be unreasonably
15 withheld or delayed and which shall be deemed given if neither
16 given nor expressly denied in writing within ten (10) days
17 after receipt by an authorized representative of the board of
18 directors of the Master Association of a written request for
19 approval of such amendment. Except as expressly provided in
20 this Section, neither Declarant nor any other Person(s) shall
21 have the right to amend this Declaration except in accordance
22 with and pursuant to the other provisions and requirements of
23 this Declaration.

13 10.14 Number of Days. In computing the number of days
14 for purposes of any provision of this Declaration or the
15 Articles or Bylaws, all days shall be counted including
16 Saturdays, Sundays and holidays; provided however, that if the
17 final day of any time period falls on a Saturday, Sunday or
18 legal holiday, then the final day shall be deemed to be the
19 next day which is not a Saturday, Sunday or legal holiday.

17 10.15 Declarant's Right to Use Similar Name. The
18 Association hereby irrevocably consents to the use by any other
19 nonprofit corporation which may be formed or incorporated by
20 Declarant of a corporate name which is the same or deceptively
21 similar to the name of the Association provided one or more
22 words are added to the name of such other corporation to make
23 the name of the Association distinguishable from the name of
24 such other corporation. Within five (5) days after being
25 requested to do so by the Declarant, the Association shall sign
26 such letters, documents or other writings as may be required by
the Arizona Corporation Commission in order for any other non-
profit 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.

24 10.16 Notice of Violation. The Association shall have
25 the right to Record a written notice of a violation by any
26 Owner or Occupant of any restriction or provision of this
Declaration, the Articles, the Bylaws or the rules and

1 regulations of the Association. The notice shall be executed
2 and acknowledged by an officer of the Association and shall
3 contain substantially the following information: (a) the name
4 of the Owner or Occupant; (b) the legal description of the Lot
5 against which the notice is being Recorded; (c) a brief
6 description of the nature of the violation; (d) a statement
7 that the notice is being Recorded by the Association pursuant
8 to this Declaration; and (e) a statement of the specific steps
9 which must be taken by the Lot Owner or Occupant to cure the
10 violation. Recordation of a notice of violation shall serve as
11 a notice to the Owner and Occupant and to any subsequent pur-
12 chaser of the Lot that there is such a violation. If, after
13 the Recordation of such notice, it is determined by the
14 Association that the violation referred to in the notice does
15 not exist or that the actual violation referred to in the
16 notice has been cured, the Association shall Record a notice of
17 compliance which shall state the legal description of the Lot
18 against which the notice of violation was Recorded, the
19 Recording data of the notice of violation, and shall state that
20 the violation referred to in the notice of violation has been
21 cured, or if such be the case, that it did not exist.
22 Notwithstanding the foregoing, failure by the Association to
23 Record a notice of violation shall not constitute a waiver of
24 any existing violation or evidence that no violation exists.

13 10.17 Temporary Sign Easement. Declarant hereby
14 reserves to itself and its agents a temporary easement over,
15 upon and across those portions of the Common Area adjacent to
16 publicly dedicated streets and roadways for purposes of
17 installing and maintaining signs identifying Persons building
18 upon or developing portions of the Property (and Trustee joins
19 in such reservation). The easement reserved hereby shall
20 expire and terminate upon completion of construction and sales
21 activities upon the Property, but in no event later than seven
22 (7) years after the date this Declaration is Recorded.

19 10.18 Amendments Affecting Declarant Rights.
20 Notwithstanding any other provision of this Declaration, no
21 provision of this Declaration (including, but not limited to,
22 this Section) which grants to or confers upon Declarant any
23 rights, privileges, easements, benefits or exemptions (except
24 for rights, privileges, easements, benefits, or exemptions
25 granted to or conferred upon Owners generally) shall be modi-
26 fied, amended or revoked in any way, so long as Declarant or
Trustee owns any portion of the Property, without the express
written consent of Declarant.

