

P. 1

DECLARATION OF RESTRICTIONS

FOR

"353-371 EAST PALM LANE"

A SUB-LOT DEVELOPMENT

THIS DECLARATION, made on the date hereinafter set forth by ARIZONA LAND TITLE AND TRUST CO., an Arizona corporation, Trustee, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 9 and 10, of the replat of Lot 28,
LOS OLIVOS AMENDED,

according to the Plat of record in the office of the Maricopa County Recorder, Book 15 of Maps, Page 33; and

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, easements, reservations, liens and charges, as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold and conveyed, subject to the following covenants, conditions, restrictions, easements, reservations, liens and charges, all of which, are for the purpose of enhancing and protecting the desirability and attractiveness of the real property and shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the above properties, or any part thereof. This declaration hereby establishes the plan of individual ownership of real property estates consisting of a Sub-Lot and improvements contained thereon and the ownership of a non-profit association comprised of all the owners of Sub-Lots.

Declarant further hereby declares that Exhibit A, attached hereto and incorporated herein, being the plat of "353-371 EAST PALM LANE; A SUB-LOT DEVELOPMENT", sets forth the locations and gives the dimensions of the Sub-Lots and Tract A, and that each Sub-Lot shall be known by and described as shown on said Exhibit A, to-wit: Sub-Lot One (1) through Sub-Lot Fourteen (14).

Declarant further hereby declares that Tract A as shown on said Exhibit A, shall be subject to an easement for public utilities as shown on Exhibit A and Declarant hereby dedicates to the public use such public utilities.

Declarant further hereby dedicates to the present owners and future owners of Sub-Lots in said Sub-Lot development, or

at the discretion of Declarant to the association of owners of said Sub-Lots, said Association being referred to hereafter:

(a). All private roadways, party walls and their foundations and other easements shown on Exhibit A, and all rights-of-way, easements or encroachments which may be necessary or convenient for the development of the Sub-Lot Development or for the common benefit of the Sub-Lot owners.

(b) That portion of the premises identified as Tract A for the use and benefit of the present and future owners of Sub-Lots for use as a private way, pool and recreation area and other related activities.

All dedications, except for public utility easements, are not dedicated for the use of the general public but only for the common use, benefit and enjoyment of the present owners and future owners of Sub-Lots, subject to the terms and conditions set forth hereafter.

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ARTICLE I--DEFINITIONS

1. Association. "Association" shall mean and refer to "East Palm Lane Alley Corporation", a non-profit corporation, its successors and assigns, consisting of the owners of Sub-Lots within the Sub-Lot Development.

2. Sub-Lot Development. "Sub-Lot Development" shall mean and refer to 353-371 East Palm Lane Sub-Lot Development as set forth on the plat of same, attached hereto as Exhibit A.

3. Board of Directors, Articles and Bylaws. "Board of Directors", "Articles" and "Bylaws" shall mean and refer to the Board of Directors, the Articles of Incorporation and the Bylaws of the East Palm Lane Alley Corporation.

4. Property or Premises. "Property" or "premises" shall mean and refer to that certain real property hereinbefore described.

5. Common Area, Common Property, Common Elements. "Common area", "common property" or "common elements" shall be synonymous and shall mean and refer to all property in Tract A, all property owned by the Association, including but not limited to all of the above referred to premises except the land specifically designated as "Sub-Lots" on the above referred to plat. The common elements shall also include all recreational facilities, refuse areas, pools, pumps, pavements, streets and public utility lines.

6. Roof-Overhang. "Roof overhang" shall mean and refer to all encroachments or easements or overhangs of any structure from one Sub-Lot over the adjoining Sub-Lot or over Tract A, as such structures are and were originally constructed.

7. Sub-Lot. "Sub-Lot" shall mean and refer to a separately designated and legally described freehold estate consisting of a plot of land and the improvements thereon.

8. Declarant. "Declarant" shall mean and refer to ARIZONA LAND TITLE AND TRUST CO., Trustee, its successors and assigns if such successors or assigns should acquire more than one undeveloped Sub-Lot from the Declarant for the purpose of development.

9. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) of any Sub-Lot.

