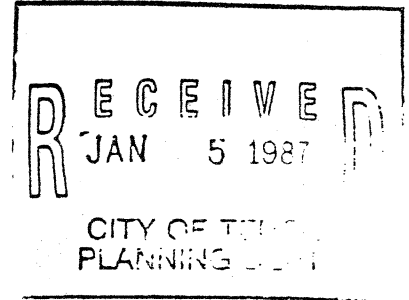


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When recorded, return to:  
Sunrise Limited Partnership  
c/o D. Randall Stokes, Esq.  
Lewis and Roca  
100 West Washington, 23rd Floor  
Phoenix, Arizona 85003-1899



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DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
WARNER RANCH MANOR UNIT II

RECORDED IN OFFICIAL RECORDS  
OF MARICOPA COUNTY, ARIZONA  
MAR 13 1987 -3 00  
KEITH POLETIS, County Recorder  
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DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
WARNER RANCH MANOR UNIT II  
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DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
WARNER RANCH MANOR UNIT II

This Declaration of Covenants, Conditions and Restrictions is made as of the 23rd day of January, 1987, by FIRST SERVICE TITLE AGENCY, INC., an Arizona corporation, as the "Declarant," and SUNRISE LIMITED PARTNERSHIP, an Illinois limited partnership doing business in the State of Arizona as S Limited Partnership, as "Developer," with reference to the following:

A. Declarant, as trustee of its Trust No. 1080, is the owner of fee title to the Property, and Developer is the sole beneficiary of said trust.

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

C. Developer and Declarant 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. Developer and Declarant 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, Developer and Declarant 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 I

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 "Articles" shall mean the articles of incorporation of the Association, as the same may be amended from time

1 to time in accordance with the provisions thereof and with the  
2 applicable provisions of this Declaration, the Bylaws and the  
statutes and regulations of the State of Arizona.

3 1.2 "Annual Assessments" shall mean those Assessments  
4 computed and levied as provided in Section 8.2 of this  
Declaration.

5 1.3 "Assessments" shall mean the Annual Assessments  
6 and the Special Assessments.

7 1.4 "Association" shall mean Warner Ranch Manor Unit  
8 II Association, an Arizona non-profit corporation, and its  
successors and assigns.

9 1.5 "Board" shall mean the group or body of persons  
10 elected in accordance with the provisions of the Articles, the  
11 Bylaws and the statutes and regulations of the State of  
12 Arizona, in which group or body is vested the management of the  
13 affairs of the Association, and shall be equivalent in meaning  
14 to the term "board of directors," as defined in A.R.S. Section  
15 10-1002(6), as in effect at the date hereof.

16 1.6 "Bylaws" shall mean the Bylaws of the  
17 Association, as the same may be amended from time to time in  
18 accordance with the provisions thereof and with the applicable  
19 provisions of this Declaration, the Articles and the statutes  
20 and regulations of the State of Arizona.

21 1.7 "Common Area" shall mean all real property  
22 (including the improvements thereto) owned by the Association  
23 for the common use and enjoyment of the Owners. The Common  
24 Area to be owned by the Association at the time of the convey-  
25 ance of the first Lot to a retail purchaser shall be Tracts A,  
26 B, D and E, inclusive, as established by and depicted on the  
Plat. It is not, however, intended that Tracts C and F (as  
established by and depicted on the Plat) are to be Common Area;  
rather, said Tracts C and F will be transferred and conveyed,  
not later than the time of the conveyance of the first Lot to a  
retail purchaser, to the Master Association, which shall hold  
title thereto and be responsible for the maintenance thereof as  
"common area" of the Master Association pursuant to the Master  
Declaration.

23 1.8 "Common Expenses" shall mean the actual and esti-  
24 mated expenses of operating the Association, including any rea-  
25 sonable reserves, all as may be found to be necessary and  
26 appropriate by the Board pursuant to this Declaration or pur-  
suant to the Articles or the Bylaws.

1           1.9 "Declarant" shall mean First Service Title  
2 Agency, Inc., an Arizona corporation, serving in its capacity  
3 as trustee of its Trust No. 1080, and its successors and  
4 assigns.

5           1.10 "Declaration" shall mean this Declaration of  
6 Covenants, Conditions and Restrictions, as the same may be  
7 amended from time to time.

8           1.11 "Declaration of Annexation" shall mean that cer-  
9 tain Declaration of Annexation Recorded on 3-6-87, 1987,  
10 at Recorder's No. 87- 134805, whereby the Property was  
11 subjected to the Master Declaration.

12           1.12 "Developer" shall mean Sunrise Limited  
13 Partnership, an Illinois limited partnership doing business in  
14 the State of Arizona as S Limited Partnership, and any assignee  
15 of the rights and duties granted or reserved to the Developer  
16 herein, which assignment shall be evidenced by a duly executed  
17 and acknowledged Recorded instrument. The term "Developer"  
18 shall in no event mean or refer to a retail Lot buyer.

19           1.13 "Eligible Mortgage Holder" shall mean any holder  
20 (as evidenced by a Recorded instrument) of a First Mortgage who  
21 or which shall have made written request to the Association for  
22 notice of any proposed action that, pursuant to Section 10.2 or  
23 Section 10.11, requires the consent of a specified percentage  
24 of Eligible Mortgage Holders (which written request must con-  
25 tain the name and address of the Eligible Mortgage Holder and  
26 the Lot number or street address of the Lot against which the  
First Mortgage held by said Eligible Mortgage Holder is  
Recorded).

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

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

          1.16 "Master Association" shall mean Warner Ranch  
Association, an Arizona non-profit corporation, and its  
successors and assigns.

          1.17 "Master Declaration" shall mean that certain  
Declaration of Covenants, Conditions and Restrictions for  
Warner Ranch recorded on January 24, 1985, at Recorder's No. 85  
033713 in the office of the Maricopa County, Arizona Recorder,  
as the same may be amended from time to time.

1           1.18 "Maximum Annual Assessment" shall mean the  
2 amount determined for each fiscal year of the Association in  
accordance with Subsection 8.1.5 of this Declaration.

3           1.19 "Member" shall mean any Person entitled to  
4 membership in the Association, as provided herein, provided,  
however, that there shall be only one Class "A" membership for  
5 each Lot, as further provided in Article III below.

6           1.20 "Mortgage" shall mean a deed of trust, as well  
7 as a mortgage, which, in either case, is Recorded against a Lot  
or any other part of the Property.

8           1.21 "Mortgagee" shall mean a beneficiary or holder  
9 of 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.

10          1.22 "Occupant" shall mean any Person other than an  
11 Owner who occupies or is in possession of a Lot, whether as a  
lessee under a lease or otherwise.

12          1.23 "Owner" shall mean the Person or Persons who  
13 individually or collectively: (a) own fee title to a Lot (as  
14 evidenced by a Recorded instrument); or (b) hold the seller's  
or vendor's interest under a contract for conveyance, contract  
15 for deed, agreement for sale or similar contract through which  
a seller has conveyed to a purchaser equitable title in prop-  
16 erty and under which the seller is obligated to convey to the  
purchaser the remainder of the seller's title in the property,  
whether legal or equitable, on payment in full of all sums due  
17 under the contract. The term "Owner" shall not include:  
(i) any Person who holds an interest in a Lot merely as secu-  
18 rity for the performance of an obligation; or (ii) a lessee,  
tenant or other Occupant of a Unit. Declarant shall be the  
19 "Owner" of each Unit with respect to which Declarant holds the  
interest required by this Section 1.23 and, in addition, shall  
20 be deemed to be the "Owner" of each Lot to which title is held  
by a trustee (other than the trustee of a deed of trust) for  
the benefit of Declarant. Notwithstanding Subsection 1.23(a),  
21 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  
22 33 of the Arizona Revised Statutes, the "Owner" of that Lot  
shall be deemed to be the owner of the trustor's interest under  
23 the deed of trust.

24          1.24 "Person" (whether or not such term is  
25 capitalized herein) means a natural person, corporation,  
partnership, trustee or other legal entity.



