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RESTATED

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

AND EASEMENTS

FOR

RANCHO VISTOSO

PIMA COUNTY, ARIZONA

8021
 0925

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RESTATED

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

AND EASEMENTS

FOR

RANCHO VISTOSO

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is executed to be effective as of the 10th day of April, 1987, by WOLFSWINKEL GROUP, INC., an Arizona corporation.

RECITALS

A. Declarant is the owner and developer of certain real property in Pima County, Arizona located primarily north of Tangerine Road, west of the Tucson-Florence Highway (Oracle Road) and east of King Air Road, to be known and developed under the name "Rancho Vistoso".

B. Declarant previously executed and caused to be Recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso dated September 16, 1986, and recorded on September 17, 1986 in Docket 7871, pages 1688-1786, and re-recorded on November 20, 1986 in Docket 7915, pages 1281-1379, all in the office of the Pima County, Arizona Recorder (the "Original Declaration").

C. Declarant desires to execute and Record this Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, in substitution for and in the full place and stead of the Original Declaration.

D. Declarant desires to develop Rancho Vistoso as a planned area development with residential, commercial and industrial park areas, together with recreational areas, developed and undeveloped open spaces, a privately owned community golf course, pedestrian and equestrian trails, bicycle paths and other facilities, while preserving, to the maximum extent practicable, the natural desert character of the land comprising Rancho Vistoso. In addition, Declarant contemplates that certain land within or adjacent to Rancho Vistoso will be developed as a resort hotel, swim and tennis center, and desert-style golf course.

E. As part of the development of Rancho Vistoso and without obligation so to do, Declarant intends to dedicate

1 portions of Rancho Vistoso to the public and to Record various
2 additional covenants, conditions and restrictions apart from
3 this Declaration in the form of separate Tract Declarations or
4 Subsidiary Declarations which shall cover certain portions of
5 Rancho Vistoso to be specified in such Tract Declarations or
6 Subsidiary Declarations, and may join with purchasers of one or
7 more Parcels to execute and Record supplements to this
8 Declaration pursuant to Section 16.12 hereof.

9 F. Declarant desires and intends that the Covered
10 Property shall be held, sold and conveyed subject to the ease-
11 ments, restrictions, covenants and conditions in this
12 Declaration, which: (i) are for the purpose of protecting the
13 value, desirability, attractiveness and natural desert charac-
14 ter of the Covered Property; (ii) shall run with all of the
15 real property comprising the Covered Property; (iii) shall be
16 binding on all parties having any right, title or interest in
17 the Covered Property, or any part thereof; and (iv) shall inure
18 to the benefit of the aforementioned parties and their
19 successors and assigns.

20 G. Declarant desires to form an Arizona nonprofit
21 corporation to be known as the "Vistoso Community Association,"
22 which shall be the "master association" (excluding all
23 Subsidiary Associations) for the purposes of, among other
24 things: (i) holding title in fee or otherwise to the Common
25 Areas; (ii) the efficient preservation of the values and amen-
26 ities of the Covered Property, in regard to which the
Association will be delegated certain powers of administering
and maintaining the Common Areas and enforcing this Declaration
and the Architectural and Landscaping Review Committee
Guidelines adopted pursuant hereto; and, (iii) establishing,
collecting, disbursing and enforcing the Assessments created
herein.

18 H. In regard to Declarant's formation of the
19 Association and without obligation so to do, Declarant may seek
20 approval thereof and hereof by the FHA or the VA or any other
21 Agencies whose approval Declarant deems necessary or desirable
22 in Declarant's sole discretion.

23 I. Until such time as the Association is incorpo-
24 rated, Declarant shall and does hereby reserve to itself, its
25 successors and assigns, the right to exercise the powers,
26 rights and duties granted to or imposed upon the Association
under this Declaration.

8021 931

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

2 ARTICLE I

3 DEFINITIONS

4 As used in this Declaration, the following terms shall
5 have the following meanings:

6 1.1 "Additional Covenants" shall mean the covenants,
restrictions, reservations, charges, servitudes, assessments,
7 conditions, liens or easements in addition to those provided
for in this Declaration, which are provided for in any Recorded
8 Subsidiary Declaration, any Recorded Tract Declaration, any
Recorded contract, deed, declaration or other instrument or any
9 supplement to this Declaration adopted with respect to one or
more Non-Residential Parcels pursuant to Section 16.12 hereof;

10 1.2 "Additional Property" shall mean the real property
described on Exhibit "A" attached hereto and by this reference
11 incorporated herein;

12 1.3 "Adjustment Date" shall mean January 1 of each
13 year during the period this Declaration remains in effect;

14 1.4 "Agencies" shall mean the FHA, the VA, the Federal
National Mortgage Association, the Federal Home Loan Mortgage
15 Corporation and any other governmental agencies or financial
institutions;

16 1.5 "Annual Assessments" shall mean the annual
17 assessments levied by the Board pursuant to Section 8.2 of this
Declaration;

18 1.6 "Apartment Parcel" shall mean a Parcel designated
19 pursuant to Section 5.1 of this Declaration as having a
Residential Apartment Development Land Use Classification;

20 1.7 "Apartment Unit" shall mean a Dwelling Unit
located on a portion of the Covered Property which has been
21 designated as being for Residential Apartment Development Use,
the occupancy of which is governed by a rental agreement as
22 defined in A.R.S. § 33-1310(11);

23 1.8 "Architectural and Landscaping Review Committee"
24 shall mean the committee formed pursuant to Article IV of this
Declaration;

25 1.9 "Architectural and Landscaping Review Committee
26 Guidelines" shall mean the rules and regulations adopted,

1 amended and supplemented by the Architectural and Landscaping
2 Review Committee pursuant to Section 4.5 of this Declaration;

3 1.10 "Articles" shall mean the Articles of
4 Incorporation of the Association, as amended or restated from
5 time to time, on file with the Arizona Corporation Commission;

6 1.11 "Assessments" shall mean all Annual Assessments,
7 Special Assessments and Maintenance Assessments.

8 1.12 "Assessment Lien" shall mean the charge and
9 continuing servitude and lien against a Lot or Parcel for
10 payment of Assessments and Special Use Fees as described in
11 Section 8.1 of this Declaration;

12 1.13 "Assessment Period" shall mean each period for
13 which Assessments are to be levied against a Lot or Parcel pur-
14 suant to this Declaration, as more particularly described in
15 Section 8.8 below;

16 1.14 "Association" shall mean the "Vistoso Community
17 Association", an Arizona nonprofit corporation, its successors
18 and assigns;

19 1.15 "Association Rules" shall mean the reasonable
20 rules and regulations adopted by the Association pursuant to
21 Section 6.3 of this Declaration;

22 1.16 "Board" shall mean the Board of Directors of the
23 Association;

24 1.17 "Bylaws" shall mean the Bylaws of the
25 Association, as amended or restated from time to time;

26 1.18 "Common Areas" shall mean all real property and
the improvements or amenities thereon, all easements and
licenses, and all personal property and facilities, which shall
from time to time be owned, controlled or operated by the
Association (including, but not limited to, areas used for
landscaping, flood control, drainage, bicycle or jogging paths,
parks, recreational areas, open space, walkways, equestrian
trails and pedestrian and vehicular ingress and egress), or
with respect to which the Association has administrative, main-
tenance or other similar responsibilities;

1.19 "Condominium Parcel" shall mean a Parcel desig-
nated pursuant to Section 5.1 of this Declaration as having a
Residential Condominium Development Land Use Classification;

1.20 "Condominium Unit" shall mean a Dwelling Unit
constituting a "unit" in a "condominium", together with any

1 appurtenant interest in all "common elements", as such terms
2 are defined in Chapter 9, Title 33, Arizona Revised Statutes,
as amended;

3 1.21 "County" shall mean Pima County, Arizona,
4 provided, however, that in the event Rancho Vistoso (or any
5 part thereof) is at any future time annexed into a municipality
or becomes part of a county other than Pima County, the term
"County" shall mean and refer to such municipality or other
county, as applicable;

6 1.22 "Covered Property" shall mean the property more
7 particularly described on Exhibit "B" attached hereto and
8 incorporated by this reference, plus the Additional Property,
if and to the extent annexed;

9 1.23 "Declarant" shall mean Wolfswinkel Group, Inc.,
10 an Arizona corporation, and the successors and assigns of
Wolfswinkel Group, Inc.'s rights and powers hereunder;

11 1.24 "Declaration" shall mean this Restated
12 Declaration of Covenants, Conditions, Restrictions and
Easements, as amended or supplemented from time to time;

13 1.25 "Delinquent Amount" shall mean any Special Use
14 Fee or Assessment, or installment thereof, not paid when due;

15 1.26 "Developer Owner" shall mean a Person in the
16 business of developing, leasing and/or selling real property
17 and who has acquired one or more Lots or Parcels in Rancho
Vistoso in connection with, and in the course of, such busi-
ness, for the purpose of developing, leasing or selling such
Lots or Parcels, and shall also include a Person who acquires a
Non-Residential Parcel for such Person's own development and
18 use;

19 1.27 "Dwelling Unit" shall mean any building, or part
20 thereof, situated upon a Lot or Parcel and intended for use and
occupancy as a residence by a Single Family;

21 1.28 "Event of Foreclosure" shall mean the foreclo-
22 sure, the acceptance of a deed in lieu of foreclosure, or the
23 transfer of title by trustee's deed at a trustee's sale in
regard to a mortgage, deed of trust or other encumbrance infe-
rior in priority to an Assessment Lien;

24 1.29 "Exempt Property" shall mean portions of the
25 Covered Property not subject to Assessments, which shall be the
following areas now or hereafter located within Rancho Vistoso:

26 1.29.1 all Government Property;

1 1.29.2 a Parcel with a Land Use Classification of
2 School Use or Church Use, unless and to the extent it is other-
wise indicated in the applicable Recorded Tract Declaration or
other appropriate Recorded instrument;

3 1.29.3 all Common Areas for so long as Declarant
4 or the Association is the owner thereof; and,

5 1.29.4 all Limited Common Areas;

6 1.30 "FHA" shall mean the Federal Housing
Administration;

7 1.31 "Funds" shall mean all funds and property col-
8 lected and received by the Association from any source;

9 1.32 "Government Property" shall mean all land and
10 improvements owned by or dedicated to a public or governmental
11 agency or authority for so long as the public or governmental
12 agency or authority is the owner or beneficiary thereof, except
for land or improvements, or both, owned and/or operated by a
public or governmental agency or authority acting in a proprie-
tary capacity;

13 1.33 "Index" shall mean the Consumer Price Index, All
14 Items, All Urban Consumers (1967 = 100) published by the United
States Department of Labor; "Comparison Index" shall mean the
15 Index published for the month which is three months prior to an
Adjustment Date; and "Base Index" shall mean the Index pub-
16 lished for the month which is 12 months prior to the month for
which the Comparison Index is published;

17 1.34 "Land Use Classification" shall mean a classifi-
18 cation of a portion of the Covered Property for a particular
use, as described in Section 5.1 of this Declaration;

19 1.35 "Limited Common Areas" shall mean all areas of
20 any Parcel now or hereafter designated on a Recorded Tract
Declaration or a Recorded subdivision plat as an area to be
21 used in common by the Owners or Occupants of a particular
Parcel or subdivision (which areas shall also be maintained by
22 and at the expense of the Owners or Occupants of such Parcel or
subdivision, or by a homeowners' or similar Subsidiary
23 Association established with respect to such Parcel or subdivi-
sion);

24 1.36 "Lot" shall mean:

25 1.36.1 an area of real property designated as a
26 "Lot" on a Recorded Tract Declaration or Recorded subdivision
plat approved by Declarant, covering any Parcel, or a portion

1 thereof, which area of real property is limited by a Tract
2 Declaration, Subsidiary Declaration or other Recorded instru-
ment to either Single Family Residential Use or Cluster
Residential Use; or

3 1.36.2 a Condominium Unit.