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

11. Topical Headings. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or of this Declaration.

ARTICLE II -- USE RESTRICTIONS

1. Residential Use Only. All Sub-Lots shall be and are restricted to single family residential use, and no store, office or other place of business of any kind, and no hospital, sanatorium or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theatre, saloon or other place of entertainment shall ever be erected or permitted upon any portion of the Sub-Lots or Tract A and no business of any kind or character whatever shall be conducted in or from any residence.

2. Signs, etc. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any of said Sub-Lots, nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner of any Sub-Lot in the development. Not more than one "For Sale" or "For Rent" sign of customary small size may be placed on any Sub-Lot.

3. Animals. No animals, livestock or poultry of any kind shall be kept on the premises, other than domestic household pets.

4. New Construction Only. All buildings or structures erected on said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises.

5. Lines, Equipment. All clothes lines, equipment, garbage cans, incinerators, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring lots and streets. All rubbish, trash, or garbage shall be removed from the premises and shall not be allowed to accumulate thereon.

6. Walls, Fences, Antennas, etc. No building, fence, wall, antenna, broadcasting tower or other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, color, height, material, floor plans, location and approximate cost of such structure shall have been submitted to and approved by the Board of Directors of said Association, and a copy thereof is finally approved and lodged permanently with said board. Failure of said board to reject in writing said plans and specifications within thirty (30) days from the date same were submitted shall constitute approval of said plans and specifications, provided the design, location and kind of materials and the building to be built on said Sub-Lots shall be governed by all of the restrictions herein set forth and said building shall be in harmony with existing buildings and structures in said Sub-Lot development, and approval of plans and specifications shall not be unreasonably withheld, and rejection of any plans or specifications must be based on reasonable judgment as to the effect that said changes and alterations will have on the Sub-Lot development as a whole. The board shall have the right to refuse to approve any such plans or specifications or grading

plan which are not suitable or desirable, in its opinion, for aesthetic or any other reasons, and, in so passing upon such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed building or other structure and of the material of which it is to be built, to the site upon which it is proposed to erect same, the harmony thereof with the surroundings, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. All subsequent additions to or changes or alterations, including but not limited to painting of exterior surfaces of any building, fence, wall or other structure, shall be subject to the prior approval of the board.

7. Use Restriction During Original Construction and Development. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the builder of a major portion of said Sub-Lot Development to maintain during the period of construction and sale of said Sub-Lots, upon such portion of the premises as such builder may choose, such facilities as in the sole opinion of said builder may be reasonably required, convenient or incidental to the construction and sale of said Sub-Lots, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office. The foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the builder, its agents and assigns during the construction and sale period.

ARTICLE III -- EASEMENTS

There is hereby created a blanket easement upon, across, over and under the above described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on said property and to affix and maintain all necessary facilities and equipment on, above, across, through and under the roofs, floors and exterior walls of and on said Sub-Lots. Notwithstanding anything to the contrary contained in this paragraph, no utilities may be installed or relocated on said premises except as initially programmed and approved by the major builder of said premises or thereafter approved by the said builder or the Association's Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

Each Sub-Lot, Tract A and any other common elements shall be subject to an easement for encroachments, including but not limited to roof overhangs, created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event a Sub-Lot structure is partially or totally destroyed, and then rebuilt, the owners of Sub-Lots agree that minor encroachments of parts of the adjacent Sub-Lot, Tract A, or any other common elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

ARTICLE IV -- OWNER'S ASSOCIATION

1. The Entity. The Association, a non-profit corporation, organized under and by virtue of the laws of the State of Arizona governing non-profit corporations, shall have one (1) share of capital stock issued to the owner or owners of record or contract purchaser or purchasers of each Sub-Lot as set forth below.

2. Multiple Ownership. In the event a Sub-Lot is owned or is being purchased by two or more persons or entities, a single stock certificate shall be issued in the names of all such owners or purchasers and they shall designate in writing to the Association one of their number who shall have the power to vote said stock

3. Transfer of Stock. No share of stock in the Association shall be transferred, pledged or alienated in any way except:

- (a) Upon the sale of said Sub-Lot and then only to the purchaser of said Sub-Lot pursuant to this Declaration, the Articles and Bylaws of the Association; or
- (b) Upon such other conditions as set forth in the Articles and Bylaws of the Association.