1           1.25 "Phase" shall mean any one of the portions of  
 2 the Property described and identified by a phase number or  
 3 letter (or number and letter) on Exhibit "B" attached hereto  
 4 and incorporated herein by reference. The numbers or letters  
 5 (or numbers and letters) assigned to Phases hereby are and  
 6 shall be for reference only and shall not control the order of  
 7 development or sale of Lots within any Phase or from Phase to  
 8 Phase. Developer shall retain full discretion as to the order  
 9 and timing of the development and sales of Lots within any  
 10 Phase or from Phase to Phase.

11           1.26 "Plat" shall mean that certain plat of Warner  
 12 Ranch Manor Unit II recorded in Book 308 of Maps, page 21, in  
 13 the office of Maricopa County, Arizona Recorder, as and if  
 14 amended.

15           1.27 "Property" shall mean the real property  
 16 described in Exhibit "A" attached hereto and shall further  
 17 refer to such additional property, if any, as may hereafter be  
 18 annexed thereto pursuant to Article VI hereof or as is now or  
 19 may hereafter be owned in fee simple by the Association.

20           1.28 "Record", "Recording", "Recorded" and  
 21 "Recordation" shall mean placing or having placed an instrument  
 22 of public record in the official records of Maricopa County,  
 23 Arizona, or of such other governmental authority, office or  
 24 official with which or whom the applicable laws of the State of  
 25 Arizona prescribe that documents affecting title to real prop-  
 26 erty in the area including the Property are to be placed of  
 public record.

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

          1.30 "Special Assessments" shall mean those  
 Assessments levied in accordance with Section 8.3 hereof.

## ARTICLE II

### PROPERTY RIGHTS

          Every Owner shall have a non-exclusive right and ease-  
 ment of enjoyment in, to and over the Common Area, subject to  
 any restrictions or limitations contained herein or in any  
 instrument conveying to the Association or subjecting to this  
 Declaration such property, and subject further to the reason-  
 able rules and regulations of the Association. Any Owner may  
 assign his, her or its right of enjoyment to (and share the  
 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

1 invitees subject to the provisions of this Declaration and to  
2 reasonable regulation by the Board and otherwise in accordance  
with such procedures as the Board may adopt.

3 ARTICLE III

4 MEMBERSHIP AND VOTING RIGHTS

5 3.1 Membership. The Association shall have two (2)  
6 classes of membership, Class "A" and Class "B," as follows:

7 3.1.1 Class "A". There shall be one Class "A"  
8 membership in the Association for each Lot. Each such  
9 membership shall be held by the Owner (from time to time) of  
10 such Lot and shall be appurtenant to and may not be separated  
11 from ownership of such Lot. The foregoing is not intended to  
12 include Persons who hold an interest merely as security for the  
performance of an obligation, and the giving of a security  
interest shall not terminate an Owner's membership. No Owner,  
whether one or more Persons, shall have more than one  
membership per Lot owned. In the event any Lot is owned by two  
or more Persons, whether by joint tenancy, tenancy in common,  
community property or otherwise, the membership as to such Lot  
shall be joint, provided, however, that 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 design-  
ation shall be binding for all purposes. In no event shall  
more than one (1) Class "A" membership exist for each Lot.  
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 accor-  
dance with Subsections 3.1.2 and 3.2.2.

9 3.1.2 Class "B". Class "B" Members shall be  
10 Developer and any assignee of all or any part of Developer's  
Class "B" membership rights.

11 3.2 Voting The voting rights of the Class "A" and  
12 Class "B" Members are as follows:

13 3.2.1 Class "A". Each Class "A" Member shall be  
14 entitled on all issues to one (1) vote for each Lot with  
15 respect to which such Member holds the interest required for  
16 membership by Subsection 3.1.1 above. When more than one  
17 Person holds such interest in any Lot, there shall be only one  
18 (1) vote with respect to such Lot, which vote shall be exer-  
19 cised by the Person designated to exercise the power to cast

1 such vote, as provided in Subsection 3.1.1. Any attempt to  
2 cast a vote appurtenant to a Lot in a manner inconsistent with  
3 that designation shall result in the suspension of the power to  
4 cast such vote until such time as such vote is cast in accor-  
5 dance with that designation. Any Owner of a Lot which is  
6 leased or which is subject to a valid, outstanding and recorded  
7 executory agreement of sale may, in the lease, agreement of  
8 sale or other written instrument, assign the voting right  
9 appurtenant to the Lot to the lessee of the Lot or to the pur-  
10 chaser of the Lot under such agreement of sale, as applicable,  
11 provided that a copy of such instrument is furnished to the  
12 Secretary of the Association prior to any meeting.

13 3.2.2 Class "B". The Class "B" Member or Members  
14 shall be entitled to three (3) votes for each Lot owned by such  
15 Class "B" Member or Members. Developer shall have the right,  
16 at any time and from time to time, to assign all or any part of  
17 its voting rights appurtenant to its Class "B" membership  
18 rights (as well as all or any other rights appurtenant thereto)  
19 to one or more persons or entities acquiring, for purposes of  
20 development and sale, any part of the Property. Further,  
21 Developer shall have the right, at any time and from time to  
22 time, to designate an individual or individuals to exercise  
23 Developer's voting rights (whether appurtenant to Class "A" or  
24 Class "B" membership), provided, however, that such designation  
25 shall not act as an assignment by Developer of its membership  
26 or voting rights hereunder. Upon the earlier to occur of:  
(i) January 1, 1991; or (ii) the time at which the total number  
of Class "A" votes outstanding (as determined pursuant to  
Subsection 3.2.1) equals (or exceeds) the total number of Class  
"B" votes outstanding (as determined pursuant to the preceding  
provisions of this Subsection 3.2.2), the Class "B" membership  
shall terminate and be deemed converted to a Class "A"  
membership, whereupon the membership and voting rights of  
Developer (and any assignee of Developer's Class "B" membership  
rights) shall be determined in accordance with Subsections  
3.1.1 and 3.2.1.

#### ARTICLE IV

#### MAINTENANCE

22 4.1 Association's General Responsibilities. The  
23 Association shall maintain and keep in good repair the Common  
24 Area (and certain other areas, as more expressly provided in  
25 this Section 4.1), the costs of such maintenance to be Common  
26 Expenses of the Association (subject to any insurance then in  
effect). This maintenance shall include, but not be limited to:

4.1.1 maintenance, repair and replacement of all  
landscaping and other flora, structures and improvements

1 situated upon the Common Area, including any perimeter or  
2 boundary walls;

3 4.1.2 maintenance, repair and replacement of  
4 landscaping and flora in or upon public rights-of-way within or  
immediately adjacent to the Property (except as provided  
below);

5 4.1.3 maintenance, repair and replacement of  
6 landscaping and signs within areas designated on the Plat as  
"landscape easements," "landscape and wall easements" or "land-  
7 scape and sign easements" (or similar designations);

8 4.1.4 maintenance, repair and replacement of the  
9 side facing a street or portion of the Common Area of any  
boundary or perimeter wall situated within areas designated on  
the Plat as "wall easements" (or similar designations); and

10 4.1.5 maintenance and repair of any drainage  
11 easements upon or across the Common Area.

12 Notwithstanding the foregoing: (a) landscaping and flora upon  
13 or in public rights-of-way for Warner Road, Warner Ranch Drive,  
14 Sarah Lane and Forest Avenue, or in areas of the Property adja-  
cent to said public rights-of-way designated on the Plat as  
15 being "landscape easements," "landscape and wall easements" or  
16 similar designations, shall be the responsibility of the Master  
17 Association pursuant to the Master Declaration; and  
18 (b) maintenance of the side facing any public right-of-way of  
19 any boundary or perimeter walls situated upon the Property  
20 along Warner Road, Warner Ranch Drive, Sarah Lane or Forest  
21 Avenue shall be the responsibility of the Association (unless  
22 such maintenance responsibility is assigned to, or expressly  
23 assumed by, the Master Association in or pursuant to the Master  
24 Declaration), while the maintenance of the side of such bound-  
25 ary or perimeter walls (and of boundary or perimeter walls  
26 between Common Area and an Owner's Lot) facing an Owner's Lot  
shall be the responsibility of such Owner.