24 10.19 Relationship to Master Declaration. Th/
25 Declaration shall be in addition and subordinate to the Master
26 Declaration, and the Property (including, but not limited to,
each Lot) shall be subject not only to this Declaration but

1 also to all of the provisions of the Master Declaration,
2 provided, however, that to the extent any provision of this
3 Declaration imposes upon the Property or any part thereof any
4 added or greater restriction than is contained in the Master
5 Declaration, such added or greater restriction shall control.
6 All Owners and Members shall not only be entitled to the rights
7 and privileges and subject to the duties and obligations
8 granted and imposed by or pursuant to this Declaration but
9 shall also be entitled to the rights and privileges and subject
10 to the duties and obligations granted and imposed by or pur-
11 suant to the Master Declaration. Any and all assessments or
12 other charges levied or imposed by or pursuant to this
13 Declaration shall be in addition to any and all Assessments or
14 other charges levied or imposed by or pursuant to the Master
15 Declaration.

9 10.20 Parking Restrictions. Pursuant to the require-
10 ments of the City of Phoenix, imposed as a condition to the
11 City's approval of the Plat, the Property shall be subject to
12 the following restrictions: No vehicle shall be parked on any
13 street or roadway within the Property, except for short-term
14 parking of normal passenger vehicles, during reasonable times,
15 of reasonable duration and of reasonable frequency, by guests
16 or invitees visiting Owners or Occupants for parties or similar
17 social occasions, provided that such parking shall not block or
18 impede access to Lots or any other part of the Property by pub-
19 lic or private emergency or service vehicles or equipment,
20 including, but not limited to, police vehicles, fire trucks and
21 fire fighting equipment, ambulances and water, sewer and
22 sanitation vehicles and equipment. The provisions of this
23 Section may be enforced by the Association or any Owner, as
24 elsewhere provided in this Declaration, and may also be
25 enforced by the City of Phoenix. Further, the Board (acting on
26 behalf of the Association) shall have the power, exercisable in
its discretion, to: (a) establish and enforce reasonable mone-
tary fines for violations of the provisions of this Section
(which fines shall be secured by the lien created under
Section 8.3 of this Declaration); and (b) adopt additional
rules and regulations implementing the provisions of this
Section (including, but not limited to, imposing limitations on
the extent, duration and frequency of guest or invited parking
during parties or similar social occasions). This Section may
not be amended without the express written consent of the City.

10.21 Garages. Pursuant to the requirements of the
City of Phoenix, imposed as a condition to the City's approval
of the Plat, the Property shall be subject to the following
restrictions: Each Lot upon which a Residential Unit is
constructed shall also contain an enclosed garage of a size

1 sufficient to accomodate not fewer than three normal-sized pas-
2 senger vehicles. This Section may not be amended without the
3 express written consent of the City.

4 ARTICLE 11

5 ARCHITECTURAL REVIEW

6 11.1 Submission and Review of Plans. So long as
7 Declarant or Trustee owns any part of the Property, no original
8 construction, modification, alteration or addition shall be
9 commenced on any part of the Property until it has been
10 approved or is deemed approved by Declarant as provided
11 herein. Any Owner or other Person seeking to construct any new
12 improvements or to make any modification, alteration or addi-
13 tion to any existing improvement upon any portion of the
14 Property (or to cause same to be constructed or made) shall
15 first submit to Declarant detailed plans, specifications and
16 elevations relating to the proposed construction, modification,
17 alteration or addition; said plans, specifications and
18 elevations shall be sent by: (a) personal delivery, in which
19 case the Person delivering the same shall obtain a signed and
20 dated receipt from the recipient thereof (in which event they
21 shall be deemed received as of the date indicated by the recip-
22 ient on such receipt); or (b) by U.S. mail, postage paid, cer-
23 tified mail return receipt requested (in which event they shall
24 be deemed received as of the date indicated on the return
receipt). Declarant shall have forty-five (45) days after
receipt of such plans, specifications and elevations to approve
or disapprove of the proposed construction, modification,
alteration or addition or to request additional information,
and, if Declarant disapproves, to give such Owner or other
Person reasonably detailed written reasons for such disap-
approval. In the event Declarant fails either to approve or dis-
approve the proposed construction (or to request additional
information) within said forty-five (45) day period, such pro-
posed construction shall be deemed approved. Declarant's
jurisdiction under this Article 11 shall extend to all original
construction and any modifications, additions or alterations to
improvements on any portion of the Property (including, but not
limited to, the construction or installation of, or modifica-
tions, additions or alterations to: (a) residential structures
and related or ancillary structures; (b) fences and fence
walls; (c) heating, ventilating, air conditioning and cooling
units; (d) solar panels; (e) paint; and (f) any other construc-
tion, modification, addition or alteration affecting the exte-
rior appearance of any structure or Lot).