4 The term "Lot" shall not include Exempt Property;

5 1.37 "Maintenance Assessments" shall mean the
6 assessments, if any, levied by the Board pursuant to
Sections 8.7 and 11.2 of this Declaration;

7 1.38 "Master Development Plan" shall mean the concep-
8 tual or site development plan at any time in effect for Rancho
Vistoso and approved by the County or any other governmental
9 jurisdiction having the authority to approve and regulate mas-
ter plans for planned area developments located in Rancho
10 Vistoso, as the same may be amended from time to time. A cur-
rent copy of the then applicable Master Development Plan shall
11 be on file at all times in the Association office. If required
by the County or any Agency, the Master Development Plan shall
12 be Recorded;

13 1.39 "Maximum Annual Assessment" shall mean the amount
14 established by or in accordance with Section 8.4 of this
Declaration;

15 1.40 "Member" shall mean any Owner, including
16 Declarant for so long as Declarant is a Class A or Class B
Member;

17 1.41 "Membership" shall mean the amalgam of rights and
18 duties of Owners, including Declarant so long as Declarant is a
Class A or Class B Member, with respect to the Association;

19 1.42 "Net Acre" shall mean a gross acre less any dedi-
20 cated rights-of-way and Common Areas and shall be equivalent to
what is commonly referred to as a "net net acre";

21 1.43 "Non-Developer Owner" shall mean any Owner who is
not a Developer Owner;

22 1.44 "Non-Residential Parcel" shall mean a Parcel
23 restricted under a Recorded Tract Declaration or other Recorded
instrument to nonresidential uses;

24 1.45 "Occupant" shall mean any Person, other than an
25 Owner, occupying a Parcel or Lot, or any portion thereof or
building or structure thereon, as a Resident, Tenant, licensee
26 or otherwise, other than on a merely transient basis;

1 1.46 "Owner" shall mean the Record holder of legal
2 title to the fee simple interest in any Lot or Parcel or, in
3 the case of a Recorded "contract" (as that term is defined in
4 A.R.S. § 33-741(2)), the holder, of Record, of the purchaser's
5 or vendee's interest under said contract, but excluding others
6 who hold such title merely as security. If fee simple title to
7 a Lot or Parcel is vested of Record in a trustee pursuant to
8 A.R.S. §§ 33-801 et seq., for purposes of this Declaration
9 legal title shall be deemed to be held by the trustor (or the
10 trustor's successor of Record), and not by the trustee. An
11 Owner shall include any Person who holds Record title to a Lot
12 or Parcel in joint ownership or as an undivided fee interest;

13 1.47 "Parcel" shall mean each area of the Covered
14 Property as shall be defined and limited to a specific Land Use
15 Classification by a Recorded Tract Declaration, as well as any
16 lot (as distinguished from Lots, as defined in Section 1.36),
17 pad or sub-parcel thereof, if such lot, pad or sub-parcel shall
18 have been created by a parcel split or subdivision approved or
19 permitted in accordance with Section 5.3.9. Notwithstanding
20 the preceding sentence, a Parcel other than a Non-Residential
21 Parcel shall cease being a Parcel upon Recording of a subdivi-
22 sion plat or a declaration of condominium creating Lots or
23 Condominium Units in regard thereto. In the case of the staged
24 development of a Parcel having a Land Use Classification of
25 Cluster Residential Use, Single Family Residential Use or
26 Residential Condominium Development Use, those areas of such
Parcel not yet covered by a Recorded subdivision plat or decla-
ration of condominium creating Lots or Condominium Units shall
continue to be a Parcel for purposes of this Declaration.
Further, for purposes of determining voting rights, Assessments
and Membership rights attributable to portions of the Covered
Property not yet subject to Recorded Tract Declarations, all of
such portions other than Exempt Property shall also be deemed
to be Parcels;

 1.48 "Person" shall mean a corporation, partnership,
joint venture, individual, trust or any other legal entity;

 1.49 "Recorded Assessment Lien" shall mean an
Assessment Lien with respect to which the Board has Recorded a
notice of lien covering the Delinquent Amount plus interest and
accrued collection costs against the applicable Lot or Parcel
(provided, however, that the Board's failure to Record an
Assessment Lien against a Lot or Parcel shall not be deemed to
invalidate or extinguish the Assessment Lien with respect to
such Lot or Parcel);

 1.50 "Record", "Recording" and "Recorded" shall mean
placing or having placed a document of public record in the
Official Records of Pima County, Arizona;

1 1.51 "Rental Business Space" shall mean an area within
2 a commercial building or shopping center designed for lease to
a business Tenant;

3 1.52 "Resident" shall mean:

4 1.52.1 each Tenant who resides on the Covered
5 Property and the members of the immediate family of each Tenant
who reside on the Covered Property;

6 1.52.2 each Owner who resides on the Covered
7 Property and the members of the immediate family of each Owner
who reside on the Covered Property; and,

8 1.52.3 such persons as the Board, in its absolute
9 discretion, may authorize, including without limitation guests
of an Owner or Tenant;

10 1.53 "Residential Apartment Development" shall mean a
11 development comprised of Apartment Units and the surrounding
area which is intended to be integrated and under the same own-
ership;

12 1.54 "Residential Condominium Development" shall mean
13 a development comprised of Condominium Units and the
surrounding Limited Common Areas;

14 1.55 "Single Family" shall mean a group of persons
15 related by blood, marriage or legal adoption, or a group of not
more than three unrelated persons maintaining a common house-
16 hold;

17 1.56 "Single Family Parcel" shall mean a Parcel desig-
18 nated pursuant to Section 5.1 of this Declaration as having a
Single Family Residential or Cluster Residential Land Use
Classification;

19 1.57 "Special Assessments" shall mean the assessments,
20 if any, levied by the Board pursuant to Section 8.5 of this
Declaration;

21 1.58 "Special Use Fees" shall mean any fees charged by
22 the Association for use of the Common Areas pursuant to
Section 3.1 of this Declaration;

23 1.59 "Subsidiary Association" shall mean an Arizona
24 nonprofit corporation, its successors and assigns, established
for the purpose of administering and enforcing the provisions
25 of any Recorded Subsidiary Declaration or Recorded Tract
Declaration;

26

1 1.60 "Subsidiary Declaration" shall mean any declara-
2 tion of covenants, conditions and restrictions or like instru-
3 ment Recorded after the Recording of this Declaration in regard
4 to any Parcel, or part thereof, or group of Lots, by the Owner
of such Parcel or part thereof, or group of Lots, which shall
in all cases be consistent with and subordinate to this
Declaration and any applicable Recorded Tract Declaration;

5 1.61 "Tenant" shall mean a Person occupying any part
6 of the Covered Property under any type of rental agreement,
7 whether such rental agreement is within the definition set
8 forth in A.R.S. § 33-1310(11) or otherwise;

9 1.62 "Tract Declaration" shall mean any declaration of
10 covenants, conditions and restrictions or like instrument
11 Recorded after the Recording of this Declaration in regard to
12 one or more Parcels, or portions thereof, or group(s) of Lots,
13 by the Owner of such Parcels or portions thereof, or group(s)
14 of Lots, which shall in all cases be consistent with and subor-
15 dinate to this Declaration;

16 1.63 "VA" shall mean the United States Veterans'
17 Administration;

18 1.64 "Visible From Neighboring Property" shall mean,
19 with respect to any given object, that such object is or would
20 be visible to a Person 6 feet tall, standing at ground level on
21 neighboring property.

22 ARTICLE VI

23 PROPERTY AND PERSONS BOUND BY THIS DECLARATION

24 2.1 General Declaration. Declarant intends to develop
25 Rancho Vistoso in accordance with the Master Development Plan
26 and to sell and convey the Lots and Parcels, or portions
thereof. As portions of Rancho Vistoso are developed,
Declarant, without obligation, intends to Record one or more
Tract Declarations that will, among other things, create
Parcels, designate Land Use Classifications, designate Common
Areas and Limited Common Areas, and establish such additional
covenants, conditions and restrictions as may be appropriate
for the respective portions of Rancho Vistoso. Declarant
hereby declares that all of the Covered Property is and shall
be held, conveyed, hypothecated, encumbered, leased, occupied,
built upon or otherwise used, improved or transferred, in whole
or in part, subject to this Declaration and any Recorded
Subsidiary Declarations and Recorded Tract Declarations appli-
cable thereto, as amended or modified from time to time.
Notwithstanding the preceding sentence, except as expressly
provided herein, property owned by or dedicated to a governmen-

1 tal agency or the public shall not be subject to this
2 Declaration, provided, however, that any restrictions imposed
3 in this Declaration upon the Owners and Occupants concerning
4 the use and maintenance of such property shall be applicable at
5 all times. This Declaration is declared and agreed to be in
6 furtherance of a general plan for the development and sale of
7 the Covered Property and is established for the purpose of
8 enhancing and perfecting the value, desirability, and attrac-
9 tiveness of the Covered Property. This Declaration shall run
10 with the Covered Property for all purposes and shall be binding
11 upon and inure to the benefit of Declarant, the Association,
12 and all Owners and Occupants of the Covered Property and their
13 successors in interest. Nothing in this Declaration or in any
14 Recorded Subsidiary Declaration or Recorded Tract Declaration
15 shall be construed to prevent Declarant from modifying any part
16 of the Master Development Plan with respect to property as to
17 which a Subsidiary Declaration or Tract Declaration has not
18 been Recorded, or from dedicating or conveying portions of
19 Rancho Vistoso not subject to this Declaration (if any) for
20 uses other than as a Lot, a Parcel, or Common Areas. This
21 Declaration is executed and Recorded in substitution for, and
22 in the full place and stead of, the Original Declaration, and,
23 upon the Recordation of this Declaration, it shall supersede
24 the Original Declaration in its entirety and the Original
25 Declaration shall be of no further force or effect whatsoever.
26

14 2.2 Owners and Occupants Bound. Upon the Recording of
15 this Declaration, this Declaration shall be binding upon all
16 Owners and Occupants of the Covered Property and their
17 successors and assigns, whether or not stated in any document
18 or deed transferring any interest in any Parcel or Lot to or
19 from such Owners or Occupants.