4. Void Transfers. Any attempt to make a prohibited transfer shall be void and will not be reflected upon the books of the Association.

5. Refusal to Transfer. In the event the owner of any Sub-Lot shall fail or refuse to transfer the stock registered in his name to the purchaser of such Sub-Lot, or as otherwise set forth in the Articles and Bylaws of the Association then the Association shall have the right to record the transfer upon the books of the Association and issue a new certificate to the purchaser or other transferee, and thereupon, the old stock certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered.

6. Voting Rights. Until such time as ten (10) Sub-Lots have been conveyed by Declarant to purchasers thereof, all rights and authorities shall remain with the holder of equitable title of such Sub-Lots and Tract A, unless prior to such time said equitable holders of title elect to relinquish and/or delegate all or part of the rights, duties and authorities to the Association.

- (a) The Association shall have the right to so relinquish and/or delegate all rights, duties and authorities to the Association by mailing written notice to each owner of the Sub-Lots.
- (b) In the event such notice is given, thereafter all such rights, duties and authorities shall be held and assumed by the Association, its officers and Board of Directors.

7. Loss of Voting Rights--Generally. In the event any owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration or the Articles or Bylaws of the Association for a period of fifteen (15) days, said owner's rights to vote as a member of the Association shall be suspended until all said payments and duties are brought current and/or all defaults remedied.

8. Loss of Voting Right--Foreclosure. During the pendency of any proceeding to foreclose the first mortgage, including any period of redemption, the first mortgagee (or any receiver appointed in such action) may, but need not, exercise any or all of the rights and privileges of the owner of the mortgaged Sub-Lot, including but not limited to the right to vote as a member of the Association to the exclusion of the owner's exercise of such rights and privileges.

9. Rights, Duties and Authorities of Association. The Association shall do all things it deems necessary for the general benefit and welfare of the Sub-Lot owners and the development and maintenance of the Sub-Lot Development in order to carry out the intent of this Declaration, and the Articles and Bylaws of the Association. Said rights, duties and authorities shall include, but are not limited to the rights, duties and authorities set forth in this Declaration, and shall include but are not limited to the following:

- (a) Common Facilities. Develop, maintain, operate and otherwise manage all facilities in Tract A, and any other common facilities or property, including but not limited to the payment of the common water services to all Sub-Lots and to Tract A.
- (b) Rules for Use. The right to promulgate, through its Board of Directors, additional rules and regulations with respect to the use of Tract A, the facilities located thereon and any other common facilities or property.
- (c) Taxes. Pay all taxes which may be assessed or levied upon Tract A, facilities located thereon or other common property and facilities.
- (d) Insurance. Purchase and pay all premiums for fire, hazard, public liability and extended coverage insurance and other necessary or convenient insurance.
- (e) Acquire Title. The right to acquire and hold title to Tract A, together with the improvements thereon and the right to hold title to any other property it may acquire, including but not limited to any Sub-Lots. The property acquired by the Association shall be set aside and maintained for the use, enjoyment, convenience or benefit of the owners of the Sub-Lots, but nothing contained herein shall be deemed to restrict the sale or other disposition of any Sub-Lots by the Association.
- (f) Management Expenses. Pay all costs and other expenses relating to the management and maintenance of Tract A, facilities located thereon, other common areas and facilities, or relating to the purposes set forth herein.

- (g) Court Relief. The right to enforce by injunctive relief, other equitable and legal relief, any breach of the rules and regulations set forth in this Declaration, its Articles or Bylaws, including the right to foreclosure or otherwise enforce any liens established in this Declaration, or the Articles or Bylaws of the Association.

10. Assessments. The Association shall assess and the owners of each Sub-Lot shall pay to the Association within ten (10) days of receipt of such assessment, a sum equal to the owner's prorata share of the actual cost to the Association of all improvements, repairs, maintenance, common water service to all Sub-Lots and Tract A, insurance, taxes, management and related expenses required herein or as may be authorized from time to time by the Board of Directors.