25 11.2 Changes to Interiors of Residential Units or
26 Other Structures. Nothing contained herein shall be construed
to limit the right of an Owner to remodel the interior of his,

1 her or its Residential Unit or other structure on such Owner's
 2 Lot or to paint the interior of his, her or its Residential
 3 Unit or such other structure any color desired, except to the
 4 extent such remodeling or painting is visible from outside such
 5 Residential Unit or other structure or affects the exterior
 6 appearance of such Residential Unit or other structure.

7 11.3 Other Approvals; Liability. No approval by
 8 Declarant of any proposed construction, modification, addition
 9 or alteration shall be deemed to replace or be substituted for
 10 any building permit or approval required by any applicable gov-
 11 ernmental authority or by the Master Declaration, nor shall any
 12 such approval be deemed to make Declarant (or the Board or the
 13 Association) liable or responsible for any damage or injury
 14 resulting or arising from any such construction, modification,
 15 addition or alteration. None of Declarant, Trustee, the
 16 Association or the Board (nor any member thereof) shall be
 17 liable to the Association any Owner or any other party for any
 18 damage, loss or prejudice suffered or claimed on account of:

19 11.3.1 the approval or disapproval of any plans,
 20 drawings or specifications, whether or not defective;

21 11.3.2 the construction or performance of any work,
 22 whether or not pursuant to approved plans, drawings and
 23 specifications; or

24 11.3.3 the development of any Lot.

25 11.4 Fee. Declarant may establish a reasonable pro-
 26 cessing fee to defer its costs in considering any request for
 27 approvals submitted to it, which fee shall be paid at the time
 28 the request for approval or review is submitted.

29 11.5 Inspection. Any employee, agent or authorized
 30 consultant of Declarant may at any reasonable time and without
 31 being deemed guilty of trespass enter upon any Lot, after rea-
 32 sonable notice to the Owner or Occupant of such Lot, in order
 33 to inspect the improvements constructed or being constructed on
 34 such Lot to ascertain that such improvements have been, or are
 35 being, built in compliance with this Declaration and any
 36 approved plans, drawings or specifications.

37 11.6 Enforcement. Declarant shall have the right,
 38 power, authority and standing (but not the obligation) to
 39 enforce the provisions of this Article 11 and any and all deci-
 40 sions, actions, approval and disapprovals taken or rendered by
 41 Declarant hereunder in courts of competent jurisdiction, and if
 42 Declarant is the prevailing party in any such enforcement
 43 action, Declarant's costs (including, but not limited to, rea-
 44 sonable attorneys' fees and interest at the rate provided in

1 Section 10.8) in such enforcement action shall be paid to
2 Declarant by the other party or parties, and Declarant shall be
entitled to have all such costs (including, but not limited to,
such fees and interest) included in any judgment.

3 11.7 Nonapplicability to Declarant. The provisions of
4 this Article 11 shall not apply to any portions of the Property
5 owned by Declarant (or Trustee, as trustee for Declarant) or
6 any Person affiliated with Declarant so long as any improve-
7 ments constructed thereon (or any additions, modifications or
8 alterations to any such improvements) are constructed or made
9 in a good and workmanlike fashion and are generally comparable
in terms of quality of construction to other improvements
theretofore constructed by Declarant or any Person affiliated
with Declarant on the Property (or on other property adjacent
to or near the Property). Further, this Article 11 may not be
amended without Declarant's written consent so long as
Declarant (or Trustee) owns any of the Property.

10 11.8 Compliance with Master Declaration. The provi-
11 sions of this Article 11 shall be in addition to, and not in
12 substitution for, the provisions of the Master Declaration
13 relating to architectural control and approvals and relate
14 matters. All Owners, Occupants, builders, developers and other
Persons shall be required to make such applications, obtain
such approvals and comply with such rules and regulations as
may be specified in or promulgated pursuant to the Master
Declaration.

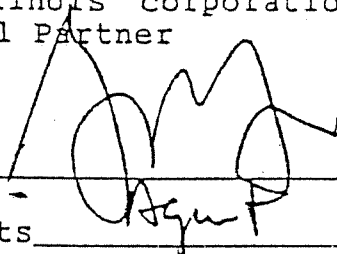
IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first set forth above.