17 2.3 Association Bound. Upon the incorporation of the
18 Association, this Declaration shall be binding upon and benefit
19 the Association, and its successors and assigns.

19 2.4 Subsidiary Associations Bound. Upon the incorpo-
20 ration of any Subsidiary Association, this Declaration shall be
21 binding upon and shall benefit such Subsidiary Association.

21 ARTICLE III

22 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE COMMON AREAS

23 3.1 Easements and Rights of Enjoyment. Each Owner
24 shall have a nonexclusive easement for use and enjoyment in and
25 to the Common Areas, which nonexclusive easement shall be
26 appurtenant to and shall pass with the title to each Owner's
Lot or Parcel. All Occupants shall have a nonexclusive,
nontransferable temporary license to use and enjoy the Common

1 Areas so long as they remain Occupants. The foregoing grants
2 and rights are subject, among other things, to the following
3 limitations:

3 3.1.1 The right of the Association pursuant to
4 this Section and Section 12.1 below to charge reasonable
5 Special Use Fees for the use of the Common Areas. The Special
6 Use Fees shall be set by the Board from time to time, in its
7 absolute discretion. Special Use Fees shall be charged only
8 for actual entry upon or utilization of those Common Areas
9 selected by the Board to be subject to a Special Use Fee, and
shall be intended to collect revenue from the actual users of
such selected Common Areas so that all of the costs of
operating such selected Common Areas are not borne by all of
the Owners through Annual Assessments, but rather are borne, at
least in part, by the Owners, Occupants and other persons
utilizing such selected Common Areas;

10 3.1.2 The right of the Association to suspend the
11 voting rights and the rights to use and enjoyment of the Common
Areas of any Owner or Occupant, as the case may be:

12 (a) for any period during which an Assessment
remains delinquent;

13 (b) for a period not to exceed 60 days for
14 any infraction of this Declaration, a Recorded Tract
15 Declaration, the Association Rules, or the Architectural and
Landscaping Review Committee Guidelines; or,

16 (c) for successive 60-day periods if any such
17 delinquency or infraction is not corrected during any preceding
suspension period;

18 3.1.3 The right of the Association to limit the
19 number of guests of an Owner or Occupant, or the number of
Persons from a Rental Business Space or a Non-Residential
Parcel, who may use the Common Areas; and,

20 3.1.4 The right of the Association to regulate
21 use of the Common Areas in accordance with this Declaration.

22 **3.2 Ingress and Egress Over Certain Common Areas.**

23 3.2.1 The Association may own land which is
24 intended to be used for landscaping adjacent to streets in
25 Rancho Vistoso. Such landscaping area will often separate a
26 Parcel from the street nearest to the Parcel, thereby creating
a need for the Owner of the Parcel to have ingress and egress
rights over the landscaping area in order to have access to the
street. Therefore, Declarant hereby creates, grants and

1 conveys to the Owner and Occupants of each Parcel, their
2 agents, employees, guests and invitees, a permanent, nonexclu-
3 sive easement (an "Access Easement") for vehicular and pedes-
4 trian ingress and egress in, upon, over and across such
5 landscaping area (a "Landscape Tract"). At such time as the
6 exact location of such Access Easement is determined with
7 respect to a particular Parcel and approved by Declarant or the
8 Architectural and Landscaping Review Committee, as applicable,
9 it shall be indicated on the Recorded subdivision plat or plats
10 for the Parcel or on such other Recorded instrument as is mutu-
11 ally acceptable to Declarant or the Architectural and
12 Landscaping Review Committee, as applicable, and to the Owner
13 of such Parcel. For itself and the Association, Declarant
14 retains and reserves the right to use each Landscape Tract for
15 drainage, irrigation lines, pedestrian and bicycle paths, and
16 other purposes which do not preclude the uses permitted herein.
17

18 3.2.2 At its sole cost and expense, the Owner of
19 a Parcel benefitted by such an Access Easement shall construct
20 all necessary improvements in connection with such Access
21 Easement, and maintain such improvements in good working order,
22 condition and repair (including, without limitation, all
23 cleaning, sweeping, restriping and repairing of roadways) and
24 in compliance with all applicable governmental regulations.
25 During the construction phase of the improvements on a Parcel,
26 Declarant or the Association, as applicable, shall grant to the
Owner thereof and its agents and employees, a temporary license
to enter upon the applicable Landscape Tract as is reasonably
necessary in order to construct such improvements, and such
Owner shall be fully responsible and liable for making any and
all repairs and replacement of landscaping and other improve-
ments on such Landscape Tract caused by or resulting from such
activities.

18 3.2.3 Unless Declarant or the Board authorizes
19 the public dedication or transfer of all or any parts of such
20 an Access Easement to a municipal corporation, the Owner of the
21 Parcel to which such Access Easement is appurtenant (or
22 Declarant or the Board, if such Owner fails to do so), shall on
23 an annual basis prohibit the use of such Access Easement by the
24 general public during a twenty-four (24) hour period.
25

22 3.2.4 Each Owner, its successors, assigns and
23 grantees, hereby agrees to indemnify and hold harmless
24 Declarant, its successors and assigns, and the Association,
25 from and against any and all damages, costs and liabilities,
26 including, without limitation, attorneys' fees, real estate
taxes and assessments, arising out of or in connection with the
Access Easement appurtenant to such Owner's Parcel.

1 3.3 Delegation of Use. Any Owner or Occupant, in
2 accordance with the Association Rules and this Declaration, may
3 delegate his rights of use and enjoyment in the Common Areas to
4 the members of his family or his Occupants, employees, cus-
5 tomers or guests subject to the limitations set forth herein
6 and in the Association Rules, provided, however, that the
7 Association Rules may limit the number of Persons from a Rental
8 Business Space or a Non-Residential Parcel who may have access
9 to the Common Areas.

10 3.4 Waiver of Use. No Owner may exempt himself from
11 personal liability for Assessments, or release the Lot or
12 Parcel owned by him from the liens or charges arising under
13 this Declaration or any Recorded Subsidiary Declaration or
14 Recorded Tract Declaration by waiver of his or his Occupants',
15 employees', customers' or guests' rights of use and enjoyment
16 of the Common Areas.

17 3.5 Acceptance of Certain Common Areas. In the course
18 of development and sale of Parcels within the Covered Property,
19 fee title to land which is restricted to use as Common Areas
20 (the "Restricted Tracts") may be transferred by Declarant to
21 Persons acquiring fee title to one or more Parcels. In such
22 event, and notwithstanding that fee title to the Restricted
23 Tracts may be held by Persons other than the Association (or
24 Declarant), such Restricted Tracts shall nevertheless be Common
25 Areas for all purposes under this Declaration, and all Owners
26 and Occupants shall have the easements, licenses and rights to
the use and enjoyment of such Restricted Tracts as with respect
to the other Common Areas generally, subject in all cases to
the provisions of this Declaration and the Association Rules,
and the owners of fee title to such Restricted Tracts shall not
interfere with their use and enjoyment as Common Areas pursuant
hereto. In the event any Person owning fee title to any such
Restricted Tract desires at any time to transfer such fee title
to the Association, the Association shall accept such fee title
so long as, at the time of and in connection with such trans-
fer, the Person transferring title to the Association provides
to the Association, at no expense to the Association, a stan-
dard coverage owner's policy of title insurance in an amount
reasonably acceptable to the Association (but in no event less
than the minimum amount, if any, required for such policies by
VA or FHA, if VA or FHA are involved in the insurance or guar-
antee of loans affecting portions of the Rancho Vistoso
project), issued by a title insurance company authorized to
transact such business in the State of Arizona, insuring that
the Association is the owner of fee title to the transferred
Restricted Tract subject only to such liens or other matters as
may be approved by the Association, which approval shall not be
unreasonably withheld. The Association shall be conclusively
deemed reasonable in withholding its approval of any monetary

1 liens or encumbrances affecting title to any Restricted Tract
2 proposed to be transferred to the Association.

3 3.6 Temporary Sign Easement. Declarant hereby
4 reserves to itself and its agents a temporary easement over,
5 upon and across those portions of the Common Areas adjacent to
6 publicly dedicated streets and roadways for purposes of
7 installing and maintaining signs identifying Persons building
8 upon or developing portions of the Covered Property. The ease-
9 ment reserved hereby shall expire and terminate upon completion
10 of construction and sales activities upon the Covered Property,
11 but in no event later than 10 years after the date this
12 Declaration is Recorded.

8 ARTICLE IV

9 ARCHITECTURAL AND LANDSCAPING RESTRICTIONS AND CONTROL

10 4.1 Landscaping Restrictions.

11 4.1.1 General Requirements. Except as expressly
12 provided herein or approved by the Architectural and
13 Landscaping Review Committee, landscaping on the Covered
14 Property shall be consistent with the character of the native
15 desert environment surrounding Rancho Vistoso, and shall comply
16 with the provisions of the Architectural and Landscaping Review
17 Committee Guidelines relating to permitted and prohibited
18 plants, and with all applicable native plant preservation regu-
19 lations of the County and the State of Arizona. Native plants
20 which must be removed to permit construction work on the
21 Covered Property shall be inventoried prior to removal, and
22 shall be transplanted to another location on the Covered
23 Property or replaced with equivalent plants approved by the
24 Architectural and Landscaping Review Committee in accordance
25 with the Architectural and Landscaping Review Committee
26 Guidelines. Plants shall be transplanted in accordance with
customary professional standards. Transplanted or replacement
plants shall be maintained and watered as appropriate until
reestablished. Any native plants on the Covered Property which
die as a result of transplanting or construction activity on
the Covered Property shall be replaced with equivalent plants
approved by the Architectural and Landscaping Review Committee
in accordance with the Architectural and Landscaping Review
Committee Guidelines.