- (a) Determination of Pro-Rata Share. Each owner's prorata share shall be in the ratio of one share for each Sub-Lot. The assessment shall be based upon the amounts determined by the Board of Directors to be fair and prudent for the establishment and maintenance of a reserve for the payment of the actual costs above referred to.
- (b) Periodic Assessment. The assessments, based upon the estimated reserve requirements, shall be submitted monthly, -or at such other interval as may be fixed by the Board of Directors.
- (c) Maximum Assessment. The Assessments for repairs, maintenance, insurance and taxes for Tract A, common water service, and management costs shall not exceed Three Hundred (\$300.00) Dollars per year per Sub-Lot unless and until an increase is necessary or advisable and the Board of Directors approves such increase by a three-fourths (3/4ths) vote.

11. Enforcement of Payment. In the event any invoice or dues or assessments, as provided for herein are not paid within thirty (30) days from the date the same is deposited in the United States mail addressed to the owner or owners of a Sub-Lot, the amount of such invoice shall be and become a lien upon said Sub-Lot, upon Association causing to be filed in the office of the County Recorder of Maricopa County an affidavit of nonpayment of such invoice in the form of a materialmen's lien and posting a copy of same upon said Sub-Lot. Said lien shall be foreclosed within six (6) months from the date of filing the affidavit of nonpayment as hereinabove provided, in the manner provided by Arizona law for foreclosure of materialmen's liens. If any Sub-Lot subject to the lien hereof shall become subject to the lien of a mortgage, (i) the foreclosure of the lien herein provided shall not operate to affect or impair the lien of the mortgage, and (ii) the foreclosure of the lien of the mortgage or acceptance of a deed in lieu of foreclosure by the mortgagee shall not operate to affect or impair the lien herein provided, except that the lien herein for said charges as shall have accrued up to the foreclosure,

or the acceptance of the deed in lieu of foreclosure, shall be subordinate to the lien of the mortgage, with the foreclosure, taking title free of the lien hereof for all of said charges that have accrued up to the time of the foreclosure or deed in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or deed given in lieu of foreclosure. The remedy hereinbefore set forth shall not be deemed to be exclusive, but shall be in addition to any and all other remedies at law or in equity that said Association might have.

ARTICLE V--INSURANCE

1. On Sub-Lot Structures. The Board of Directors, or its duly authorized agent, shall have the authority to obtain insurance for all structures on Sub-Lots unless the owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard. Nothing herein shall be construed to require the Association to carry insurance on any Sub-Lot.

- (a) Premium Expense and Collection. Premiums for insurance obtained by the Board of Directors on individual Sub-Lots shall not be part of the common expense but shall be an expense of the specific Sub-Lot owner so covered and a debt owed by the owners, and shall be collectible by any lawful procedure permitted by the laws of the State of Arizona. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such owner's Sub-Lot and shall continue to be a lien until fully paid. This lien shall be subordinate to the lien of any first mortgagee and may be enforced in the same manner as any lien created by failure to pay other assessments.
- (b) Additional Insurance. In addition to the afore-said insurance, any owner may, at his own expense, insure his own Sub-Lot for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

2. Other Insurance. The Board of Directors, or its duly authorized agent, shall obtain a broad form public liability policy covering all common elements, and all damage or injury caused by the negligence of the Association or any of its agents, together with such other insurance as it deems necessary or convenient, including but not limited to fire, windstorm, glass breakage, vandalism and other hazard and extended coverage insurance.

ARTICLE VI--PARTY WALLS

The rights and duties of the owners of Sub-Lots within this Sub-Lot Development with respect to party walls, common walls and/or common foundations shall be governed by the following:

1. Definition. Each wall, including patio and garage walls, any part of which, including extended foundations, is placed on the dividing line between Sub-Lots shall constitute a party wall.

2. General Rights and Duties. With respect to such party walls, each adjoining owner or owners shall assume the burdens and be entitled to the benefits of this declaration, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

3. Damage by Owner. In the event a party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether such act is negligent or otherwise culpable) so as to deprive the other adjoining owner of the full use and enjoyment of such wall, then the first of such owners shall forthwith proceed to repair and rebuild said wall to as good a condition as it was formerly without cost to the other adjoining owner.