21 4.2 Front Yard Landscaping. In addition, the  
22 Association shall be responsible for maintaining and keeping in  
23 good repair on each and every Lot, as a Common Expense of the  
24 Association, the landscaping and flora situated in or upon the  
25 "front yard" of each and every Lot. For purposes hereof, the  
26 "front yard" of a Lot shall mean and refer to such portion of  
that Lot as is adjacent to or abutting public or private  
roadways or adjacent to or abutting any part of the Common  
Area, except where such portion of that Lot is screened from  
view from such roadways or Common Area by a wall or other  
structure.

1           4.3 Maintenance of Owner's Structures. Each Owner  
2 shall be responsible for the maintenance, cleaning, painting,  
3 repair and general care of the Residential Unit and any other  
4 structure existing or constructed upon such Owner's Lot, and,  
5 in particular, each Owner shall cause the exterior of said  
6 Residential Unit or other structure to be maintained in good  
7 condition and repair and in an attractive state consistent with  
8 general community standards within the Property. In the event  
9 that the Association shall determine, by the affirmative vote  
10 of a majority of the votes of each class of Members represented  
11 in person or by valid proxy at a meeting called for such pur-  
12 pose, that any Owner is in breach of such Owner's obligation to  
13 cause the exterior of the Residential Unit or other structure  
14 on such Owner's Lot to be maintained in good condition and  
15 repair and in an attractive state consistent with general com-  
16 munity standards within the Property, the Association shall  
promptly give such Owner written notice of such determination,  
including a reasonably detailed list or description of the  
repairs, maintenance or other work required to cure such  
Owner's breach, and in the event the Owner shall not have cured  
such breach within thirty (30) days after the date of said  
written notice, the Association shall cause the repairs, main-  
tenance or other work to be performed so as to cure such  
Owner's breach, and the Association's costs in doing so,  
together with interest from the date of expenditure at the rate  
set forth in Section 10.8 of this Declaration, shall constitute  
a lien on such Owner's Lot, which lien shall have the priority  
and may be enforced in the manner described in Section 8.4 of  
this Declaration. 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 IV.

17           4.4 Publicly-Dedicated Areas. Except as expressly  
18 provided in this Article IV (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  
maintain any areas within the Property (including, but not  
limited to, public streets) which are dedicated to or the  
responsibility of a municipality or other governmental entity.

21           4.5 No Discrimination. The provision of services in  
22 accordance with this Article shall not be deemed to be discrim-  
ination in favor of or against any Owner.

23           4.6 Conformance with Landscape Plans. All landscap-  
24 ing shall conform to the landscape plans for the Property, as  
approved by the City of Tempe, where applicable.

## ARTICLE V

INSURANCE 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, employees 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 (if

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

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

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

17 5.1.2 Liability Insurance. The Board, acting on  
18 behalf of the Association, shall obtain and maintain at all  
19 times a comprehensive general liability policy insuring the  
20 Association, each member of the Board and each Owner (and, so  
21 long as Developer, or any Person with whom Developer contracts  
22 directly for the performance of all or a substantial portion of  
23 Developer's rights and obligations hereunder, or for the con-  
24 struction of substantial improvements on the Property, retains  
25 an interest in the Property or any Lot, insuring Developer and  
26 such Person, if identified by Developer to the Association,  
provided that any added premium cost or other expense resulting  
from naming Developer or such Person as insureds shall be borne  
by Developer 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 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 com-  
prehensive general liability policy or policies and adjust such  
amounts of coverage as the Board deems appropriate, but in no  
event shall said policy 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 endorse-  
ment or otherwise, preclude denial by the insurer(s) providing  
such insurance of a claim under such policy or policies because  
of negligent acts or omissions of the Association or any

1 Owner(s) (or of Developer or any other Person named as an  
2 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  
14 the State of Arizona). Said insurance shall be in an amount  
15 not less than the lesser of: (a) 100% of the current replace-  
16 ment cost, from time to time, of all such insurable improve-  
17 ments (and such insurable personal property) located in the  
18 "special flood hazard area"; or (b) the maximum coverage avail-  
19 able for such insurable improvements and insurable personal  
20 property under the National Flood Insurance Program. Unless a  
21 higher maximum deductible amount is required by applicable law,  
22 the policy providing such insurance shall provide for a deduct-  
23 ible not to exceed the lesser of \$5,000 or one percent (1%) of  
24 the face amount of such policy.

14 5.1.4 General Provisions Governing Insurance.  
15 The 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  
17 as trustee for each of the Owners and for each Mortgagee (as  
18 their respective interests may appear) and shall be governed by  
19 the provisions hereinafter set forth:

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

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

21 c. In no event shall the insurance coverage  
22 obtained and maintained by the Board hereunder be brought into  
23 contribution with insurance purchased by individual Owners,  
24 Occupants or their Mortgagees, and the insurance carried by the  
25 Association shall be primary;

24 d. Subject to the requirement of item (ii) of  
25 Subsection 5.1.1(b) above, 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 and guests (if securing same will  
3 impose on the Association no additional cost or only such rea-  
4 sonable cost as the Board may approve, in its discretion);

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

13 5.1.5 Fidelity Bonds. The Board, acting on  
14 behalf of the Association, shall obtain and maintain at all  
15 times adequate fidelity bond coverage to protect against dis-  
16 honest acts on the part of officers, directors and employees of  
17 the Association and all others who handle, or are responsible  
18 for handling, funds held or administered by the Association,  
19 whether or not such officers, directors, employees or others  
20 receive compensation for services they render to or on behalf  
21 of the Association. Any independent management agent which  
22 handles funds for the Association shall also obtain (and pay  
23 for) such fidelity bond coverage with respect to its own  
24 activities (and those of its directors, officers and employees,  
25 whether or not such directors, officers or employees receive  
26 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 the sum of  
three (3) months' Annual Assessments on all Lots, plus the  
total of funds held in the Association's reserves. Each such  
fidelity bond shall provide that the issuer thereof shall pro-  
vide 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.

22 5.1.6 Workers' Compensation Insurance. The  
23 Board, acting on behalf of the Association, shall obtain and  
24 maintain workers' compensation insurance if and to the extent  
25 necessary to meet the requirements of applicable law.

26 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

1 required to be furnished by any independent management agent  
2 shall be paid by such agent, and, as provided in  
3 Subsection 5.1.2 above, any added cost of naming Developer, or  
4 any Person with whom or which Developer contracts directly for  
5 the performance of all or a substantial portion of Developer's  
6 obligations hereunder, or for the construction of improvements  
7 on the Property, shall be borne by Developer or such other  
8 Person). The Board shall not be liable for failure to obtain  
9 or maintain any of the insurance coverage required by this  
10 Section 5.1, or for any loss or damage resulting from such  
11 failure, if such failure is due to the unavailability of such  
12 insurance coverage from reputable companies authorized to pro-  
13 vide such insurance in the State of Arizona, or if such insur-  
14 ance coverage is available only at an unreasonable cost.

8  
9 5.1.8 Subsequent Changes in Insurance

9 Requirements. It is the intention of this Article V (and, in  
10 particular, of this Section 5.1), to impose upon the  
11 Association the obligation to obtain and maintain in full force  
12 and effect at least those types and amounts of insurance as are  
13 required, at the time this Declaration is recorded, by the  
14 Federal National Mortgage Association, Federal Home Loan  
15 Mortgage Corporation, Veterans Administration and Federal  
16 Housing Administration. However, notwithstanding any provision  
17 of this Declaration to the contrary, should any or all of said  
18 agencies subsequently amend or modify their respective require-  
19 ments regarding the insurance coverage required to be main-  
20 tained by the Association, the Board, acting on behalf of the  
21 Association, shall, promptly upon receiving notice of such  
22 amendment or modification from any such agency, from any Owner  
23 or Eligible Mortgage Holder or from Developer, obtain such  
24 additional, modified or amended policy or policies of insurance  
25 as may be necessary to conform to such amended or modified  
26 requirements. Should such requirements of any such agency con-  
flict 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 resolu-  
tion of said conflict. In the event the Board, after exercise  
of such diligence, is unable to resolve such conflict, the  
Board, acting on behalf of the Association, shall exercise its  
good faith business judgment and obtain and maintain in full  
force and effect such insurance coverage as the Board, in the  
exercise of such judgment, deems to conform as closely as pos-  
sible with the applicable requirements of all such agencies,  
and of law, taking into account such conflict.