23 4.1.2 Restrictions Applicable to Lots and
24 Parcels. All Lots and Parcels, excluding driveways and parking
25 areas, and in the case of a Lot, excluding that portion of the
26 Lot, if any, which is enclosed by a perimeter wall around the
rear yard, shall be landscaped in a natural desert manner,

1 using indigenous or similar plants and soil approved by the
2 Architectural and Landscaping Review Committee.

3 4.1.3 Natural Areas. The portions of the Covered
4 Property generally depicted on Exhibit "C" attached hereto are
5 presently natural areas. Declarant reserves the right from
6 time to time to similarly designate by one or more Recorded
7 instruments other portions of the Covered Property owned by
8 Declarant (including portions of the Additional Property
9 annexed thereto pursuant to Article 14 below). Declarant
10 intends that such portions of the Covered Property shall be
11 maintained in their natural state as of the date hereof (or, as
12 to subsequently designated portions of the Property, as of the
13 date of such designation), except as otherwise approved by the
14 Architectural and Landscaping Review Committee in accordance
15 with the Architectural and Landscaping Review Committee
16 Guidelines. Nothing set forth in this Section 4.1.3 or
17 Exhibit "C" shall be deemed or construed to be a dedication or
18 platting of such areas. On or before the date set forth in
19 Section 7.3.2(y), Declarant shall Record a Tract Declaration
20 with respect to such areas, specifying with greater particular-
21 ity the restrictions applicable thereto.

22 4.2 Power and Duties. The Architectural and
23 Landscaping Review Committee shall have all of the powers,
24 authority and duties conferred upon it by this Declaration or
25 by the Articles, Bylaws or Association Rules, or by any
26 Recorded Tract Declaration. Without limiting the generality of
the foregoing, it shall be the duty of the Architectural and
Landscaping Review Committee to consider and act upon all pro-
posals or plans submitted to it pursuant to the provisions
hereof, to adopt the Architectural and Landscaping Review
Committee Guidelines, to perform any other duties delegated to
it by the Board, and to carry out all other duties imposed upon
it by this Declaration.

4.3 Organization of Architectural and Landscaping
Review Committee. The Architectural and Landscaping Review
Committee shall be organized as follows:

4.3.1 Committee Composition. The Architectural
and Landscaping Review Committee shall consist of three regular
members and one alternate member, provided, however, that the
number of members may be increased at any time by a vote of the
Board to five regular members and one alternate member. A
member shall not be required to satisfy any particular qualifi-
cation for membership and may be a member of the Board, an
officer of the Association, or an officer, agent or employee of
Declarant;

1 4.3.2 Alternate Members. In the event of the
2 absence or disability of a regular member or members of the
3 Architectural and Landscaping Review Committee, the remaining
4 regular members, even though less than a quorum, may designate
the alternate member to act as a substitute regular member of
the Architectural and Landscaping Review Committee so long as
any one or more regular members remain absent or disabled;

5 4.3.3 Term of Office. Unless a member of the
6 Architectural and Landscaping Review Committee has resigned or
7 been removed, his or her term of office shall be for a period
8 of 1 year, or until the appointment of his or her respective
9 successor. Any new member appointed to replace a member who
has resigned or been removed shall serve such member's
unexpired term. Members of the Architectural and Landscaping
Review Committee who have resigned, been removed or whose terms
have expired may be reappointed;

10 4.3.4 Appointment and Removal. Except as herein-
11 after provided, the right to appoint and remove all regular and
12 alternate members of the Architectural and Landscaping Review
13 Committee at any time shall be and is hereby vested solely in
the Board, provided, however, that no regular or alternate
member may be removed from the Architectural and Landscaping
Review Committee by the Board except by the vote or written
consent of at least 51% of the members of the Board;

14 4.3.5 Resignations. Any regular or alternate
15 member of the Architectural and Landscaping Review Committee
16 may at any time resign from the Committee by giving written
notice thereof to the Board; and,

17 4.3.6 Vacancies. Vacancies on the Architectural
18 and Landscaping Review Committee, however caused, shall be
19 filled by the Board. A vacancy or vacancies on the
Architectural and Landscaping Review Committee shall be deemed
to exist in case of the death, resignation or removal of any
regular or alternate member

20 4.4 Meetings and Compensation of Architectural and
21 Landscaping Review Committee. The Architectural and
22 Landscaping Review Committee shall meet from time to time as
23 necessary to perform its duties hereunder. Subject to
24 Section 4.3.2, the vote or written consent of a majority of the
25 regular members (including any substitute regular member
26 serving pursuant to Section 4.3.2) shall constitute the act of
the Architectural and Landscaping Review Committee. The
Architectural and Landscaping Review Committee shall keep and
maintain a written record of all actions taken by it. Although
members of the Architectural and Landscaping Review Committee
shall not be entitled to compensation for their services, con-

1 sultants hired by such Committee, if such are authorized by the
2 Board, may be entitled to compensation at the discretion of the
Board.

3 4.5 Architectural and Landscaping Review Committee
4 Guidelines. Subject to the written approval of the contents
5 thereof by the Board, the Architectural and Landscaping Review
6 Committee shall adopt, and may from time to time amend,
7 supplement and repeal, the Architectural and Landscaping Review
8 Committee Guidelines. The Architectural and Landscaping Review
Committee Guidelines shall interpret, implement and supplement
this Declaration, and shall set forth procedures for
Architectural and Landscaping Review Committee review and the
standards for development within the Covered Property. The
Architectural and Landscaping Review Committee Guidelines shall
include, without limitation, provisions regarding:

9 4.5.1 the size of Single Family Dwelling Units;

10 4.5.2 architectural design, with particular
11 regard to the harmony of the design with surrounding structures
and topography;

12 4.5.3 placement of buildings;

13 4.5.4 landscaping design, content and conformity
14 with the natural desert character of Rancho Vistoso;

15 4.5.5 requirements concerning exterior color
16 schemes, exterior finishes, and materials, in particular the
use of desert tones and muted colors throughout Rancho Vistoso;

17 4.5.6 signage; and

18 4.5.7 perimeter and screen wall design and
appearance.

19 The Architectural and Landscaping Review Committee Guidelines
20 shall have the same force and effect as the Association Rules.

21 4.6 Obligation to Obtain Approval.

22 4.6.1 Except as otherwise expressly provided in
23 this Declaration or the Architectural and Landscaping Review
24 Committee Guidelines or any applicable Recorded Tract
25 Declaration, without the prior written approval by the
Architectural and Landscaping Review Committee of plans and
specifications prepared and submitted to such Committee in
accordance with the provisions of this Declaration and the
Architectural and Landscaping Review Committee Guidelines:

26

1 (a) no improvements, alterations, repairs,
2 excavation, grading, landscaping or other work shall be done
3 which in any way alters the exterior appearance of any property
4 or improvements thereon from their natural or improved state
5 existing on the date a Recorded Tract Declaration for such
6 property is first Recorded; and,

7 (b) no building, fence, exterior wall, pool,
8 roadway, driveway or other structure, improvement or grading
9 shall be commenced, erected, maintained, altered, changed or
10 made on any Lot or Parcel at any time;

11 4.6.2 No exterior trees, bushes, shrubs, plants
12 or other landscaping shall be planted or placed upon the
13 Covered Property except in compliance with plans and
14 specifications therefor which have been submitted to and
15 approved by the Architectural and Landscaping Review Committee
16 in accordance with the Architectural and Landscaping Review
17 Committee Guidelines;

18 4.6.3 No material changes or deviations in or
19 from the plans and specifications for any work to be done on
20 the Covered Property, once approved by the Architectural and
21 Landscaping Review Committee, shall be permitted without
22 approval of the change or deviation by such Committee.

23 4.7 Waiver. The approval by the Architectural and
24 Landscaping Review Committee of any plans, drawings or
25 specifications for any work done or proposed, or for any other
26 matter requiring the approval of the Architectural and
Landscaping Review Committee, shall not be deemed to constitute
a waiver of any right to withhold approval of any similar plan,
drawing, specification or matter subsequently submitted for
approval.

4.8 Liability. Neither Declarant nor the
Architectural and Landscaping Review Committee (nor any member
thereof) shall be liable to the Association, any Owner or any
other party for any damage, loss or prejudice suffered or
claimed on account of:

4.8.1 the approval or disapproval of any plans,
drawings or specifications, whether or not defective.

4.8.2 the construction or performance of any
work, whether or not pursuant to approved plans, drawings and
specifications;

4.8.3 the development of any Lot or Parcel; or

1 4.8.4 the execution and filing of any estoppel
2 certificate or statement, whether or not the facts therein are
3 correct, provided, however, that with respect to the liability
4 of a member of the Architectural and Landscaping Review
5 Committee, such member has acted in good faith on the basis of
6 such information as may be possessed by him.

7 Without in any way limiting the generality of any of
8 the foregoing provisions of this Section 4.8, the Architectural
9 and Landscaping Review Committee, or any member thereof, may,
10 but is not required to, consult with or hear the views of the
11 Association or any Owner (other than the Owner applying for
12 consent or approval, whose views the Architectural and
13 Landscaping Review Committee shall be required to hear) with
14 respect to any plans, drawings, specifications, or any other
15 proposal submitted for review.

16 4.9 Appeal to Board. Except as provided in this
17 Section 4.9 and in Section 4.12 below, any Owner or Occupant
18 aggrieved by a decision of the Architectural and Landscaping
19 Review Committee may appeal the decision to the Board in accor-
20 dance with procedures to be established in the Architectural
21 and Landscaping Review Committee Guidelines. In the event the
22 decision of the Architectural and Landscaping Review Committee
23 is overruled by the Board on any issue or question, the prior
24 decision of the Architectural and Landscaping Review Committee
25 shall be deemed modified to the extent specified by the Board.

26 4.10 Fee. The Board may establish a reasonable pro-
cessing fee to defer the costs of the Architectural and
Landscaping Review Committee in considering any requests for
approvals submitted to the Architectural and Landscaping Review
Committee or for appeals to the Board, which fee shall be paid
at the time the request for approval or review is submitted.

 4.11 Inspection. Any member or authorized consultant
of the Architectural and Landscaping Review Committee, or any
authorized officer, director, employee or agent of the
Association, may at any reasonable time and without being
deemed guilty of trespass enter upon any Lot or Parcel, after
reasonable notice to the Owner or Occupant of such Lot or
Parcel, in order to inspect the improvements constructed or
being constructed on such Lot or Parcel to ascertain that such
improvements have been, or are being, built in compliance with
the Architectural and Landscaping Review Committee Guidelines,
this Declaration, and any applicable Recorded Tract Declaration.