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DECLARANT:

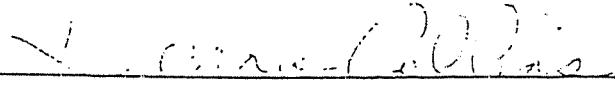
REALTY DEALERS, LTD., an Illinois limited partnership

By UDC ADVISORY SERVICES, INC., an Illinois corporation, its General Partner

By 
Its _____

TRUSTEE:

TITLE USA COMPANY OF ARIZONA, an Arizona corporation, as Trustee of its Trust No. 1393 and not personally

By 
Its Trust Officer

APPROVAL

MASTER ASSOCIATION

The Foothills Community Association (the "Master Association"), by its undersigned officer, hereby certifies that the foregoing Declaration of Covenants, Conditions and Restrictions for Shadow Rock at The Foothills has been approved by the Board of the Master Association as required by

1 Subsection 4.2(a) of the Master Declaration (as that term is
2 defined in the foregoing Declaration).

3 THE Foothills COMMUNITY
4 ASSOCIATION, an Arizona non-profit
5 corporation

6 By [Signature]

7 Its [Signature]

8 LENDER CONSENT AND SUBORDINATION

9 Sun State Savings and Loan Association, an Arizona
10 chartered savings corporation ("Sun State"), is the holder of
11 the beneficiary's interest under that certain Deed of Trust,
12 Assignment of Rents, Security Agreement and Fixture Filing (the
13 "Deed of Trust") dated September 30, 1988, executed by Realty
14 Dealers, Ltd., an Illinois limited partnership, as trustor, in
15 favor of Sun State, as trustee and beneficiary, and recorded
16 October 3, 1988 at Recorder's No. 88-488664, records of
17 Maricopa County, Arizona. Sun State hereby consents to the
18 execution and recordation of the foregoing Declaration of
19 Covenants, Conditions and Restrictions for Shadow Rock at The
20 Foothills, and hereby subordinates the Deed of Trust and the
21 lien thereof to such Declaration, provided, however, that the
22 lien of the Deed of Trust shall remain prior and superior to
23 any lien arising pursuant to or under such Declaration
24 (including, but not limited to, any lien securing payment of
25 assessments).

17 SUN STATE SAVINGS AND LOAN
18 ASSOCIATION, an Arizona-chartered
19 savings corporation

20 By [Signature]

21 Its [Signature]

22 STATE OF ARIZONA)
23) ss.
24 County of Maricopa)

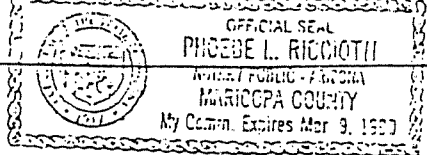
25 On this 3rd day of February, 1989, before me, the
26 undersigned officer, personally appeared [Signature]

1 who acknowledged himself to be Agent of UDC
2 ADVISORY SERVICES, INC., an Illinois corporation which is
3 General Partner of REALTY DEALERS, LTD., an Illinois limited
4 partnership, and that he, in such capacity, being authorized so
5 to do, executed the foregoing instrument for the purposes
6 therein contained by signing the name of said Corporation and
7 said partnership by himself.

8 IN WITNESS WHEREOF, I hereunto set my hand and offi-
9 cial seal.

10 *Phoebe L. Riccio*
11 Notary Public

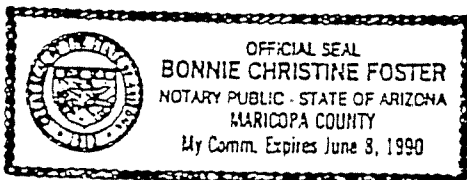
12 My commission expires:



13 STATE OF ARIZONA)
14) ss.
15 County of Maricopa)

16 On this 7th day of February, 1989, before me, the
17 undersigned officer, personally appeared Donna Collins,
18 who acknowledged himself to be Trust Officer of TITLE
19 USA COMPANY OF ARIZONA, an Arizona corporation, as Trustee of
20 its Trust No. 1393 and not personally, and that he, in such
21 capacity, being authorized so to do, executed the foregoing
22 instrument for the purposes therein contained by signing the
23 name of said corporation by himself.