1           5.2 Insurance to be Obtained by the Owners.

2           5.2.1 Public Liability Insurance. It shall be  
3 the individual responsibility of each Owner to provide, as such  
4 Owner sees fit and at such Owner's sole expense, such compre-  
5 hensive public liability insurance as such Owner may desire  
6 against loss or liability for damages and any expense of  
7 defending against any claim for damages which might result from  
8 the ownership, use or occupancy of such Owner's Lot.

9           5.2.2 Hazard and Contents Insurance. It shall be  
10 the individual responsibility of each Owner to provide, as such  
11 Owner sees fit and at such Owner's sole expense, such fire,  
12 liability, theft and any other insurance as such Owner may  
13 desire covering the Residential Unit and any other structure on  
14 such Owner's Lot, as well as any and all fixtures and personal  
15 property upon such Lot or in such Residential Unit or other  
16 structure(s).

17           5.3 Casualty Losses.

18           5.3.1 Damage and Destruction.

19           a. Immediately after any damage or destruction  
20 by fire or other casualty to all or any part of the property  
21 required to be insured by the Association under Section 5.1  
22 above, the Board or its duly authorized agent shall:  
23 (i) proceed with the filing and adjustment of all claims aris-  
24 ing under such insurance; (ii) obtain reliable and detailed  
25 estimates of the cost of repair or reconstruction of the dam-  
26 aged or destroyed property; and (iii) upon receipt of the pro-  
ceeds 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 V, 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  
damaged or destroyed property as it existed prior to such dam-  
age or destruction).

          b. Any major damage or destruction to the prop-  
erty required to be insured by the Association under Section  
5.1 above shall be repaired or reconstructed unless: (i) at a  
special meeting of the Members of the Association duly noticed  
and convened within sixty (60) days after the occurrence of  
such damage or destruction, the Members determine, by a vote of  
Owners owing not less than seventy-five percent (75%) of all  
Lots, not to so repair or reconstruct; and (ii) Eligible  
Mortgage Holders representing at least fifty-one percent (51%)

1 of all Lots subject to First Mortgages held by Eligible  
 2 Mortgage Holders concur in such determination not to so repair  
 3 or reconstruct; and (iii) the office of the City Attorney for  
 4 the City of Tempe, Arizona, concurs in such determination not  
 5 to so repair or reconstruct (or waives in writing its right to  
 6 concur in or disapprove such determination). If for any reason  
 7 either the amount of the insurance proceeds to be paid as a  
 8 result of such damage or destruction, or reliable and detailed  
 9 estimates of the cost of repair or reconstruction, or both, are  
 10 not made available to the Association within said period, then  
 11 the period shall be extended until such information shall be  
 12 made or become available; provided, however, that such exten-  
 13 sion shall not exceed an additional sixty (60) days. The Board  
 14 shall determine whether any minor damage or destruction to the  
 15 Common Area should be repaired or reconstructed.

16 c. In the event that it is determined in the  
 17 manner described above that the damage or destruction of any  
 18 part of the Common Area shall not be repaired or reconstructed  
 19 and no alternative improvements are authorized, then and in  
 20 that event such property shall be maintained by the Association  
 21 in a neat and attractive condition as an undeveloped portion of  
 22 the Common Area.

23 5.3.2 Excess or Deficiency of Proceeds. If the  
 24 damage or destruction for which the insurance proceeds are paid  
 25 is to be repaired or reconstructed and such proceeds are not  
 26 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 8.4 below. If the funds available from insur-  
 ance exceed the cost of repair, such excess shall be used to  
 meet Common Expenses.

27 5.3.3 Repair or Reconstruction of Residential  
 28 Units. In the event of the destruction of a Residential Unit  
 29 or other structure on a Lot, or of damage to such Residential  
 30 Unit or other structure which, in the reasonable judgment of  
 31 the Board, materially affects the exterior appearance thereof,  
 32 the Board shall have the right, at its option, exercisable by  
 33 written notice to the Owner of the Lot upon which such  
 34 Residential Unit or other structure is situated, to require  
 35 such Owner to repair or reconstruct (or cause to be repaired or  
 36 reconstructed), at such Owner's expense (subject to any insur-  
 ance proceeds as such Owner may then or thereafter receive in  
 respect of such destruction or damage), such Residential Unit  
 or other structure within such period of time as shall be spec-

1 ified by the Board in such notice (which period of time shall  
 2 in no event be less than eight (8) months from the date of such  
 3 destruction or damage). The Board may exercise such right and  
 4 establish such time period notwithstanding such Owner's failure  
 5 to maintain hazard or casualty insurance upon such Owner's Lot  
 6 or any structures thereon and notwithstanding any unavailabili-  
 7 ty or delay in receipt of proceeds of any insurance policy or  
 8 policies, although the Board may take such matters into account  
 9 in establishing or extending the time period within which such  
 10 repair or reconstruction must be completed. Any such repair or  
 11 reconstruction work shall be performed in compliance with all  
 12 applicable provisions hereof and of the Master Declaration, and  
 13 the Owner of such Lot shall take such steps as are reasonably  
 14 necessary to prevent damage to surrounding property and injury  
 15 to persons as may result from or arise in connection with the  
 16 destroyed or damaged Residential Unit or other structure or the  
 17 repair or reconstruction activities with respect thereto.

#### 10 ARTICLE VI

##### 11 RESTRICTIONS ON ANNEXATION OF ADDITIONAL PROPERTY

12 6.1 Limitations on Annexations. As of the date this  
 13 Declaration is Recorded, neither Declarant nor Developer  
 14 intends to annex any additional residential property or common  
 15 area to the Property, and additional residential property and  
 16 common area may be annexed to the Property only: (a) by the  
 17 affirmative vote of two-thirds (2/3) of the votes of each class  
 18 of Members represented in person or by valid proxy at a meeting  
 19 of Members duly called for that purpose; and (b) with the  
 20 approval of the applicable percentage of Eligible Mortgage  
 21 Holders, as provided in Section 10.2 hereof; and (c) with the  
 22 express written consent of each owner of all or any part of the  
 23 property proposed to be annexed.

18 6.2 FHA and VA Approval. In addition to the require-  
 19 ments imposed by Section 6.1 above, so long as the Class "B"  
 20 membership is in existence no additional property may be  
 21 annexed to the Property without the prior approval of the  
 22 Federal Housing Administration and the Veterans  
 23 Administration.

22 6.3 Recordation of Annexation Instrument. Upon  
 23 approval to the extent required by this Article VI of any  
 24 annexation of property to the Property, the President and  
 25 Secretary of the Association shall execute, acknowledge and  
 26 Record an instrument effecting and evidencing such annexation  
 (which instrument shall also be duly executed and acknowledged  
 by each owner of all or any part of the property being  
 annexed), and such annexation shall be deemed effective only  
 upon such Recordation. Such instrument (or a separate instru-

1 ment Recorded against any property annexed to the Property pur-  
 2 suant to this Article VI and executed by the owner of such  
 3 annexed property) may subject the annexed property to such  
 4 additional covenants, conditions and restrictions as the owner  
 5 thereof may deem appropriate or desirable (subject, however, to  
 6 approval thereof by the Association and to such other approval  
 7 rights as may be granted hereby or by the Master Declaration to  
 8 other parties in connection with such annexation), provided,  
 9 however, that any and all such additional covenants, conditions  
 10 and restrictions shall be subordinate and subject to the provi-  
 11 sions of this Declaration and of the Master Declaration.