 4.12 Declarant's Jurisdiction over Non-Residential
Parcels. Notwithstanding the other provisions of this Article
IV (or any other provision of this Declaration), Declarant
shall have all of the rights and powers of the Architectural

1 and Landscaping Review Committee (or the Board, as applicable)
2 with respect to all Non-Residential Parcels and all buildings,
3 fences, walls, pools, roadways, driveways and other structures
4 and improvements thereon (including, but not limited to, all
5 exterior additions to or changes or alterations in any such
6 structure or improvement), provided, however, that such rights
7 and powers shall vest in and be exercisable only by the
8 Architectural and Landscaping Review Committee (or the Board,
9 as applicable) upon the first to occur of: (a) the date as of
10 which approved buildings and other improvements have been com-
11 pleted (as evidenced by certificates of occupancy issued by the
12 appropriate governmental authority), in accordance with site
13 plans approved by Declarant, upon all Non-Residential Parcels
14 within the Covered Property and on all other property within
15 Rancho Vistoso designated for nonresidential purposes by the
16 Master Development Plan, as amended from time to time; or,
17 (b) the date specified in a Recorded instrument executed by
18 Declarant expressly waiving its right to exercise the rights
19 and powers conferred upon it by this Section 4.12 (or, if no
20 date is specified, the date of recordation of such Recorded
21 instrument). All decisions made by Declarant in its exercise
22 of the rights and powers conferred upon it by this Section 4.12
23 shall be final and binding and shall not be subject to appeal
24 to, or review by, the Board. Further, no variances of any of
25 the restrictions set forth in this Declaration with respect to
26 Non-Residential Parcels and no consents or approvals required
or permitted to be given by the Board or the Architectural and
Landscaping Review Committee pursuant hereto relating to
Non-Residential Parcels shall be granted or given without the
prior written consent of Declarant until the earlier of the two
dates specified in (a) and (b) of this Section 4.12.

ARTICLE V

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

19 5.1 Land Use Classifications. As portions of the
20 Covered Property are readied for development in accordance with
21 the Master Development Plan, any number of Land Use
22 Classifications, including any number of subclassifications
23 thereof for any special uses, may be fixed by Declarant in a
24 Recorded Tract Declaration which may be Recorded at such time
25 as the applicable portion of the Covered Property is conveyed
26 by deed or, if retained by Declarant, at such time as Declarant
begins development thereof. Each Recorded Tract Declaration
shall be construed as a supplement to this Declaration and
fully a part hereof as if all of the provisions thereof were
set forth herein, provided, however, that if any provision of a
Recorded Tract Declaration is inconsistent with any provision
of this Declaration, the provision of this Declaration shall
control. Declarant shall not impose any new Land Use

1 Classifications which are not generally in conformance with
2 then-existing uses and restrictions applicable to the Covered
3 Property or the development scheme contemplated by the Master
4 Development Plan and this Declaration. The Land Use
5 Classifications established by a Recorded Tract Declaration
6 shall not be changed except as specifically permitted by this
7 Declaration and such Recorded Tract Declaration. The Land Use
8 Classifications contemplated as of the date of this Declaration
9 are:

6 5.1.1 "Cluster Residential Use", consisting of
7 Lots with Dwelling Units including those types of residential
8 housing arrangements known as "townhouses", "clustered hous-
9 ing", "zero-lot line housing", and similar arrangements (but
10 not including Condominium Units), together with related amen-
11 ities;

9 5.1.2 "Residential Apartment Development Use",
10 which may be converted to Residential Condominium Development
11 Use;

11 5.1.3 "Residential Condominium Development Use",
12 which may be converted to Residential Apartment Development Use;

13 5.1.4 "Single Family Residential Use";

14 5.1.5 "Common Areas";

15 5.1.6 "Commercial Office Use";

16 5.1.7 "General Commercial Use";

17 5.1.8 "Industrial Park Use";

18 5.1.9 "Hospital and Health Care Use";

19 5.1.10 "Park Use";

20 5.1.11 "School Use"; and

21 5.1.12 "Church Use".

22 Unless otherwise specifically provided in this
23 Declaration and subject to applicable zoning laws and the last
24 sentence of this Section 5.1, the definitions and characteris-
25 tics of the Land Use Classifications and specific permitted and
26 prohibited uses of the real property within a particular Land
Use Classification shall be determined in the respective
Recorded Tract Declarations. Notwithstanding the foregoing
listing, Declarant shall not be obligated to establish within
Rancho Vistoso each of the uses listed above, nor shall such

1 listing prohibit the establishment by Declarant of other Land
2 Use Classifications otherwise conforming with the third sen-
3 tence of this Section 5.1. Exhibits "D", "E," "F" and "G"
4 hereto set forth a list of general uses which may be made of
5 Parcels having the Land Use Classifications referenced above in
6 Sections 5.1.6, 5.1.7, 5.1.8 and 5.1.9, respectively, provided,
7 however, that: (a) Declarant shall have the right, at any time
8 prior to its conveyance of title to a Parcel to an Owner other
9 than Declarant, to Record a Tract Declaration or other instru-
10 ment against such Parcel further limiting the uses which may be
11 made of such Parcel, or, in the event Declarant deems it to be
12 appropriate in the circumstances and not inconsistent with
13 either the Master Development Plan or the general nature of the
14 applicable Land Use Classification in question, adding addi-
15 tional uses which may be made of such Parcel; or (b) following
16 conveyance by Declarant of title to a Parcel to an Owner other
17 than Declarant, and upon application by the then Owner of such
18 Parcel (and with such Owner's written consent), the Association
19 may, in the event the Association deems it to be appropriate in
20 the circumstances and not inconsistent with the applicable Land
21 Use Classification or the manner in which other property within
22 the vicinity of such Parcel (and within Rancho Vistoso gen-
23 erally) has been or is being developed and used, Record an
24 instrument against such Parcel adding additional uses which may
25 be made of such Parcel.
26

5.2 Covenants, Conditions, Restrictions and Easements
Applicable to Single Family Residential Use, Residential
Apartment Development Use, Residential Condominium Development
Use, and Cluster Residential Use. The following covenants,
conditions, restrictions and reservations of easements and
rights shall apply to all Lots and Parcels included within the
Land Use Classifications of Single Family Residential,
Residential Apartment Development, Residential Condominium
Development or Cluster Residential, and to the Owners and
Occupants thereof:

5.2.1 General.

(a) Single Family Residential Use. No structure
whatsoever, other than one private, Single Family residence,
together with a private garage for not more than 4 cars and one
guest residence, one gazebo, one tennis court, one swimming
pool, a horse facility (if and to the extent approved by the
Board under Section 5.4.16) and one storage facility (all of
which must be approved in advance by the Architectural and
Landscaping Review Committee in accordance with this
Declaration) shall be erected, placed or permitted on any Lot
limited to Single Family Residential Use.

1 (b) Residential Apartment Development Use,
2 Residential Condominium Development Use, and Cluster
3 Residential Use. No structure whatsoever, other than one or
4 more buildings each containing one or more private Dwelling
5 Units, together with parking garages or structures, storage
6 facilities, recreational facilities (including but not limited
7 to tennis courts and swimming pools) and property management
8 sales or rental offices incidental or appurtenant thereto (all
9 of which must be approved in advance by the Architectural and
10 Landscaping Review Committee in accordance with this
11 Declaration) shall be erected, placed or permitted on any
12 portion of the Covered Property included within the Land Use
13 Classifications of Residential Apartment Development,
14 Residential Condominium Development or Cluster Residential.

15 (c) Use; Leasing. No gainful occupation, profes-
16 sion, trade or other nonresidential use shall be conducted on
17 or in any Lot. The entire (but not less than all of a)
18 Dwelling Unit on (or constituting) a Lot may be leased to a
19 Single Family Tenant from time to time by the Owner, subject to
20 the provisions of this Declaration, any applicable Recorded
21 Subsidiary Declaration or Recorded Tract Declaration and the
22 Association Rules.

23 5.2.2 Animals. No animal, livestock, poultry or
24 fowl of any kind, other than a reasonable number of generally
25 recognized house pets (and, subject to applicable zoning and
26 other ordinances and governmental regulations, and subject to
the prior approval of the Board pursuant to Section 5.4.16, not
more than two horses per Lot), shall be maintained on or in any
Lot or Parcel and then only if they are kept or raised thereon
solely as domestic pets and not for commercial purposes. No
house pets shall be permitted to make an unreasonable amount of
noise or create a nuisance. No structure for the care, housing
or confinement of any permitted pet shall be Visible From
Neighboring Property. Notwithstanding the foregoing, no
permitted pets may be kept on or in any Lot or Parcel which
result in an annoyance to other Owners or Occupants in the
vicinity. All permitted pets shall be leashed when not on a
Lot owned by the pet's owner or on which the pet's owner is a
Tenant, guest or invitee; and persons walking pets shall carry
a "pooper scooper" (a hand held shovel or other instrument
designed for removing animal excrement from the ground) with
them at all times and shall remove the pet's excrement from the
Covered Property;

 5.2.3 Garbage. No garbage or trash shall be
allowed, stored or placed on a Lot or Parcel except in sani-
tary, covered containers. In no event shall such containers be
Visible From Neighboring Property, except for a reasonable time
immediately prior to and after collection. All trash and gar-

1 bage shall be regularly removed from each Lot and Parcel and
2 shall not be allowed to accumulate thereon;

3 5.2.4 Machinery and Equipment. No machinery or
4 equipment of any kind shall be placed, operated, stored or
5 maintained upon any Lot or Parcel except:

6 (a) such machinery or equipment as is usual
7 and customary in connection with the use, maintenance or con-
8 struction (during the period of construction) of a building,
9 appurtenant structures or improvements thereon; or,

10 (b) that which Declarant or the Association
11 may require for the development, operation and maintenance of
12 Rancho Vistoso;

13 5.2.5 Signs. No signs of whatever nature shall
14 be placed on the Common Areas except with respect to
15 Association or Common Areas matters as approved by the Board.
16 No signs of whatever nature shall be placed on any Lot or
17 Parcel except:

18 (a) signs required by legal proceedings;

19 (b) a maximum of 2 identification signs for
20 Dwelling Units, each with a maximum face area of 72 square
21 inches or less;

22 (c) signs, including "for sale" and "for
23 lease" signs and subdivision, condominium and apartment identi-
24 fication signs, the nature, number, location, content and
25 design of which shall be approved in advance and in writing by
26 the Architectural and Landscaping Review Committee;