4. Damage by Other Causes. In the event such common wall is destroyed or damaged by some cause other than some act, as set forth in the preceding paragraph, then both such adjoining owners shall proceed forthwith to rebuild or repair said wall to as good a condition as formerly and bear their joint and equal expense, unless it can be established that such equal division is unfair.

5. Damage by Tort. Notwithstanding any other provision of this article, a owner who by his negligence or wilful act causes any common wall to be damaged or destroyed, shall bear the whole cost of rebuilding or repairing same, as well as any consequential damages suffered by the adjoining owner.

6. Right of Contribution. The right of any owner to contribution from other owners under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

7. Disputes and Arbitration. In the event of a dispute between two owners with respect to the repair or rebuilding of a party wall, or with respect to the sharing of the cost thereof, then upon written request of one of such owners, addressed to the Association, the matter shall be submitted to arbitration under such rules as may be from time to time adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbiters, one chosen by each of the owners and the third by the two arbiters so chosen, or if the two arbiters cannot agree as to the selection of the

third arbiter within five (5) days, then any judge of the Maricopa County Superior Court who first agrees to act as arbiter shall be the third arbiter. In the event one party fails to choose an arbiter within ten (10) days after receipt of a request in writing for the arbitration from the other party, then such other party shall have the right and power to choose both arbiters. A decision of the matter signed by any two of the three arbiters shall be binding upon the owners. The cost of the arbitration shall be paid by the losing party or parties.

8. The failure to forthwith institute rebuilding and repairing of a party wall by either the responsible owner or owners shall be sufficient reason for the Board of Directors of the Association to rebuild or repair the said party wall and charge the Sub-Lot of the responsible owner or the Sub-Lots of the adjoining owners, as provided in the Article and Bylaws of the Association and this declaration.

ARTICLE VII--MAINTENANCE

1. Exterior. The Association, or its duly delegated representative, shall maintain and otherwise manage all property up to the Sub-Lot exterior building lines facing Tract A. Such maintenance and management shall include but shall not be limited to the landscaping of the patio enclosure facing Tract A and other landscaping, the roadways, recreational facilities, common elements and such additional maintenance as the Board of Directors shall from time to time determine to be in the best interests of the Association and the owners and shall maintain and otherwise manage and be responsible for the rubbish removal of all areas. All maintenance and repair of the individual Sub-Lot improvements shall be the sole obligation and expense of the individual Sub-Lot owners, except to the extent provided above or later provided for by the Board of Directors. In the event that the need for maintenance or repair is caused through the willful or negligent act of an owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Sub-Lot is subject.

2. Interior and Other Maintenance. Each owner shall be responsible for the upkeep and maintenance of the interior of his Sub-Lot improvements and for the upkeep and maintenance of all other areas, features or parts of his Sub-Lot and property not otherwise maintained by the Association. All fixtures and equipment installed within a structure on a Sub-Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a residence, shall be maintained and kept in repair by the owner thereof. Termite control shall be the responsibility of the owner. An owner shall do no act nor any work that will impair the structural soundness or integrity of any structure, or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Sub-Lot residences or their owners.

ARTICLE VIII-DAMAGE OR DESTRUCTION OF PROPERTY

1. Sub-Lot Structures. In the event any Sub-Lot structure is damaged or destroyed, regardless of cause, the owner of such damaged or destroyed structure shall, within sixty (60) days from date of occurrence of the damage or destruction, repair and rebuild such structure in a good workmanship manner in conformance with the original plans and specifications.

A. Owner's Refusal. In the event such owner refuses or fails to so repair and rebuild any or all such damage to structures, the Board of Directors is hereby irrevocably authorized by such owner to repair and rebuild any such Sub-Lot structure. The owner shall repay the Association in the amount actually expended for such repairs.

B. Collection. Each Sub-Lot owner further agrees that these charges for repairs or rebuilding, if not paid within ten (10) days after completion of the work, shall be delinquent and shall become a lien upon said owner's Sub-Lot and shall continue to be such lien until fully paid. Said charges shall bear interest from the date of delinquency at the rate of six (6%) percent per annum. The amount of principal and interest owed by said owner to the Association shall be a debt, and shall be collectible by any lawful procedure allowed by the laws of the State of Arizona.