12         6.4 Effect of Annexation. Upon the effective date of  
 13 an annexation pursuant to this Article VI, as provided above:  
 14 (a) the property so annexed shall immediately be and become a  
 15 part of the Property and subject to all of the provisions  
 16 hereof; (b) any Lot then or thereafter constituting a part of  
 17 the annexed property, and the Owner of any such Lot, shall  
 18 thereupon be subject to all of the provisions of this  
 19 Declaration (including, but not limited to, the provisions of  
 20 Articles II, III and VIII hereof); (c) any part or parts of the  
 21 property annexed which is or are designated or declared to be  
 22 Common Area shall thereupon be subject to the provisions of  
 23 this Declaration (including, but not limited to, the provisions  
 24 of Articles II and IV hereof); and (d) improvements then or  
 25 thereafter situated upon the annexed property shall be subject  
 26 to the provisions of this Declaration and shall be reasonably  
 consistent, in terms of quality of construction, with the  
 improvements situated upon other portions of the Property prior  
 to such annexation.

## ARTICLE VII

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

18         7.1 The Common Area. The Association, subject to the  
 19 rights of the Owners set forth in this Declaration, shall be  
 20 responsible for the management and control of the Common Area  
 21 and shall keep the Common Area in good, clean, attractive and  
 22 sanitary condition, order and repair, pursuant to the terms and  
 23 conditions hereof.

24         7.2 Personal Property and Real Property for Common  
 25 Use. The Association, through action of the Board, may  
 26 acquire, hold and dispose of tangible and intangible personal  
 property and real property, except that, subject to the provi-  
 sions 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 pur-

1 pose. The Board, acting on behalf of the Association, shall  
2 accept any real or personal property, leasehold or other prop-  
3 erty interests within, adjacent to or related to all or any  
4 part of the Property as may be conveyed or assigned to the  
Association by Developer (or any assignee of Developer's rights  
hereunder) (including, but not limited to, such parts of the  
Common Area as may now or hereafter be held by Developer).

5           7.3 Rules and Regulations. The Association, through  
6 the Board, may make and enforce reasonable rules and regula-  
7 tions governing the use of the Property, which rules and regu-  
8 lations shall be consistent with the rights and duties  
9 established by this Declaration. Sanctions for violation of  
10 such rules and regulations or of this Declaration may be  
11 imposed by the Board and may include suspension of the right to  
12 vote and the right to use the recreational facilities on the  
13 Common Area, and, where approved by a majority vote of each  
14 class of Members represented in person or by valid proxy at a  
15 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).

16           7.4 Availability of Books, Records and Other  
17 Documents. The Association shall maintain complete and current  
18 copies of this Declaration, the Articles, the Bylaws and all  
19 rules and regulations of the Association (as well as any amend-  
20 ments to the foregoing) and of the books, records and financial  
21 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 reason-  
able circumstances, by such Owner or such holder, insurer or  
guarantor.

22           7.5 Audited Financial Statements. In the event any  
23 holder, insurer or guarantor of a First Mortgage submits to the  
24 Association a written request for an audited financial state-  
25 ment of the Association for the most recently concluded fiscal  
26 year of the Association, the Association shall promptly deliver  
such an audited financial statement to such holder, insurer or  
guarantor, and in the event no such audited financial statement  
has been prepared for the most recently concluded fiscal year,  
the Association shall cause the same to be prepared and deliv-

1 ered to such holder, insurer or guarantor as soon as reasonably  
2 possible. The cost of having such an audited financial state-  
ment prepared shall be a Common Expense.

3 7.6 Implied Rights. The Association may exercise any  
4 other right or privilege given to it expressly by this  
5 Declaration, the Articles or the Bylaws, and every other right  
6 or privilege reasonably to be implied from the existence of any  
7 right or privilege given to it herein or reasonably necessary  
8 to effectuate any such right or privilege.

## 9 ARTICLE VIII

### 10 ASSESSMENTS

#### 11 8.1 Creation of Assessment Right.

12 8.1.1 Right of Assessment by Board; Allocation  
13 Among Lots. In order to provide funds to enable the  
14 Association to meet its financial and other obligations and to  
15 create appropriate reserves, there is hereby created a right of  
16 assessment exercisable on behalf of the Association by the  
17 Board. Annual Assessments and Special Assessments shall be  
18 allocated equally among all Lots (subject to Subsection 8.1.6)  
19 and shall be for Common Expenses, except that if any Common  
20 Expense is caused by the misconduct of any Owner (or by any  
21 Occupant of such Owner's Lot), the Association may assess that  
22 Common Expense exclusively against such Owner and such Owner's  
23 Lot. The Annual Assessments and Special Assessments provided  
24 for herein are in addition to and not in lieu of or in substi-  
25 tution for any assessments, fees or other charges levied  
26 against all or any of the Lots, Owners or Members (or other  
Persons) pursuant to the Master Declaration. To the extent  
that the Master Association elects (if permitted by the Master  
Declaration) to bill the Association, rather than the respec-  
tive Owners, for assessments or other charges authorized or  
permitted by the Master Declaration, the Association shall have  
full power and authority to, in turn, bill such assessments or  
other charges to the appropriate Owners, and regardless whether  
the Master Association or the Association bills and collects  
such assessments or other charges authorized or permitted under  
the Master Declaration, the same shall not be considered to be  
a part of the Annual Assessments or Special Assessments levied  
by the Association hereunder for purposes of any maximum  
amounts or limitations imposed thereon (including, without lim-  
itation, the limitations imposed by Subsection 8.1.5).

8.1.2 Covenant to Pay. Each Owner, by acceptance  
of his, her or its deed with respect to a Lot, is deemed to  
covenant and agree to pay the Assessments, together with inter-  
est from the date due at a rate equal to ten percent (10%) per



1 annum, and together with such costs and reasonable attorneys' fees as may be incurred in seeking to collect such Assessments.

2  
3 8.1.3 Personal Obligation to Pay. Each of the  
4 Assessments with respect to a Lot, together with interest,  
5 costs and reasonable attorneys' fees as provided in  
6 Subsection 8.1.2 above, shall also be the personal obligation  
7 of the Person who or which was the Owner of such Lot at the  
8 time such Assessment arose with respect to such Lot, provided,  
9 however, that the personal obligation for delinquent  
10 Assessments shall not pass to a successor in title of such  
11 Owner unless expressly assumed by such successor.

12  
13 8.1.4 Due Dates. Annual Assessments for each  
14 fiscal year shall be due and payable in equal semiannual  
15 installments on or before the first day of January and the  
16 first day of July of such fiscal year. Special Assessments, if  
17 any, shall be paid in such manner and on such dates as may be  
18 fixed by the Board. In addition to any other powers of collec-  
19 tion or enforcement granted hereunder, in the event any  
20 Assessments with respect to a Lot are delinquent, the Board  
21 shall have the right, in its sole discretion, to accelerate the  
22 date on which all Assessments with respect to such Lot are due  
23 and payable. For purposes of this Declaration, Assessments  
24 shall be deemed "paid" when actually received by the  
25 Association or by its manager or agent designated by the  
26 Association to collect the same (provided, however, that if any  
Assessments are paid by check and the bank or other institution  
upon which such check is drawn thereafter dishonors and refuses  
to pay such check, those Assessments shall not be deemed "paid"  
and shall remain due and payable).

