

LAWYERS TITLE OF ARIZONA
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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

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THIS DECLARATION is made this 25th day of June, 1981, by
LAWYERS TITLE OF ARIZONA, an Arizona corporation, as Trustee, hereinafter re-
ferred to as "Declarant":

WITNESSETH:

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

Lots One (1) through Seventy-six (76) and Tracts A, B, C, D,
E, F, and G of TURTLE ROCK II according to the plat of record
thereof recorded in the Office of the County Recorder of
Maricopa County, Arizona, in Book 233 of Maps on Page 26 thereof.

NOW THEREFORE, Declarant hereby declares that all of the properties
described above shall be held, sold and conveyed and occupied subject to the
following easements, restrictions, covenants and conditions, which are for
the purpose of protecting the value and desirability of all of the properties,
and which shall run with the real property and be binding on all parties having
any right, title or interest in the described properties or any part thereof,
their heirs, successors and assigns, and shall inure to the benefit of each
owner thereof.

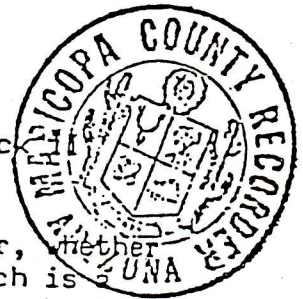
ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Turtle Rock
Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether
one or more persons or entities, of a fee simple title to any lot which is
part of the Properties, including contract sellers, but excluding those having
such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real
property hereinbefore described.



I do hereby certify that the within named instrument was recorded at request of _____
Docket # 15343-118-127 of Maricopa Co., Arizona
on JUN 26 1981-345 at _____ o'clock of the day and year aforesaid
BILL HENRY, Maricopa County Recorder, By Helma A. Stanford Deputy

Lawyers Title of Arizona

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Section 4. "Common Area" shall mean all real property, including improvements thereon, owned by the Association; such use to be defined in the Rules and Regulations as issued by the Board of Directors. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Tracts A, B, C, D, E, F, and G of TURTLE ROCK II according to the plat of record thereof recorded in the Office of the County Recorder of Maricopa County, Arizona, in Book 233 of Maps on Page 26 thereof.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Lawyers Title of Arizona, as Trustee, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 7. "Mortgage," "Mortgagor," and "Mortgagee" shall mean and refer to all instruments establishing a security interest, including deeds of trust, and shall include trustors, trustees, and beneficiaries under deeds of trust.

ARTICLE II

PROPERTY RIGHTS

Section 1. The Association shall have the authority to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations.

Section 2. The Association shall have the right to dedicate or transfer easements or permits over all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 3. Except as to the Association's rights set forth in Section 2 above, neither the Common Area nor improvements located thereon may be alienated, released, transferred, hypothecated, or otherwise encumbered without approval of all holders of first mortgage liens on the lots described herein.

Section 4. The Association shall have the right to establish Rules and Regulations pertaining to the use of the Common Area.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant and shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership; or

(b) Within three years from the date of recordation of this Declaration.

Section 3. In the event any owner is in arrears in the payment of any amount due pursuant to any provisions of this Declaration for a period of 15 days, or shall be in default in the performance of any provision of this Declaration for a period of 15 days, said owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1, Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such

assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, or unless prior to the transfer of title as evidenced by the records of the County Recorder or other appropriate governmental agency, a lien for such assessments shall have been filed or recorded with the County Recorder.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment per Lot shall be One Hundred Forty-four Dollars and No/100 (\$144.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Replacement Fund. The annual maintenance assessment shall include an amount for a replacement fund which the Board of Directors determines to be adequate for the maintenance, repair and replacement of Common Area improvements and such amount shall be set aside as a pro rata portion of each installment of the maintenance assessments.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above the Association may levy, in any assessment year, a special assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for that purpose, or at an annual meeting.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum as the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of Association as to the status of assessments is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereon.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to, or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural committee composed of three or more representatives appointed

by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

VEHICLES

No motor home, trailers of any kind, boats and other recreational means of transportation, commercial vehicles, truck campers, whether attached or detached, motorcycles of any kind or size, or inoperable automobiles shall be kept, placed, maintained, constructed, reconstructed, or repaired on the common area or streets. No owner shall permit any vehicle of any nature including those mentioned above to be constructed, reconstructed, dismantled, or repaired anywhere on his lot which is visible from the street or any other lot. Provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement. Any vehicle of any nature including those mentioned above parked on the lot shall be protected from view from the street or any other lot.

ARTICLE VII

INSURANCE

The Board of Directors, or its duly authorized agent, shall have the right and duty to obtain insurance for all the improvements located on the Common Area against loss or damage in an amount sufficient to cover replacement cost of any repair or reconstruction work; and shall also obtain a broad form public liability policy covering all Common Area. Premiums for such insurance shall be common expenses. Such insurance coverage shall be written in the name of the Board of Directors as trustee for each of the owners proportionately. Nothing contained herein shall prejudice the right of each owner to insure his own Lot for his own benefit. It shall be the individual responsibility of each owner to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction to the common area by fire or other casualty, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the common area to as good condition as formerly. The Board of Directors shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed improvements. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all owners to make up any deficiency. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners as their interest may then appear.