5.2.6 Restriction on Further Subdivision.
Property Restrictions, and Rezoning. All proposed site plans,
subdivision plats and condominium declarations for any Lot or
Parcel, or portion thereof, must be approved in writing by the
Board prior to Recordation thereof or commencement of construc-
tion on the applicable Lot or Parcel. Except with respect to
property owned by Declarant, no Lot or Parcel, or portion
thereof, shall be further subdivided or subjected to a condo-
minium declaration, and no portion less than all of any such
Lot or Parcel, or any easement or other interest therein, shall
be conveyed or transferred by any Owner without the prior
written approval of the Board. No portion of a Lot but for the
entire Lot, together with the improvements thereon, may be
rented, and then only to a Single Family. No Subsidiary
Declaration or further covenants, conditions, restrictions,
condominium declarations or easements shall be Recorded against
any Lot or Parcel, or portion thereof, without the prior

1 written approval of the Board. No applications for rezoning,
2 variances or use permits shall be filed without the prior
3 written approval of the Board, and then only if such proposed
4 zoning, variance or use is in compliance with this Declaration,
5 any applicable Recorded Subsidiary Declaration or Recorded
6 Tract Declaration, and the general plan of development of
7 Rancho Vistoso. No subdivision plat, condominium declaration,
8 Subsidiary Declaration, easement, declaration of further cove-
9 nants, conditions and restrictions or other instrument which is
10 to be Recorded and which is required by this Section 5.2.6 to
11 be approved by the Board shall be effective unless the required
12 approval is evidenced on such instrument by the signature of an
13 authorized representative of the Board. The Board may, in its
14 sole discretion, delegate in writing to the Architectural and
15 Landscaping Review Committee authority to exercise all or any
16 of the Board's authorities or duties under this Section 5.2.6.
17 No site plan, subdivision plat, condominium declaration,
18 Subsidiary Declaration or further covenants, conditions,
19 restrictions, or easements, and no application for rezoning,
20 variances or use permits, shall be submitted to the County or
21 any other governmental authority or agency unless the same has
22 first been approved in writing by the Board as provided in this
23 Section 5.2.6; further, no changes or modifications shall be
24 made in any such documents, instruments or applications once
25 the same have been approved by the Board hereunder (whether
26 requested by the County or otherwise) unless such changes or
modifications have first been approved by the Board in writ-
ing. The preceding sentence shall not apply to portions of the
Covered Property owned by Declarant or to site plans, subdivi-
sion plats, condominium declarations, Subsidiary Declarations,
Tract Declarations or further covenants, conditions, restric-
tions or easements, or applications for rezoning, variances or
use permits, made, filed, submitted or Recorded by Declarant
with respect to portions of the Covered Property owned by
Declarant;

5.2.7 Parking. It is the intent of Declarant to
eliminate on-street parking as much as possible in Rancho
Vistoso. No vehicle shall be parked on any street or roadway
shown on any map of dedication, or similar instrument, Recorded
by Declarant unless otherwise expressly provided either:
(a) in or on such Recorded map of dedication or similar instru-
ment showing the street or roadway; or (b) in a separate
Recorded instrument executed by Declarant. Vehicles shall be
kept in garages, carports, residential driveways, other desig-
nated parking areas or as otherwise required in a Recorded
Subsidiary Declaration or Recorded Tract Declaration. The
Association may adopt additional parking restrictions including
the establishment of fines and assessments for their
violation. The Association may also delegate its authority to

1 enforce such parking restrictions to the appropriate Subsidiary
2 Association;

3 5.2.8 Model Homes. Nothing contained herein or
4 in any applicable Recorded Subsidiary Declaration or Recorded
5 Tract Declaration shall prohibit the construction and maintenance
6 of model homes, model apartments, sales offices, apartment
7 rental offices, property management offices and parking
8 incidental thereto by persons engaged in the construction, marketing,
9 rental or management of Dwelling Units within the
10 Covered Property, provided, however, that the models are open
11 only during reasonable hours and otherwise are in compliance
12 with the provisions of this Declaration and ordinances of the
13 County. Except as otherwise approved in writing by the Board:
14 (a) all model homes and sales offices shall cease to be used as
15 such at any time the Owner (or lessee thereof as the case may
16 be) is not actively engaged in the construction or sale of
17 Dwelling Units within the Covered Property (provided that the
18 foregoing portion of this sentence shall not apply to model
19 apartments, apartment rental offices or property management
20 offices); and (b) no model home, model apartment, sales office,
21 apartment rental office or property management office shall be
22 used for the sale or rental of residences not located within
23 the Covered Property.

24 5.3 Covenants, Conditions, Restrictions and Easements
25 Applicable to General Commercial Use, Commercial Office Use,
26 Industrial Park Use and Hospital and Health Care Use. The following
covenants, conditions, restrictions and reservations of
easements and rights shall apply to all Parcels included within
the Land Use Classifications of General Commercial, Commercial
Office, Industrial Park and Hospital and Health Care, and to
the Owners and Occupants or users thereof:

5.3.1 Permitted Uses. Subject to the provisions
of this Declaration, and to such additional restrictions or
limitations as may be imposed upon one or more Parcels by one
or more Recorded Tract Declarations, Recorded Subsidiary
Declarations or other Recorded instruments, the Parcels may be
used for any non-residential purpose permitted by applicable
law;

5.3.2 Parking. Parking and parking areas shall
be governed as follows:

(a) Adequate off-street parking shall be
provided by each Owner. No parking shall be permitted other
than on the on-site paved parking spaces (or in one or more
parking garages) to be provided by the Owner of a Parcel. Each
Owner and Occupant shall be responsible for compliance by his

1 Occupants, employees, customers and visitors with the provi-
2 sions of the preceding sentence;

3 (b) The location, number, size and surfacing
4 of parking spaces shall be subject to the approval of the
5 Architectural and Landscaping Review Committee in accordance
6 with Article IV hereof, and shall conform to applicable County
7 ordinances and regulations in effect from time to time;

8 (c) Each Owner shall cause all parking areas
9 on the Owner's Parcel to be striped and all parking areas,
10 driveways and roads to be kept in good repair, and to be illu-
11 minated with fixtures approved as to height, type, location and
12 appearance by the Architectural and Landscaping Review
13 Committee in accordance with Article IV hereof, which fixtures
14 and illumination shall be screened from view from the streets
15 to the extent deemed reasonably desirable by, and using such
16 means and materials reasonably approved by, the Architectural
17 and Landscaping Review Committee in accordance with Article IV
18 hereof.

19 It is the intent of Declarant to eliminate on-street parking as
20 much as possible in Rancho Vistoso. No vehicle shall be parked
21 on any street or roadway shown on any map of dedication, or
22 similar instrument, Recorded by Declarant unless otherwise
23 expressly provided either: (i) in or on such Recorded map of
24 dedication or similar instrument showing the street or roadway;
25 or (ii) in a separate Recorded instrument executed by
26 Declarant. The Association may adopt additional parking
restrictions including the establishment of fines and
assessments for their violation. The Association may also del-
egate its authority to enforce such parking restrictions to the
appropriate Subsidiary Association;

5.3.3 Loading and Receiving Areas. All loading
and receiving areas shall be screened, so as not to be Visible
From Neighboring Property, by means and materials approved by
the Architectural and Landscaping Review Committee in its rea-
sonable discretion in accordance with Article IV hereof;

5.3.4 Waste and Waste Containers. All rubbish,
trash, garbage, litter, debris, refuse and other waste shall be
stored in clean and sanitary waste containers conforming to the
provisions of this Section 5.3.4. Subject to applicable County
ordinances and regulations in effect from time to time which
may impose additional or more stringent container requirements,
each Parcel shall have a minimum of one (1) commercial size
solid waste container. All waste containers shall be main-
tained in good mechanical condition. All waste containers
shall be emptied as often as necessary so as to prevent such
container from overflowing and at least once every seven (7)

1 days if such container is used for the deposit of garbage or
2 other putrescible material. All garbage or putrescible mate-
3 rial must be bagged or wrapped so as to be air tight before
4 being deposited in the waste containers. When waste containers
5 are in use, lids and doors of such waste containers are to be
6 kept in a closed position at all times except during times when
7 such containers are being emptied or filled. Each waste
8 container shall be screened so as not to be Visible From
9 Neighboring Property, the location and design of which
10 screening shall be subject to the prior approval of the
11 Architectural and Landscaping Review Committee in accordance
12 with Article IV hereof;

7 5.3.5 Signs. No signs of whatever nature shall
8 be placed on the Common Areas except with respect to
9 Association or Common Areas matters as approved by the Board.
Signs upon Parcels shall be governed as follows:

10 (a) no sign (including, but not limited to, a
11 building identification or marketing sign or a tenant identifi-
12 cation sign) shall be permitted on any Parcel without the prior
13 written approval of the Architectural and Landscaping Review
14 Committee given in accordance with the provisions of Article IV
15 hereof as to size, number, location, design, and color.
16 Normally, such approval will be limited to those signs which:

14 (i) identify the name or address (or
15 both) of the development situated on the Parcel or the name and
16 business of Owner or the Occupant(s) thereof, or which give
17 directions, or which offer the premises for sale or for lease,
18 or, during any construction period, identify the builder,
19 architect, contractors, subcontractors or lenders; and

17 (i) are not of an unusual size or shape
18 when compared to the building or buildings, if any, on the
19 Parcel;

19 (b) any permitted sign shall conform to all
20 other governmental ordinances and regulations applicable
21 thereto. Nothing in this Section 5.3.5 shall be deemed to pro-
22 hibit signs required by legal proceedings;

22 5.3.6 Exterior Lighting. Exterior lighting shall
23 be governed as follows:

23 (a) all exterior building lighting shall be
24 hidden from view and shall be designed, installed, directed,
25 altered and maintained in accordance with plans and
26 specifications submitted to and approved by the Architectural
and Landscaping Review Committee in accordance with the provi-
sions of Article IV hereof; and

1 (b) all exterior lighting shall be kept in
2 good working order and shall be compatible and harmonious
throughout the Parcels and shall be in keeping with the spe-
cific function and building type being served;

3 5.3.7 Animals. No animal, livestock, poultry or
4 fowl of any kind shall be maintained on or in any Parcel,
5 except for: (a) guard dogs kept or maintained within buildings
6 or fenced areas on a Parcel; (b) reasonable numbers of gen-
7 erally recognized domestic pets maintained within a fully-
8 enclosed building on a Parcel in connection with the retail
9 sale to the public of such pets in a pet store or similar busi-
10 ness (but not in connection with the operation of a commercial
11 breeding business), provided that the same do not make an
12 unreasonable amount of noise or create a nuisance; and, (c)
animals undergoing treatment in a veterinary office or veteri-
nary hospital operated on a Parcel in accordance with applica-
ble laws and this Declaration (or being temporarily boarded in
such an office or hospital), provided that such animals do not
make an unreasonable amount of noise or create a nuisance, and
provided that any such boarding facilities shall be fully
enclosed in a manner approved in advance by the Architectural
and Landscaping Review Committee;