24 IN WITNESS WHEREOF, I hereunto set my hand and offi-
25 cial seal.



26 *Bonnie Christine Foster*
Notary Public
B. Foster

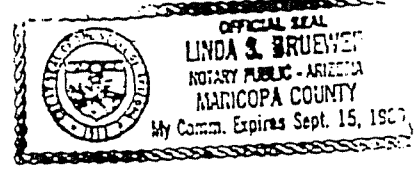
My commission expires:
6/8/90

89 05744

1 STATE OF ARIZONA)
2) ss.
3 County of Maricopa)

4 On this 30th day of January, 1989, before me, the
5 undersigned officer, personally appeared John N. Gleason,
6 who acknowledged himself to be President of THE
7 FOOTHILLS COMMUNITY ASSOCIATION, An Arizona non-profit corpora-
8 tion, and that he, in such capacity, being authorized so to do,
9 executed the foregoing instrument for the purposes therein con-
10 tained by signing the name of said corporation by himself.

11 IN WITNESS WHEREOF, I hereunto set my hand and offi-
12 cial seal.



Linda S. Bruener
Notary Public

13 My commission expires:
14 9.15.89

15 STATE OF ARIZONA)
16) ss.
17 County of Maricopa)

18 On this 2nd day of February, 1989, before
19 me, the undersigned officer, personally appeared Kurtine R.
20 Conzett, who acknowledged himself to be Vice President
21 of SUN STATE SAVINGS AND LOAN ASSOCIATION, an Arizona-chartered
22 savings corporation, and that she, in such capacity, being
23 authorized so to do, executed the foregoing instrument for
24 the purposes therein contained by signing the name of said cor-
25 poration by herself.

26 IN WITNESS WHEREOF, I hereunto set my hand and offi-
cial seal.

[Signature]
Notary Public

27 My commission expires:
28 My Commission Expires March 15, 1992

GOLLAR, WILLIAMS & WHITE ENGINEERING

702 NORTH 44th STREET, SUITE 100A, PHOENIX, ARIZONA 85008

(602) 957-3350

Description

89 057445

For

CWW No. 840129-126

the Foothills

Rev. June 15, 1988
February 24, 1988

PARCEL 3D, 3E AND 3F

Being a portion of the east half of Section 33 and a portion of Section 34, Township 1 South, Range 3 East, G. & S. R. B. & M., Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the east Quarter Corner of said Section 33;
THENCE N89°55'26"W (assumed bearing), along the east-west mid-section line of said Section 33, a distance of 306.11 feet;
THENCE departing said mid-section line, S00°04'34"W, 291.18 feet to the POINT OF BEGINNING;
THENCE N29°47'26"W, 124.90 feet to a point marking the beginning of a tangent curve, having a radius of 621.66 feet to the left;
THENCE northwesterly, along the arc of said curve, through a central angle of 41°32'31", having an arc distance of 450.74 feet;
THENCE N71°19'57"W, 100.00 feet to a point marking the beginning of a tangent curve, having a radius of 470.00 feet to the right;
THENCE northwesterly, along the arc of said curve, through a central angle of 37°07'45", having an arc distance of 304.57 feet;
THENCE N34°12'12"W, -205.00 feet;

BL/yh



the Foothills
PARCEL 3D, 3E AND 3F
CWW No. 840129-126
Rev. June 15, 1988
February 24, 1988

89 057445

THENCE N44°00'55"E, 35.75 feet to a point marking the beginning of a tangent curve, having a radius of 50.00 feet to the right;
THENCE easterly, along the arc of said curve, through a central angle of 63°56'26", having an arc distance of 55.80 feet;
THENCE S72°02'39"E, 471.22 feet to a point marking the beginning of a tangent curve, having a radius of 75.00 feet to the left;
THENCE northeasterly, along the arc of said curve, through a central angle of 110°28'15", having an arc distance of 144.61 feet to a point of reverse curvature marking the beginning of a tangent curve, the central point of which bears N87°29'06"E, 175.00 feet;
THENCE northeasterly, along the arc of said curve, through a central angle of 63°07'34", having an arc distance of 192.81 feet;
THENCE N60°36'40"E, 100.00 feet;
THENCE N61°48'51"E, 238.17 feet;
THENCE N59°27'55"E, 250.05 feet to a point lying in the northwest quarter of said Section 34;
THENCE N52°41'25"E, 549.45 feet to a point marking the beginning of a tangent curve, having a radius of 75.00 feet to the left;
THENCE northeasterly, along the arc of said curve, through a central angle of 42°14'07", having an arc distance of 55.29 feet;
THENCE N59°55'32"E, 76.01 feet;
THENCE S70°36'15"E, 593.08 feet to a point marking the beginning of a tangent curve, having a radius of 300.00 feet to the right;
THENCE southeasterly, along the arc of said curve, through a central