17 8.1.5 Maximum Annual Assessment. The Annual  
18 Assessments provided for herein shall not at any time exceed  
19 the Maximum Annual Assessment, as determined in accordance with  
20 this Subsection 8.1.5. For the fiscal year ending December 31,  
21 1987, the Maximum Annual Assessment shall be Nine Hundred  
22 Ninety-Six Dollars (\$996.00) per year for each Lot.  
23 Thereafter, unless a greater increase is approved by the affir-  
24 mative vote of two-thirds (2/3) of the votes of each class of  
25 Members represented in person or by valid proxy at a meeting of  
26 Members duly called for such purpose, the Maximum Annual  
Assessment for any fiscal year shall be equal to the Maximum  
Annual Assessment for the immediately preceding fiscal year  
increased at a rate equal to the greater of: (a) the percent-  
age increase for the applicable fiscal year over the immedi-  
ately preceding fiscal year in the Consumer Price Index--All  
Urban Consumers--All Items (1967 = 100 Base) published by the  
Bureau of Labor Statistics of the U.S. Department of Labor (or  
its successor governmental agency), or, if such index is no  
longer published by said Bureau or successor agency, in the

1 index most similar in composition to such index; or (b) five  
2 percent (5%). Notwithstanding the foregoing, the Board may,  
3 without the approval of the Members, increase the Maximum  
4 Annual Assessment for any fiscal year by an amount sufficient  
5 to permit the Board to meet any increases over the preceding  
6 fiscal year in: (i) premiums for any insurance coverage  
7 required by this Declaration to be maintained by the  
8 Association; or (ii) charges for utility services necessary to  
9 the Association's performance of its obligations under this  
10 Declaration, in either case (i) or (ii) notwithstanding the  
11 fact that the resulting increase in the Maximum Annual  
12 Assessment is at a rate greater than otherwise permitted under  
13 the preceding sentence. Nothing herein shall obligate the  
14 Board to levy, in any fiscal year, Annual Assessments in the  
15 full amount of the Maximum Annual Assessment for such fiscal  
16 year, and the election by the Board not to levy Annual  
17 Assessments in the full amount of the Maximum Annual  
18 Assessments for any fiscal year shall not prevent the Board  
19 from levying Annual Assessments in subsequent fiscal years in  
20 the full amount of the Maximum Annual Assessment for such sub-  
21 sequent fiscal years (as determined in accordance with this  
22 Subsection 8.1.5). In the event that, for any fiscal year, the  
23 Board elects to levy an Annual Assessment at less than the full  
24 amount of the Maximum Annual Assessment for such fiscal year,  
25 the Board may, if in its reasonable discretion the circum-  
26 stances so warrant, subsequently levy a supplemental Annual  
Assessment during said fiscal year so long as the total of the  
Annual Assessments levied during such fiscal year does not  
exceed the Maximum Annual Assessment for such fiscal year.

16 8.1.6 Dates Assessments Become Payable; Phasing  
17 for Assessment Purposes. Assessments shall be payable in  
18 respect of a Lot (including any Lot owned by Developer) from  
19 the date upon which title to said Lot, or any other Lot within  
20 the Phase containing said Lot, shall first be conveyed to a  
21 retail purchaser, and such Assessments shall be payable regard-  
22 less of whether a Residential Unit or other structure shall be  
23 situated upon such Lot on such date. As to any Lot owned by  
24 Developer with respect to which Assessments shall have com-  
25 menced as provided in the preceding sentence, the Assessments  
26 payable by Developer with respect to such Lot shall be an  
amount equal to twenty-five percent (25%) of the Assessments  
which would otherwise be payable hereunder with respect to such  
Lot if it were owned by an Owner other than Developer. No  
Assessments shall be payable with respect to a Lot so long as  
Developer shall own all of the Lots within the Phase containing  
said Lot. As to any Lot conveyed by Developer to a retail pur-  
chaser, Assessments as to such Lot shall be prorated as of the  
close of escrow with respect to such Lot (or, if no escrow is  
utilized, as of the date of recordation of the deed conveying  
such Lot to such retail purchaser). The numbers or letters (or

1 numbers and letters) assigned to the Phases are for reference  
 2 only, and Developer shall retain full discretion as to the  
 3 order and timing of its development and sales of Lots within  
 any Phase or from Phase to Phase.

4 8.1.7 No Relief from Obligation upon  
Abandonment. No Owner shall be relieved of his, her or its  
 5 obligation to pay any of the Assessments by abandoning or not  
 6 using his, her or its Lot or the Common Area, or by leasing or  
 otherwise transferring occupancy rights with respect to his,  
 her or its Lot.

7 8.1.8 Certificates. The Association shall, upon  
 8 the written request of any Owner or the holder, insurer or  
 guarantor of any Mortgage and upon payment of such reasonable  
 9 charge as may be determined by the Board, furnish to the  
 requesting party a certificate, executed by an officer of the  
 10 Association, stating the date to which Assessments with respect  
 to such Owner's Lot (or the Lot against which such Mortgage is  
 11 Recorded) have been paid and the amount, if any, of any  
 Assessments which have been levied with respect to said Lot but  
 12 which remain unpaid as of the date of such certificate; said  
 certificate shall be binding upon the Association as to the  
 13 matters set forth therein as of the date thereof.

14 8.2 Computation of Assessment; Annual Budget. The  
 Board shall prepare and adopt an estimated annual budget for  
 15 each fiscal year of the Association, which annual budget shall  
 serve as the basis for determining the Annual Assessments for  
 16 the applicable fiscal year (subject to the limitations of  
 Subsection 8.1.5 hereof). Such budget shall take into account  
 17 the estimated Common Expenses and cash requirements of the  
 Association for the year. The annual budget shall also take  
 18 into account the estimated net available cash income for the  
 year, if any, from the operation or use of any of the Common  
 19 Area. The annual budget shall provide for a reserve for con-  
 tingencies for the year (and for subsequent fiscal years) and a  
 20 reserve for replacements, all in such reasonably adequate  
 amounts as shall be determined by the Board. The Board shall  
 21 cause a copy of the budget and a statement of the amount of the  
 Annual Assessments to be levied against each Lot for the fol-  
 22 lowing fiscal year to be delivered or mailed to each Owner not  
 more than sixty (60) days following the meeting of the Board at  
 23 which such budget shall have been adopted. Subject to the pro-  
 visions of Subsection 8.1.5 and of Section 8.3, neither the  
 24 annual budget (or amended budget) adopted by the Board, nor any  
 Assessment levied pursuant thereto, shall be required to be  
 25 ratified or approved by the Members. If, at any time during a  
 fiscal year of the Association the Board deems it necessary to  
 amend the budget for such year, the Board may do so and may  
 levy an additional Annual Assessment for such year (subject to

1 the limitations imposed by Subsection 8.1.5) or may call a  
 2 meeting of the Members to request that the members approve a  
 3 Special Assessment pursuant to Section 8.3. Within sixty (60)  
 4 days after adoption of an amended budget (if the Board elects  
 5 to levy an additional Annual Assessment), the Board shall cause  
 6 a copy of the amended budget and a statement of the additional  
 7 Annual Assessments to be levied against the Lots to be deliv-  
 8 ered or mailed to each Owner; if, instead, the Board elects to  
 9 call a meeting of Members to seek approval of a Special  
 10 Assessment, the Board shall cause a copy of the amended budget  
 11 to be delivered or mailed to each Owner with the notice of such  
 12 meeting, and if a Special Assessment is duly approved by the  
 13 Members at such meeting, shall cause a statement of the Special  
 14 Assessment to be levied against each Lot to be promptly mailed  
 15 or delivered to each Owner.

9 8.3 Special Assessments. In addition to the Annual  
 10 Assessments authorized in Section 8.1, the Association may levy  
 11 Special Assessments from time to time, provided, however, that  
 12 any Special Assessment shall be effective only with the  
 13 approval of not less than two-thirds (2/3) of the votes of each  
 14 class of Members represented in person or by valid proxy at a  
 15 meeting of Members duly called and convened to consider such  
 16 Special Assessment. Special Assessments shall be allocated  
 17 equally among all Lots (subject to Subsection 8.1.6).

14 8.4 Lien for Assessments; Foreclosure. The  
 15 Assessments (together with any other charges, fines, penalties  
 16 or other amounts levied against a Lot or the Owner or Occupant  
 17 thereof pursuant to this Declaration or the Articles, Bylaws or  
 18 rules and regulations of the Association) shall constitute a  
 19 lien on each Lot prior and superior to all other liens,  
 20 except: (a) all taxes, bonds, assessments and other levies  
 21 which, by law, would be superior thereto; (b) the lien or  
 22 charge of any First Mortgage made in good faith and for value;  
 23 and (c) the lien for Assessments created and established pur-  
 24 suant to the Master Declaration. Such liens may be foreclosed  
 25 in the manner provided by law for the foreclosure of mort-  
 26 gages. The sale or transfer of any Lot pursuant to a mortgage  
 foreclosure or any proceeding in lieu thereof shall extinguish  
 the lien of the Assessments as to payments 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 following  
 any such foreclosure 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

1 Lot, provided, however, that the Association's acquisition and  
 2 ownership of a Lot under such circumstances shall not be deemed  
 3 to convert the same into Common Area. Suit to recover a money  
 4 judgment for unpaid Assessments, rent, interest and attorneys'  
 5 fees shall be maintainable without foreclosing or waiving the  
 6 lien securing the same. Recording of this Declaration consti-  
 7 tutes record notice and perfection of the liens granted or  
 8 established hereby, and further Recordation of any claim of a  
 9 lien for Assessments or other amounts hereunder shall not be  
 10 required.