13 5.3.8 Machinery and Equipment. No machinery or
14 equipment of any kind shall be placed, operated, stored or
maintained upon any Parcel outside of a building except:

15 (a) such machinery or equipment as is usual
16 and customary in connection with the use, maintenance or con-
struction (during the period of construction) of a building,
appurtenant structures or improvements thereon;

17 (b) forklifts or other similar types of
18 equipment located on a Parcel which are generally used in the
19 operation of businesses such as that operated on such Parcel,
20 so long as such forklifts or other equipment are, except when
in use, stored so as not to be Visible From Neighboring
Property; or

21 (c) that which Declarant or the Association
22 may require for the development, operation and maintenance of
Rancho Vistoso;

23 5.3.9 Restriction on Further Subdivision,
24 Property Restrictions, and Rezoning. All proposed site plans,
25 subdivision plats and non-residential condominium declarations
26 for any Parcel, or portion thereof, must be approved in writing
by the Board prior to Recordation thereof or commencement of
construction on the applicable Parcel. Except with respect to
property owned by Declarant, no Parcel, or portion thereof,

1 shall be further subdivided or subjected to a condominium dec-
2 laration, and no portion less than all of any such Parcel, or
3 any easement or other interest therein, shall be conveyed or
4 transferred by any Owner without the prior written approval of
5 the Board, unless such subdivision, subjection, conveyance or
6 transfer: (a) is made in connection with the development of
7 one or more pads, lots or other subdivisions of a Parcel for
8 commercial or industrial use; and, (b) is made in accordance
9 with a site plan for such Parcel approved by the Architectural
10 and Landscaping Review Committee. No Subsidiary Declaration or
11 further covenants, conditions, restrictions, condominium decla-
12 rations or easements shall be Recorded against any Parcel or
13 portion thereof without the prior written approval of the
14 Board. No applications for rezoning, variances or use permits
15 shall be filed without the prior written approval of the Board,
16 and then only if such proposed zoning variance or use is in
17 compliance with this Declaration, any applicable Recorded
18 Subsidiary Declaration or Recorded Tract Declaration, and the
19 general plan of development of Rancho Vistoso. No subdivision
20 plat, condominium declaration, Subsidiary Declaration, ease-
21 ment, declaration of further covenants, conditions and restric-
22 tions or other instrument which is to be Recorded and which is
23 required by this Section 5.3.9 to be approved by the Board
24 shall be effective unless the required approval is evidenced on
such instrument by the signature of an authorized representa-
tive of the Board. The Board may, in its sole discretion, del-
egate in writing to the Architectural and Landscaping Review
Committee authority to exercise all or any of the Board's
authorities or duties under this Section 5.3.9. No site plan,
subdivision plat, condominium declaration, Subsidiary
Declaration or further covenants, conditions, restrictions, or
easements, and no application for rezoning, variances or use
permits, shall be submitted to the County or any other govern-
mental authority or agency unless the same has first been
approved in writing by the Board as provided in this
Section 5.3.9; further, no changes or modifications shall be
made in any such documents, instruments or applications once
the same have been approved by the Board hereunder (whether
requested by the County or otherwise) unless such changes or
modifications have first been approved by the Board in writ-
ing. The preceding sentence shall not apply to portions of the
Covered Property owned by Declarant or to site plans, subdivi-
sion plats, condominium declarations, Subsidiary Declarations,
Tract Declarations or further covenants, conditions, restric-
tions or easements, or applications for rezoning, variances or
use permits, made, filed, submitted or Recorded by Declarant
with respect to portions of the Covered Property owned by
Declarant.

25 5.4 Covenants, Conditions, Restrictions and Easements
26 Applicable to All Land Use Classifications. The following cov-

1 enants, conditions, restrictions and reservations of easements
2 and rights shall apply to all Lots and Parcels included within
all Land Use Classifications, and to the Owners and Occupants
thereof:

3 5.4.1 Prohibited Uses. The following uses of
4 Lots and Parcels are prohibited:

5 (a) any use which is offensive by reason of
6 odor, fumes, dust, smoke, noise, glare, heat, sound, vibration,
radiation or pollution, or which constitutes a nuisance, or
7 which is hazardous by reason of risk of fire or explosion, or
which is injurious to the reputation of any Lot, Parcel or
Owner; and

8 (b) any use which is in violation of the laws
9 (after taking into account the application of any validly
10 granted or adopted variance, exception or special use ordinance
11 or regulation) of the United States, the State of Arizona, the
County or any other governmental entity having jurisdiction
over the Covered Property;

12 5.4.2 Temporary Occupancy and Temporary
13 Buildings; Outside Storage. No trailer, tent, shack, garage,
14 barn or temporary structure of any kind shall be used as a res-
15 idence, whether temporary or permanent. Except during the con-
16 struction process, no temporary building or structure shall be
17 erected, installed or maintained on any Lot or Parcel without
18 the prior written approval of the Architectural and Landscaping
19 Review Committee. Temporary structures used during construc-
20 tion must receive prior written approval by the Architectural
21 and Landscaping Review Committee with regard to location and
22 appearance, and shall be removed immediately after completion
23 of such construction, and that portion of the Lot or Parcel
24 from which the same are removed shall be promptly placed in
25 such condition as is otherwise required by this Declaration.
26 Except during construction, no materials, supplies, equipment,
finished or semifinished products or articles of any nature
shall be stored on any area outside of a building without the
approval of the Architectural and Landscaping Review
Committee. Any permitted outside storage shall be screened by
a solid visual barrier so as not to be Visible From Neighboring
Property, provided, however, that during construction of
improvements on any Lot or Parcel, necessary construction
materials and supplies may be stored on the Lot or Parcel
without the need for a solid visual barrier providing such
materials and supplies are kept in neat order considering the
construction activities. The Architectural and Landscaping
Review Committee is authorized to designate the areas and
manner in which supplies of building materials and construction

1 equipment shall be stored and the routes construction vehicles
2 may use. All such designations shall be reasonable;

3 **5.4.3 Repair of Buildings.** No building or
4 improvement on any Lot or Parcel shall be permitted to fall
5 into disrepair and each such building and improvement shall at
6 all times be kept in good condition and repair and adequately
7 painted or otherwise finished to maintain a first class appear-
8 ance of the building or improvement. In the event any building
9 or improvement is damaged or destroyed, then, subject to the
10 approvals required by Article IV above, such building or
11 improvement shall be immediately repaired, rebuilt or demol-
12 ished (or caused to be repaired, rebuilt or demolished) by the
13 Owner thereof;

14 **5.4.4 Maintenance of Landscaping and Driveways.**
15 Unless otherwise provided in a Recorded Subsidiary Declaration
16 or Recorded Tract Declaration, each Owner shall be responsible
17 for the proper maintenance of all landscaping in the following
18 locations:

19 (a) on the Owner's Lot or Parcel (including
20 set back areas located thereon), except that in the event the
21 maintenance of any portions of such Owner's Lot or Parcel is
22 the responsibility of the Association, a utility, or a govern-
23 mental or similar authority, then only for so long as such
24 entities are not undertaking such responsibility;

25 (b) portions of the Common Areas adjacent to
26 an Owner's Lot or Parcel and which are on the Lot's or Parcel's
side of any wall erected on the Common Areas; and,

(c) public right-of-way areas between
sidewalks (or bicycle paths or equestrian trails) and the
street curb on the Owner's Lot or Parcel, or other public or
easement areas adjacent to the Owner's Lot or Parcel, except
that in the event the maintenance of such areas is the respon-
sibility of the Association, a utility, or a governmental or
similar authority, then only for so long as such entities are
not undertaking such responsibility.

As used herein, maintenance shall include but not be limited to
keeping the areas neatly trimmed, cultivated and free of trash,
weeds and unsightly material. All lawn areas shall be timely
mowed as needed to keep an even, well groomed appearance and
shall be watered and fertilized at such times and in such quan-
tities as required to keep the grass alive and attractive and
free of weeds. All trees, shrubs, plants and ground covers
shall be timely and properly trimmed (including, without limi-
tation, the removal of dead wood therefrom) according to their
plant culture and landscape design and shall be watered and

1 fertilized at such times and in such quantities as required to
2 keep them alive and attractive. Any dead tree, shrub, plant or
3 ground cover shall be removed and replaced immediately. All
4 bed areas shall be kept free of weeds and cultivated periodically
5 as needed. Landscaping may be required to be placed on a
6 Lot or Parcel within certain time frames established by the
7 Architectural and Landscaping Review Committee. Each Owner
8 shall maintain in good condition and repair all paved and concrete
9 areas, including driveways, roadways and parking areas,
10 located on the Owner's Lot or Parcel;

11 5.4.5 Nuisances; Dust Control; Construction
12 Activities. No rubbish or debris of any kind shall be permitted
13 to accumulate upon or adjacent to any Lot or Parcel so as to
14 create a nuisance or render any such property or activity
15 thereon unsanitary, unsightly or offensive. Each Lot and
16 Parcel shall be landscaped and maintained in a manner which
17 will minimize the possibility of dust being transmitted into
18 the air and over adjacent properties. Although normal construction
19 activities shall not be considered a nuisance or otherwise prohibited,
20 Lots and Parcels must be kept in a neat and tidy condition during
21 construction periods. No noxious or offensive activity shall be
22 carried on or permitted on any Lot or Parcel, nor shall anything
23 be done thereon which may be, or may become, an annoyance or
24 nuisance to Persons or property in the vicinity of such Lot or
25 Parcel or to Rancho Vistoso, or which shall interfere with the
26 quiet enjoyment of each of the Owners and Occupants;

1 5.4.6 Diseases and Insects. No Owner or Occupant shall
2 permit any thing or condition to exist upon any Lot or Parcel
3 which shall induce, breed or harbor infectious plant or animal
4 diseases or noxious insects;

5 5.4.7 Antennas and Dishes. No antenna or other device
6 for the transmission or reception of television or radio signals
7 or any other form of electromagnetic radiation shall be erected
8 or placed upon a Lot or Parcel, or on any improvement or building
9 thereon, unless approved in advance by the Architectural and
10 Landscaping Review Committee;

11 5.4.8 Mineral Exploration. No Lot or Parcel shall be used
12 in any manner to explore for, quarry, mine, remove or transport
13 any water, oil or other hydrocarbons, minerals, gravel, gas,
14 earth or any earth substance of any kind;

15 5.4.9 Clothes Drying Facilities. No outside clotheslines
16 or other facilities for drying or airing clothes shall be placed
17 on any Lot or Parcel without the prior written consent of the
18 Architectural and Landscaping Review Committee unless they are
19 not Visible from Neighboring Property;