Each such owner, by his acceptance of a deed to a Sub-Lot improvements, hereby expressly vests in the Association or its agents the right and power to bring all actions against such owner for the collection of such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including those specified in regard to maintenance and assessments, and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

2. Structures on Tract A. In the event any structure located on or in Tract A is damaged or destroyed, regardless of cause, the Association shall repair and rebuild such structure. In the event such damage or destruction was caused by any owner or member of his family, his guests, tenants, licensees and agents, such owner shall repay the Association in the amount actually expended for such repair or rebuilding.

3. Insurance Company. Nothing contained in this Article shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies had not this Article been inserted.

4. Effect on Rights of Sub-Lot. Nothing contained in this Article shall effect the rights of any Sub-Lot owner or the Association to enforce its rights against other Sub-Lot owners or third persons where the cause of the damage or destruction was due to the negligence or tortuous acts of such other Sub-Lot owners or third persons.

5. Arbitration. In the event of a dispute between owners, or owners and the Board of Directors with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of any owner addressed to the Association, the matter shall be submitted to arbitration in the same manner as provided in regard to party wall disputes.

ARTICLE IX--GENERAL PROVISIONS

1. Binding Effect. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons, purchasing, acquiring or occupying any Sub-Lot after the date on which this instrument has been recorded.

- (a) Effect on Mortgages. Nothing contained in this instrument shall defeat or affect the lien of any mortgage or deed of trust made in good faith for value upon any Sub-Lot or Tract A, provided, however that said covenants, restrictions, reservations and conditions shall be binding upon all persons who acquire title to any Sub-Lot whether by foreclosure, trustee's sale or otherwise and may be enforced in the same manner as against any other power or person.
- (b) Enforcement. In the event of any violation or attempted violation of this Declaration, the Association or any owner of a Sub-Lot may enforce this Declaration by appropriate proceedings to recover damages, obtain an injunction or have granted any other right or remedy.
- (c) Attorney Fees. In the event the major developer or the Association employ an attorney or attorneys to enforce any lien, collect any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms of this Declaration, the owner, owners or parties against whom the action is brought shall pay all attorney fees and costs incurred by said developer or the Association in the event said developer or the Association prevails in any such action.

2. Conveyances. All instruments of conveyance of any interest in all or any part of said Sub-Lot Development shall contain reference to this instrument and shall be subject to all provisions herein as fully as though this instrument were therein set forth in full, provided, however, that the terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not.

3. Severability. Invalidation of any one of these covenants, restrictions, reservations or conditions by judgment or court order shall in no wise affect the validity of any of the other provisions, and the same shall remain in full force and effect. If any provision in this Declaration is in conflict with any laws, ordinances, or regulations of the City of Phoenix or any other governmental authority, said laws, ordinances or regulations of said governmental authority shall prevail and be deemed controlling.

4. Amendment. These covenants, restrictions, reservations and conditions shall remain in full force and effect for a period of ten (10) years from the date hereof. Thereafter, they shall be deemed to have been renewed for successive terms of five (5) years, unless revoked or amended by an instrument in writing, executed and acknowledged by the then owners of not less than a majority of the Sub-Lots, which instrument shall be recorded in the office of the Recorder for the County of Maricopa, State of Arizona. These covenants, conditions and restrictions may be amended during the first ten (10) year period by an instrument signed by the then owners of not less than eighty (80%) percent of the Sub-Lots, provided first mortgagees approve such amendments where such amendment may effect the security of their loan.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 16th day of MAY, 1967.

ARIZONA LAND TITLE AND TRUST CO.,
Trustee

By [Signature]
Its Trust Officer

STATE OF ARIZONA, }
County of Maricopa. } ss.

Before me, the undersigned Notary Public, personally appeared T. Chantow, who acknowledged himself to be a Trust Officer of ARIZONA LAND TITLE AND TRUST CO., Trustee, an Arizona corporation, and that he as such officer, being authorized so to do, executed the within instrument for the purposes therein contained, by signing the name of said corporation, as Trustee, by himself as such officer.

Witness my hand and official seal this 16th day of MAY, 1967.

My Commission expires:
My Commission Expires June 24, 1970

[Signature]
Notary Public