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When recorded return to:  
Clare H. Abel, Esq.  
Burch & Cracchiolo, P.A.  
P. O. Box 16882  
Phoenix, Arizona 85011

TRACT DECLARATION

SAN MARCOS COUNTRY CLUB ESTATES I

(a.k.a. PHASE I)

THIS TRACT DECLARATION is made this 29<sup>th</sup> day of SEPTEMBER, 1993, by FOCUS DEVELOPMENT CORPORATION, an Arizona corporation ("Declarant")

W I T N E S S E T H :

WHEREAS, Declarant executed and caused to be recorded the Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for San Marcos Country Club Estates on SEPTEMBER 30, 1993, as Instrument No. 93-0664349, Official Records of Maricopa County, Arizona, as may be amended from time to time (collectively, the "Declaration"), which covers property known as San Marcos Country Club Estates; and

WHEREAS, the following described real property was made a part of the San Marcos Country Club Estates and is subject to the Declaration:

See Exhibit "A" attached hereto and incorporated by this reference (hereinafter "Phase I").

WHEREAS, Section 4.1 of the Declaration contemplates that Tract Declarations for the Property would be executed and recorded periodically as the development of San Marcos Country Club Estates proceeds; and

WHEREAS, Declarant, as holder of legal title to the property described herein, now wishes to record a Tract Declaration for the property described herein;

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

ARTICLE I

Tract Declaration

1.1 Definitions. Capitalized terms used in this Tract Declaration shall have the meaning set forth for such terms in the Declaration.

1.2 Additional Covenants, Conditions, Restrictions, Reservations and Easements Applicable to the Parcel. The following covenants, conditions, restrictions, reservations and easements shall apply to the property described herein:

(a) Compliance with Law. No improvement shall be constructed or allowed to remain on the property described herein and no activity shall be engaged in on the property described herein that would violate any applicable law, ordinance or regulation.

(b) Restriction on Further Subdivision, Property Restrictions and Rezoning. Except with respect to property owned by the Declarant, there shall be no resubdivision affecting the property described herein except as set forth on the plat described hereinabove, and no <sup>Unofficial Document</sup> portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Board, which approval must be evidenced on the recorded plat, a declaration or other instrument evidencing such subdivision or transfer. No portion of a Lot by the entire Lot, together with all improvements thereon, may be rented. No further covenants, conditions, restrictions, reservations or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument, and without such approval, such covenants, conditions, restrictions, reservations and easements shall be null and void. No applications for rezoning, variances or use permits shall be filed without the prior written approval of the Board.

(c) Residential Use. The property described herein shall be used only for single-family residential use and no Resident shall conduct any gainful trade or occupation on any Lot. No structure whatsoever, other than one private, single-family dwelling unit, together with a private garage, a guest house or servant quarters and other facilities reasonably related to residential use (all of which must be approved in advance by the Architectural Committee) shall be placed, erected or permitted on any Lot.

(d) Minimum Sizes. The minimum interior square footage for Dwelling Units on the Lots, excluding garages, porches, patios and detached buildings, shall be 2,400 square feet.

(e) Height of Buildings. No building or structure constructed upon any Lot shall exceed twenty-four (24) feet in height and in no event shall said elevation of said building or structure be such as to unreasonably obstruct the view of Owners of adjoining Lots or from the fairways located on the golf course commonly referred to as the San Marcos Golf Course in Chandler, Arizona.

(f) Golf Balls. Owners, resident, tenants, guests and other persons, owning, occupying or using any Lot, Common Area or other area adjacent or in close proximity to a golf course are deemed to have assumed the risks of personal injury or property damage resulting from golf balls unintentionally hit onto such Lot, Common Area or other area by a person playing golf on any adjacent or nearby golf course.

(g) Landscaping and Street Trees. That portion of the yard of any Lot within the property described herein which is Visible From Neighboring Property or from Common Areas or streets shall be completely landscaped and planted prior to issuance of a certificate of occupancy. All landscaping shall reflect, complement and enhance the character of the neighborhood and shall serve to screen, accent, soften and improve the visual character of the Lots and Commons Areas. All trees existing on any Lot at the time of the purchase of said Lot shall remain in the location where situated at the time of said purchase except where their removal or relocation is required by the construction or installation of any improvement or facilities upon said Lot. The front yard of each Lot which is described herein shall contain at least two (2) trees, and shall comply with zoning requirements of the City of Chandler in effect at time Lot is developed. A "street tree" shall be a shade tree planted within twelve (12) feet of the edge of the paved surface of the roadway, but subject to the provision concerning overhead encroachment set forth in the Declaration.

(h) Specific Architectural Restrictions. The architectural style of any building or structure constructed on any Lot shall reflect, complement and enhance the character of the neighborhood or neighborhoods within the Property. The exterior colors of any building or structure constructed on any Lot shall be in the range of shades of white, conservative pastels or soft earth tones, or of conservative and attractive brick, block, stone or wood. Bright colors shall be permitted only with approval of the Architectural Committee.