Description For
the Foothills
PARCEL 3D, 3E AND 3F
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February 24, 1988

89 057445

angle of $29^{\circ}38'15''$, having an arc distance of 155.18 feet;
THENCE $S40^{\circ}58'00''E$, 446.44 feet to a point marking the beginning of a
tangent curve, having a radius of 50.00 feet to the right;
THENCE southeasterly, along the arc of said curve, through a central
angle of $46^{\circ}46'49''$, having an arc distance of 40.82 feet;
THENCE $S77^{\circ}12'22''E$, 58.12 feet to a point on a curve, the central point
of which bears $S77^{\circ}12'22''E$, 50.00 feet;
THENCE southerly, along the arc of said curve, through a central angle
of $36^{\circ}22'23''$, having an arc distance of 31.74 feet;
THENCE $S23^{\circ}34'45''E$, 82.32 feet to a point marking the beginning of a
tangent curve, having a radius of 100.00 feet to the right;
THENCE southerly, along the arc of said curve, through a central angle
of $12^{\circ}49'23''$, having an arc distance of 22.38 feet;
THENCE $S10^{\circ}45'22''E$, 67.96 feet to a point marking the beginning of a
tangent curve, having a radius of 200.00 feet to the left;
THENCE southerly, along the arc of said curve, through a central angle
of $11^{\circ}43'56''$, having an arc distance of 40.95 feet;
THENCE $S22^{\circ}29'19''E$, 45.66 feet to a point marking the beginning of a
tangent curve, having a radius of 200.00 feet to the left;
THENCE southeasterly, along the arc of said curve, through a central
angle of $19^{\circ}32'42''$, having an arc distance of 68.22 feet;
THENCE $S42^{\circ}02'00''E$, 195.92 feet to a point marking the beginning of a
tangent curve, having a radius of 25.00 feet to the left;
THENCE southeasterly, along the arc of said curve, through a central

the Foothills
PARCEL 3D, 3E AND 3F
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angle of $72^{\circ}24'24''$, having an arc distance of 31.59 feet;
THENCE $N65^{\circ}33'35''E$, 55.99 feet to a point marking the beginning of a
tangent curve, having a radius of 180.00 feet to the right;
THENCE easterly, along the arc of said curve, through a central angle
of $26^{\circ}27'09''$, having an arc distance of 83.10 feet;
THENCE $S87^{\circ}59'15''E$, 34.58 feet to a point marking the beginning of a
tangent curve, having a radius of 120.00 feet to the left;
THENCE easterly, along the arc of said curve, through a central angle
of $21^{\circ}04'38''$, having an arc distance of 44.14 feet;
THENCE $N70^{\circ}56'07''E$, 55.28 feet;
THENCE $S18^{\circ}34'00''E$, 26.51 feet;
THENCE $N71^{\circ}26'00''E$, 95.67 feet to a point marking the beginning of a
tangent curve, having a radius of 350.00 feet to the right;
THENCE easterly, along the arc of said curve, through a central angle
of $32^{\circ}34'00''$, having an arc distance of 198.94 feet;
THENCE $S76^{\circ}00'00''E$, 174.33 feet to a point marking the beginning of a
tangent curve, having a radius of 40.00 feet to the right;
THENCE southerly, along the arc of said curve, through a central angle
of $161^{\circ}54'18''$, having an arc distance of 113.03 feet;
THENCE $S85^{\circ}54'18''W$, 70.15 feet to a point marking the beginning of a
tangent curve, having a radius of 600.00 feet to the left;
THENCE southwesterly, along the arc of said curve, through a central
angle of $17^{\circ}35'33''$, having an arc distance of 184.23 feet;
THENCE $S68^{\circ}18'45''W$, 725.86 feet to a point marking the beginning of a