DAMAGE OR DESTRUCTION OF COMMON AREA IMPROVEMENTS

The owner of each lot shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such owner or any occupant of his lot or guest, to the extent allowable under the laws of the State of Arizona.

Each lot owner further agrees that these charges for repairs, if not paid within ten days after completion of the work, shall be delinquent and shall become a lien upon said owner's lot and shall continue to be such lien until fully paid. Said lien shall be subordinate to any first mortgage or encumbrance on the subject property. Said charges shall bear interest from the date of delinquency at the rate of six percent (6%) 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 lot, hereby expressly vests in the Association or its agent 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 and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

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.

In the event of a dispute between an owner 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 the owner, addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association or its Board of Directors. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by the Board of Directors, one chosen by the owner, and these two arbitrators shall then choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then by any judge of the Superior Court of the State of Arizona in Maricopa County. A determination by any two of the three arbitrators shall be binding upon the owner and the Association, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten days after personal receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE IX

USE RESTRICTIONS

Section 1. Said premises are hereby restricted to residential dwellings for residential use, except for improvements within the Common Area. All buildings

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or structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises, and no subsequent buildings or structures other than dwellings shall be built on any parcel where the builder theretofore programmed and constructed a dwelling. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any portion of the premises at any time as a residence, either temporarily or permanently.

Section 2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the builder of a major portion of said dwellings, 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 dwellings, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales offices.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

Section 4. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any lot or any resident thereof. Further, no business activities of any kind whatsoever shall be conducted on any lot or on any portion of the premises; provided further, however, 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, and of the Association, its successors and assigns, in the furtherance of its powers and purposes, as herein set forth.

Section 5. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring dwellings and streets. All rubbish, trash or garbage shall be regularly removed from each lot, and shall not be allowed to accumulate thereon.

Section 6. The common elements shall remain undivided and shall, at all times, be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common elements.

Section 7. Without prior written approval and authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any lot.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years. This Declaration may be amended during the first 20-year period by an instrument signed by not less than 90 percent of the lot owners, and thereafter, by an instrument signed by not less than 75 percent of the lot owners. Any amendment must be recorded.

Section 4. FHA/VA Approval: Providing the Federal Housing Administration or the Veterans Administration has issued commitments to insure one or more mortgages upon the properties and as long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 5. Lease Agreements. Any lease agreement between a lot owner and a lessee shall be required to provide that the terms of the lease shall be subject in all respect to the provisions of the Declaration, Articles of Incorporation and the By-Laws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing. Other than the foregoing, there is no restriction on the right of any lot owner to lease his home.

Section 6. Mortgagee Protection.

(1) The Association will give 10 days prior written notice to each institutional mortgagee before the Association or its members take any of the following actions:

- (a) Abandonment or termination of the status of the planned development as it presently exists.
- (b) Any amendment to the Articles of Incorporation, the Declaration of Covenants, Conditions and Restrictions, By-Laws (or equivalent documents).

(2) The Association shall give each institutional mortgagee written notice of any condemnation of any part of the Common Area, or damage thereto exceeding \$10,000 in amount.

(3) That any institutional mortgagee shall upon request be entitled to:

- (a) Inspect the books and records of the Association during normal business hours.
- (b) Receive an annual financial statement of the Association within 90 days following the end of any fiscal year of the Association.
- (c) Receive written notice of all meetings of the Association and designate a representative to attend such meetings.

(4) So long as the Federal National Mortgage Association ("FNMA") or Government National Mortgage Association ("GNMA") is a mortgagee of a lot in the planned development, or owns a lot therein, the Association shall maintain in effect at least such casualty, flood and liability insurance and a fidelity bond, meeting standards established by FNMA and GNMA for planned developments, as published in the FNMA and GNMA "Servicer's Guide" or otherwise, except to the extent such requirements shall have been waived in writing by FNMA or GNMA.

Section 7. Notices. Any notice required to be sent to any owner under the provision of the Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as owner or member on the records of the Association at the time of such mailing.

Section 8. Annexation. Additional residential property and common area may be annexed to the properties with the consent of two thirds (2/3) of each class of members.

LAWYERS TITLE OF ARIZONA, as Trustee

By John A. Finch

STATE OF ARIZONA)
) ss.
 County of Maricopa)

On this 25th day of June, 1981, before me, the undersigned Notary Public, personally appeared JOHN A. FINCH, who acknowledged himself to be the Trust Officer of LAWYERS TITLE OF ARIZONA, 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.

Betty J. Rogers
Notary Public

My commission expires:
4-12-82