11 8.5 Notice and Quorum for Meetings to Consider  
 12 Special Assessments and Certain Increases in General  
 13 Assessments. Notwithstanding any other provision hereof or of  
 14 the Articles, the Bylaws or the rules and regulations of the  
 15 Association, written notice of any meeting called for the pur-  
 16 pose of: (a) approving the establishment of any Special  
 17 Assessment, as required by Section 8.3 hereof; or (b) approving  
 18 any increase in the Maximum Annual Assessment greater than that  
 19 permitted by application of the formula as set forth in  
 20 Subsection 8.1.5 hereof, shall be sent to all Members not less  
 21 than thirty (30) days nor more than sixty (60) days prior to  
 22 the date of said meeting. At the first meeting thus called to  
 23 consider the particular Special Assessment or increase in the  
 24 Maximum Annual Assessment, a quorum shall consist of sixty  
 25 percent (60%) of the votes in each class of Members (whether  
 26 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.

19 8.6 Developer's Obligation for Operating  
 20 Deficiencies. So long as the Class "B" membership exists,  
 21 Developer shall pay and contribute to the Association, within  
 22 thirty (30) days after the end of each fiscal year of the  
 23 Association, or at such other times as may be requested by the  
 24 Board, such funds as may be necessary, when added to the  
 25 Assessments levied by the Association pursuant to this  
 26 Declaration, to provide for: (a) the operation and maintenance  
 of the Common Area and the recreational facilities located  
 thereon; (b) the maintenance of adequate reserve accounts; and  
 (c) the performance by the Association of all other obligations  
 of the Association under this Declaration or under the Articles  
 or the Bylaws.

26 8.7 Assessments by Master Association. The  
 Assessments shall be in addition to the assessments provided

1 for in and levied pursuant to the terms of the Master  
2 Declaration.

3 8.8 Surplus Monies. Unless otherwise expressly  
4 determined by the Board, any surplus monies of the Association  
5 shall be held by the Association and placed in one or more  
6 reserve accounts as determined by the Board, and shall not be  
7 paid to the Owners or credited against their liabilities for  
8 Assessments.

## 6 ARTICLE IX

### 7 PARTY WALLS

8 9.1 General Rules of Law to Apply. Each wall  
9 (including fence walls) which is built by or on behalf of  
10 Developer on the dividing line between two Lots (or between a  
11 Lot and Common Area) shall constitute a party wall, and, to the  
12 extent not inconsistent with the provisions of this Article IX,  
13 the general rules of law regarding party walls and liability  
14 for property damages due to negligent or willful acts or  
15 omissions shall apply thereto.

16 9.2 Repair and Maintenance. No Owner or Occupant of  
17 any Lot (or any guest, invitee, employee or agent of such Owner  
18 or Occupant) shall do or permit any act (or omit to do any act)  
19 that will or does damage, destroy or impair the structural  
20 soundness or integrity of any party wall, or which would cause  
21 any party wall to be exposed to the elements, and, in the event  
22 any such Owner, Occupant, guest, invitee, employee or agent  
23 does or permits any such act (or so omits to do any act), such  
24 Owner's or Occupant's liability with respect to such damage,  
25 destruction, impairment or exposure shall be determined in  
26 accordance with applicable law.

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

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ARTICLE X

GENERAL PROVISIONS

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 until January 1, 2037, 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, 10.13 and 10.14), 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  
2 use the Common Area;

3                   10.2.5 boundaries of any Lot;

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

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

10                   10.2.8 provisions relating to insurance or fidel-  
11 ity bonds;

12                   10.2.9 provisions relating to the leasing of Lots  
13 (or Residential Units thereon);

14                   10.2.10 provisions relating to the right of an  
15 Owner to sell or transfer such Owner's Lot;

16                   10.2.11 restoration or repair of any structures or  
17 improvements on the Common Area following a hazard damage or  
18 condemnation in a manner other than as specified in this  
19 Declaration;

20                   10.2.12 any action to dissolve or otherwise termi-  
21 nate the Association or the legal status of the Property after  
22 substantial destruction or condemnation of improvements on the  
23 Property occurs; or

24                   10.2.13 any provisions that expressly benefit the  
25 holders, insurers or guarantors of Mortgages.

26 In the event a proposed addition, amendment or change to this  
Declaration, the Articles or the Bylaws is deemed by the Board  
as not being of a material nature, the Association shall never-  
theless provide written notice to each Eligible Mortgage Holder  
of the proposed addition, amendment or change (and of the  
Board's determination that the same is not of a material  
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.

10.3 Indemnification. The Association shall indem-  
nify each and every officer and director of the Association  
(including, for purposes of this Section, former officers and  
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 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 for 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, replace-

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

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

26 10.6 Severability; Interpretation; Gender.  
Invalidation of any one of these covenants or restrictions by  
judgment or court order shall in no way affect any other provi-  
sions which shall remain in full force and effect. The provi-  
sions hereof shall be construed and interpreted with reference  
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.

10.7 Perpetuities. If any of the covenants, condi-  
tions, restrictions or other provisions of this Declaration  
shall be unlawful, void or voidable for violation of the rule  
against perpetuities, then such provisions shall continue only  
until twenty-one (21) years after the death of the last survi-  
vor of the now living descendants of Ronald Reagan, President  
of the United States.

10.8 Enforcement. The Association shall have the  
standing and power to enforce the provisions of this  
Declaration, the Articles, the Bylaws and the rules and regula-  
tions of the Association, and the provisions of any other

1 recorded document pertaining to any Lot or Lots, and its costs  
2 in doing so, including, but not limited to, reasonable attor-  
3 neys' fees, together with interest thereon from the date the  
4 costs are expended at a rate equal to ten percent (10%) per  
5 annum, shall constitute a lien on all Lots owned by the Owner  
6 or Owners against whom the action is taken (or against whose  
7 Occupants the action is taken), which lien shall have the pri-  
8 ority and may be enforced in the manner described in  
9 Section 8.4. Further, any Owner shall have the standing and  
10 the right to bring an action against the Association for any  
11 violation or breach by the Association of any provision hereof  
12 or of the Articles or the Bylaws. In addition, any Owner or  
13 Owners shall have the standing and power to enforce the provi-  
14 sions of this Declaration, the Articles and the Bylaws, and the  
15 prevailing party or parties in any action by an Owner or Owners  
16 to enforce any such provisions shall be entitled to recover  
17 from the other party or parties its or their costs in such  
18 action (including reasonable attorneys' fees), together with  
19 interest thereon at the rate of ten percent (10%) per annum,  
20 and shall further be entitled to have all such costs (including  
such interest) included in any judgment awarded to the  
prevailing party or parties in such action. Failure by the  
Association or by any Owner to take any such enforcement action  
shall in no event be deemed a waiver of the right to do so  
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 Developer,  
18 shall be deemed for all purposes hereunder to be owned by  
19 Developer and shall be treated for all purposes hereunder in  
20 the same manner as if such real property were owned in fee by  
Developer. No conveyance, assignment or other transfer of any  
right, title or interest in or to any of such real property by  
Developer to any such trust (or the trustee thereof) or to  
Developer by any such trust (or the trustee thereof) shall be  
deemed for purposes of this Declaration to be a sale of such  
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  
of additional properties to the Property; (b) dedication of any  
part or all of the Common Area; or (c) amendment of this  
Declaration.