All new construction, modification or alteration of existing construction shall be subject to the review and approval of the Architectural Committee as provided in the Declaration.

(i) Lighting. All exterior lighting shall be diffuse and indirect whereby no light sources are directly visible from any Lot or from any private street or accessway adjoining such Lot. Each Lot within Phase I shall have two exterior "Bollard" style lights installed, one light unit on each side of a driveway to each Lot. Such lighting shall be installed prior to issuance of a certificate of occupancy for any structure constructed on the Lot. "Bollard lighting" and security lighting, which only functions when triggered by a motion detector and stays on only briefly thereafter, may be direct, need not be diffuse, and may be visible from any point.

(j) Signs. No signs whatever nature, Visible From Neighboring Property, shall be placed on any Lot except: (i) signs required by legal proceedings; and (ii) signs, including "for sale" and "for lease" signs, builder signs, lender signs and subdivision signs, the nature, number, location, contact and design of which shall be approved in advance and in writing by the Architectural Committee.

(k) Declarant's Exemption. Nothing contained in this Tract Declaration shall be construed to prevent the construction, installation or maintenance by Declarant or its agents of improvements or signs deemed necessary or convenient by Declarant, in its sole discretion, to the development or sale of property within the property described herein.

(l) Model Homes. Nothing contained herein or in the Declaration shall prohibit the construction and maintenance of model homes and marketing incidental thereto by persons engaged in the construction or marketing of Dwelling Units within the subject property so long as the models are open only during reasonable hours and otherwise are in compliance with the provisions of the Declaration, this Tract Declaration and ordinances of any applicable governmental entity having jurisdiction over the subject property. All model homes shall cease to be used as such at any time the Owner (or lessee thereof, as the case may be) is not actively engaged in the construction and sale of Dwelling Units within the subject property and no model home shall be used for the sale of residences not located within the subject property.

1.3 Voting Rights. Article VI of the Declaration provides that the Owner, other than Declarant, of each Lot contained within San Marcos Country Club Estates I shall be entitled to one (1) Class A Membership in the Association.

Accordingly, there will be a maximum of twenty-one (21) Class A Memberships in the Association attributable to Phase I.

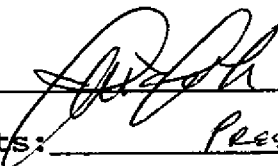
1.4 Enforcement. Declarant shall have the right, but not the obligation, to enforce the provision of this Tract Declaration and to take corrective action in the event of a breach hereof to the same extent that the Association may enforce this Tract Declaration or take corrective action with respect to a breach hereof in accordance with the terms incurred by Declarant in enforcing any provision of this Tract Declaration, shall be reimbursed to Declarant by the Association and the Association shall be entitled to recover the amount of such costs or expenses from the breaching Owner of the Parcel with respect to which any breach occurred to the same extent, and in the same manner, as if the Association had incurred such costs or expense through actions of the Association.

1.5 Interpretation. This Tract Declaration shall be considered an integral part of the Declaration and shall be construed with the Declaration as if the provisions hereof were set forth therein. This Tract Declaration shall run with the land and be enforceable in accordance with and as a part of the Declaration.

1.6 All Other Provisions. Except as otherwise provided herein, all other provisions of the Declaration shall remain and are the same and shall apply to all of the Property described in this Tract Declaration as though fully set forth herein.

IN WITNESS WHEREOF, Declarant has caused its name to be signed by the signature of its duly authorized officer as of the date first above written.

FOCUS DEVELOPMENT CORPORATION,  
an Arizona corporation

By:  \_\_\_\_\_  
Its: President

STATE OF )  
 ) ss.  
County of )

THIS INSTRUMENT ACKNOWLEDGED before me this 29<sup>th</sup> day  
of SEPT, 1993, by JOE L COOK, as  
PRESIDENT of FOCUS DEVELOPMENT CORPORATION, an  
Arizona corporation.

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NOTARY PUBLIC

My Commission Expires:

2-3-95



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**EXHIBIT A**

**LEGAL DESCRIPTION**

**PHASE 1**

Lots 2, 5, 7 through 9, inclusive, 11 through 17, inclusive, 25 and Tracts A and B, SAN MARCOS COUNTRY CLUB ESTATES I, a subdivision recorded in Book 350 of Maps, page 36, records of Maricopa County, Arizona.

Lots 60 through 63, inclusive and the West 15.00 feet of Lot 64, SAN MARCOS FAIRWAYS, a subdivision recorded in Book 20 of Maps, page 33, records of Maricopa County, Arizona.

Lots 25, 27, 29 and 31, SAN MARCOS FAIRWAYS REPLAT, a subdivision recorded in Book 122 of Maps, page 37, records of Maricopa County, Arizona.