25       10.11 Notices to Certain Mortgage Holders, Insurers  
26 or Guarantors. The Association shall give timely written  
notice of any of the following actions, events or occurrences

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

7 10.11.1 Any condemnation or casualty loss that  
8 affects either a material portion of the Property or the Lot  
9 securing the applicable Mortgage;

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

17 10.11.3 Any lapse, cancellation or material modi-  
18 fication of any insurance policy or fidelity bond maintained by  
19 the Association; or

20 10.11.4 Any proposed action which requires the  
21 consent of a specified percentage of Eligible Mortgage Holders,  
22 as provided in Section 10.2 hereof.

23 10.12 Dissolution or Termination of the Association  
24 or Legal Status of the Property. No action to dissolve or  
25 otherwise terminate the Association or the legal status of the  
26 Property for any reason other than the substantial destruction  
or condemnation of the Property shall be taken without the con-  
sent of Eligible Mortgage Holders representing not less than  
sixty-seven percent (67%) of all Lots subject to First  
Mortgages held by Eligible Mortgage Holders.

10.13 Approval of Amendments by Tempe City Attorney's  
Office. No amendment to this Declaration shall be effective  
unless and until approved by the office of the City Attorney  
for the City of Tempe, Arizona (or unless and until said office  
shall waive, in writing, its right to approve or disapprove any  
specific amendment submitted to it).

10.14 Amendments Requested by Governmental Agency.  
Notwithstanding any other provision of this Declaration,  
Developer shall have the right to amend all or any part of this  
Declaration to such extent and with such language as may be  
requested by the Federal Housing Administration, Veterans  
Administration, Federal National Mortgage Association, Federal  
Home Loan Mortgage Corporation or other similar governmental or  
quasi-governmental agency which issues, guarantees, insures or

1 purchases Mortgages (or securities or other debt instruments  
2 backed or secured by Mortgages), or otherwise governs transac-  
3 tions involving Mortgages or instruments evidencing same, as a  
4 condition to such agency's approval of this Declaration or of  
5 the residential development encompassing the Property. Any  
6 such amendment shall be effected by Developer's Recording an  
7 instrument executed by Developer and appropriately acknowl-  
8 edged, specifying the governmental or quasi-governmental agency  
9 requesting such amendment and setting forth the appropriate  
10 amendatory language. Recording of such amendment shall consti-  
11 tute conclusive proof of such governmental or quasi-  
12 governmental agency's request for such amendment. Such  
13 amendment shall be effective, without the consent or approval  
14 of any other Person, on and as of the date the same is  
15 Recorded, and shall thereupon and thereafter be binding upon  
16 any and all Owners or other Persons having any interest in all  
17 or any part of the Property. Except as expressly provided in  
18 this Section, neither Developer nor any other Person(s) shall  
19 have the right to amend this Declaration except in accordance  
20 with and pursuant to the other provisions and requirements of  
21 this Declaration.

12 10.15 Number of Days. In computing the number of  
13 days for purposes of any provision of this Declaration or the  
14 Articles or Bylaws, all days shall be counted including  
15 Saturdays, Sundays and holidays; provided however, that if the  
16 final day of any time period falls on a Saturday, Sunday or  
17 legal holiday, then the final day shall be deemed to be the  
18 next day which is not a Saturday, Sunday or legal holiday.

16 10.16 Developer's Right to Use Similar Name. The  
17 Association hereby irrevocably consents to the use by any other  
18 nonprofit corporation which may be formed or incorporated by  
19 Developer of a corporate name which is the same or deceptively  
20 similar to the name of the Association provided one or more  
21 words are added to the name of such other corporation to make  
22 the name of the Association distinguishable from the name of  
23 such other corporation. Within five (5) days after being  
24 requested to do so by the Developer, the Association shall sign  
25 such letters, documents or other writings as may be required by  
26 the Arizona Corporation Commission in order for any other non-  
profit corporation formed or incorporated by the Developer to  
use a corporate name which is the same or deceptively similar  
to the name of the Association.

23 10.17 Notice of Violation. The Association shall  
24 have the right to Record a written notice of a violation by any  
25 Owner or Occupant of any restriction or provision of this  
26 Declaration, the Articles, the Bylaws or the rules and regula-  
tions of the Association. The notice shall be executed and  
acknowledged by an officer of the Association and shall contain

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

12           10.18 Relationship to Master Declaration. This  
13 Declaration shall be in addition and subordinate to the Master  
14 Declaration, and the Property (including, but not limited to,  
15 each Lot) shall be subject not only to this Declaration but  
16 also to all of the provisions of the Master Declaration,  
17 including, but not limited to, the provisions of Article IX  
18 (entitled "Architectural Standards; Architectural Control  
19 Committee") and Article X (entitled "Use Restrictions") of the  
20 Master Declaration (provided, however, that to the extent any  
21 provision of this Declaration imposes upon the Property or any  
22 part thereof any added or greater restriction than is contained  
23 in the Master Declaration, such added or greater restriction  
24 shall control). All Owners and Members shall not only be enti-  
25 tled to the rights and privileges and subject to the duties and  
26 obligations granted and imposed by or pursuant to this  
Declaration but shall also be entitled to the rights and privi-  
leges and subject to the duties and obligations granted and  
imposed by or pursuant to the Master Declaration. Any and all  
assessments or other charges levied or imposed by or pursuant  
to this Declaration shall be in addition to any and all

1 Assessments or other charges levied or imposed by or pursuant  
2 to the Master Declaration.

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

5 DEVELOPER:

6 SUNRISE LIMITED PARTNERSHIP, an  
7 Illinois limited partnership doing  
8 business in the State of Arizona  
9 as S Limited Partnership

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

13 By Lloyd L. Gellula  
14 Its V.P.

15 DECLARANT:

16 FIRST SERVICE TITLE AGENCY, INC.,  
17 an Arizona corporation, as Trustee  
18 of its Trust No. 1080 and not per-  
19 sonally

20 By [Signature]  
21 Its Vice President

22 APPROVED:

23 City Attorney for  
24 City of Tempe, Arizona

25 By W. Kent Doran  
26

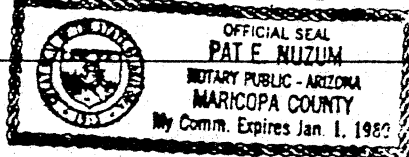
1 STATE OF ARIZONA )  
 ) ss.  
2 County of Maricopa )

3 On this 21 day of January, 1987, before me, the  
4 undersigned officer, personally appeared Boyd L. Lillilan,  
5 who acknowledged himself to be V.P. of UDC  
6 ADVISORY SERVICES, INC., an Illinois corporation which is  
7 General Partner of SUNRISE LIMITED PARTNERSHIP, an Illinois  
8 limited partnership doing business in the State of Arizona as S  
9 Limited Partnership, and that he, in such capacity, being  
10 authorized so to do, executed the foregoing instrument for the  
11 purposes therein contained by signing the name of said  
12 Corporation and said Partnership by himself.

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

15 Pat E. Nuzum  
16 Notary Public

17 My commission expires:



18 STATE OF ARIZONA )  
 ) ss.  
19 County of Maricopa )

20 On this 5th day of March, 1987, before me, the  
21 undersigned officer, personally appeared Todd P. Roberts,  
22 who acknowledged himself to be Vice President of FIRST  
23 SERVICE TITLE AGENCY, INC. an Arizona corporation, as Trustee  
24 of its Trust No. 1080 and not personally, and that he, in such  
25 capacity, being authorized so to do, executed the foregoing  
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instrument for the purposes therein contained by signing the name of said Corporation by himself.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Stanley G. [Signature]*  
Notary Public

My commission expires:  
My Commission Expires Sept. 10, 1989

STATE OF ARIZONA     )  
                                  ) ss.  
County of Maricopa    )

On this 14th day of January, 1987, before me, the undersigned officer, personally appeared W. Kent Free, who acknowledged himself to be Asst. City Attorney in the office of the City Attorney for the City of Tempe, Arizona, and that he, in such capacity, being authorized so to do, executed the foregoing instrument on behalf of such office.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Susan M. [Signature]*  
Notary Public

My commission expires:  
My Commission Expires Sept. 9, 1988