1 5.4.10 Blanket Utility Easements. There is
2 hereby created a blanket easement upon, over and under each
3 Lot, each Parcel, the Common Areas and the Limited Common Areas
4 for ingress to, egress from, and the installation, replacement,
5 repair and maintenance of all utility equipment and service
6 lines and systems, as such equipment, lines and systems are
7 installed in connection with the initial development of the
8 Lots, Parcels, Common Areas and Limited Common Areas and the
9 construction of buildings thereon; provided that such easements
10 shall be specifically and permanently described and fixed by
11 Recorded instrument either: (a) at the time a subdivision
12 plat, approved as required by this Declaration, is Recorded
13 with respect to the portion of the Covered Property to be
14 served or burdened by such easement(s), as applicable; or
15 (b) within 120 days following approval, as required by this
16 Declaration and by the appropriate governmental agencies, of a
17 site plan for the portion of the Covered Property to be served
18 or burdened by such easement(s), as applicable; provided, fur-
19 ther, that in the event such easements with respect to a
20 portion of the Covered Property are not specifically and perma-
21 nently described and fixed by Recorded instrument at or within
22 the time specified in (a) or (b) above, the blanket easements
23 created hereby with respect to such portion of the Covered
24 Property shall nevertheless automatically terminate and
25 expire. Utility or service facilities and equipment may be
26 affixed and maintained on, in and under the roofs and exterior
walls of buildings on the Lots, Parcels, Common Areas and
Limited Common Areas. Notwithstanding anything to the contrary
contained in this subparagraph, no utility or service equipment
or lines may be installed or relocated on any Lot, any Parcel,
the Common Areas or the Limited Common Areas except as ini-
tially approved by the Declarant or the Architectural and
Landscaping Review Committee, or, if installed after
Recordation of a Subsidiary Declaration or Tract Declaration,
as approved by the Owner and the Architectural and Landscaping
Review Committee;

19 5.4.11 Party Walls. Except as hereinafter
20 provided, the rights and duties of Owners of contiguous Lots or
21 Parcels which have shared walls or fences ("Party Walls") shall
22 be as follows:

22 (a) each Owner shall have the right to use
23 the Party Wall, provided that such use does not interfere with
24 the other Owner's use and enjoyment thereof;

24 (b) if a Party Wall is damaged or destroyed
25 through the willful or negligent act of an Owner or the Owner's
26 Occupants, agents, guests or family, the Owner or Occupant, as
the case may be, shall be obligated to rebuild and repair the
Party Wall at the Owner's sole expense (provided that this

1 shall not bar such Owner from recovering, or seeking to
2 recover, all or any part of such expense from any Occupant,
3 agent, guest or other Person who otherwise may be liable to
such Owner). Any dispute over an Owner's liability shall be
resolved as provided in Subsection 5.4.11(d) below;

4 (c) in the event any Party Wall is damaged or
5 destroyed other than by the willful or negligent act of an
6 adjoining Owner or the Owner's Occupants, agents, guests or
7 family, or deteriorates from ordinary wear and tear, it shall
8 be the joint obligation of all Owners whose Lots or Parcels
adjoin the damaged or destroyed portion of such Party Wall to
immediately rebuild and repair such Party Wall, such expense to
be ratably divided among such Owners on the basis of the amount
of frontage of their respective Lots or Parcels on the damaged
or destroyed Party Wall;

9 (d) in the event of a dispute between Owners
10 with respect to a Party Wall or the sharing of the cost
11 thereof, such Owners shall submit the dispute to the
12 Architectural and Landscaping Review Committee, whose decision
13 shall be binding unless appealed to the Board, in which event
the Board's decision shall be binding and final.
Notwithstanding any such decision, no Owner is prohibited from
seeking indemnity from the party causing the damage;

14 (e) notwithstanding the foregoing and unless
15 otherwise indicated in a Recorded Subsidiary Declaration or
16 Recorded Tract Declaration, or unless otherwise expressly
17 agreed in writing by the Association, in the case of walls or
18 fences: (i) between Common Areas and Lots or Parcels; or,
19 (ii) situated on Common Areas within or adjacent to a Lot or
20 Parcel, the Owners and Occupants of such Lots or Parcels shall
be responsible, at their expense, for all maintenance, repair,
painting and replacement thereof. Further, unless otherwise
approved in writing by the Board, any wall situated generally
between a Lot or Parcel and Common Areas shall be situated
entirely upon such Lot or Parcel (and not upon the Common
Areas) but shall be situated immediately adjacent to such Lot's
or Parcel's boundary line with the Common Areas; and,

21 (f) this Section 5.4.11 does not and is not
22 intended to control or relate to Party Walls between
23 Residential Condominium Developments or Condominium Units, or
between non-residential condominium units;

24 5.4.12 Overhead Encroachments. No tree, shrub or
25 planting of any kind shall be allowed to overhang or encroach
26 upon any public right-of-way, bicycle path or any other pedes-
trian way from ground level to a height of 8 feet, without the

1 prior written approval of the Architectural and Landscaping
2 Review Committee;

3 **5.4.13 Trucks, Trailers, Campers, Boats and Motor**
4 **Vehicles.** No motor vehicle, motor home, mobile home, trailer,
5 camper shell, detached camper, boat, boat trailer, snow mobile,
6 jet ski or other similar equipment or vehicle may be parked,
7 maintained, constructed, reconstructed, repaired or stored on
8 any Lot or Parcel or on any street so as to be Visible From
9 Neighboring Property (including but not limited to any Common
10 Areas, Limited Common Areas, or street). The foregoing limita-
11 tion on parking shall not apply to:

12 (a) automobiles, trucks or vans, or mini-
13 motor homes not exceeding 7 feet in height from ground level
14 and 18 feet in length, so long as such automobiles, trucks or
15 vans or mini-motor homes: (i) are parked as provided in
16 Section 5.2.7 or Section 5.3.2, as applicable; and, (ii) are
17 used on a regular and recurring basis for basic transportation
18 or, in the case of Non-Residential Parcels, for delivery ser-
19 vice or otherwise in connection with the business(es) conducted
20 on the Non-Residential Parcel upon which such vehicles are
21 parked, provided that either the Board or the Architectural
22 Review Committee shall have the authority to adopt and enforce
23 regulations regarding parking of such vehicles on a Parcel
24 (including, but not limited to, regulations requiring the
25 screening of delivery trucks and vans, or other business vehi-
26 cles) if, in the sole discretion of the Board or the
Architectural Review Committee, such regulations are necessary
to prevent such vehicles from being or becoming an eyesore or
nuisance to the Owners or Occupants of adjacent property; or

(b) temporary facilities maintained during,
and used exclusively in connection with, construction
activities, provided, however, that such activities are
approved in advance and in writing by the Architectural and
Landscaping Review Committee.

Notwithstanding subsection 5.4.13(a) above, no automo-
bile, motorcycle, motorbike or other motor vehicle shall be
constructed, repaired or, if inoperable, stored upon any Lot,
Parcel or street so as to be Visible From Neighboring Property;

5.4.14 Declarant's Exemption. Nothing contained
in this Declaration shall be construed to prevent the construc-
tion, installation or maintenance by Declarant or its agents
during the period of development and construction on the
Covered Property of improvements, landscaping or signs deemed
necessary or convenient by Declarant, in its sole discretion,
to the development or sale of property within the Covered
Property, provided that any such improvements and landscaping

1 shall be generally consistent, in terms of appearance and qual-
2 ity, with similar improvements and landscaping elsewhere within
Ranch Vistoso;

3 5.4.15 Health, Safety and Welfare. In the event
4 uses of, activities on, or facilities upon or within a Parcel
5 or Lot are deemed by the Board to be a nuisance or to adversely
6 affect the health, safety or welfare of Owners or Occupants,
7 the Board or the Architectural and Landscaping Review Committee
8 may make rules restricting or regulating their presence;

9 5.4.16 Incidental Uses. Subject to the provi-
10 sions of any applicable Recorded Tract Declaration or Recorded
11 Subsidiary Declaration, the Board may approve, regulate and
12 restrict incidental uses of property within a Land Use
13 Classification. By way of example and not of limitation, the
14 Board may permit: private roadways; tennis and/or swimming
15 clubs intended primarily for the benefit of all or certain
16 Owners or Occupants; tennis courts; swimming pools; boarding
17 upon a Lot limited to residential purposes of not more than two
18 horses, and erection and maintenance of a small barn or other
19 facility for boarding such horse(s) upon such Lot, where
20 permitted by applicable zoning and other ordinances and govern-
21 mental regulations; and other recreational facilities;

22 5.4.17 Window Coverings. No external window
23 covering or reflective covering may be placed, or permitted to
24 remain, on any window of any building, structure or other
25 improvement without the prior written approval of the
26 Architectural and Landscaping Review Committee;

 5.4.18 Parcel Coverage. The percentage of each
Lot or Parcel which may be covered by buildings (as well as the
location of such buildings and other improvements on each Lot
or Parcel) shall be subject to the review and approval of the
Architectural and Landscaping Review Committee, as part of the
Architectural and Landscaping Review Committee's review of
plans for proposed improvements on such Lot or Parcel pursuant
to this Declaration, but shall in no event violate County
ordinances and regulations in effect from time to time;

 5.4.19 Duty of Maintenance. Each Owner shall, at
such Owner's sole cost and expense, keep such Owner's Lot or
Parcel (including buildings, improvements, private drives,
easement areas and grounds thereon) in a well-maintained,
clean, neat and attractive condition at all times and shall
comply in all respects with all governmental health, fire and
safety statutes, ordinances, regulations and requirements;

 5.4.20 Utility Lines and Connections. All util-
ity wires, lines, pipes, conduits, facilities, connections and

1 installations (including, without limitation, electrical, tele-
2 phone, cable television, water, gas and sanitary sewer) shall
3 be installed and maintained underground or concealed in, under,
4 or on structures approved in writing in advance by the
5 Architectural and Landscaping Review Committee. No utility
6 meter or apparatus shall be located on any pole or attached to
7 the outside of any building wall which is exposed to view from
8 any street. All transformers shall be placed on or below the
9 surface of the Lot or Parcel. Temporary above-ground power or
10 telephone structures and water lines incident to construction
11 activities shall be permitted but only with the prior written
12 approval of the Architectural and Landscaping Review Committee;

7 **5.4.21 On-Site Grading and Drainage.** No water
8 shall be drained or discharged from any Lot or Parcel, or
9 building thereon, except in accordance with: (a) the master
10 drainage study (including any amendments thereto) approved by
11 the appropriate governmental agency (or agencies) and the
12 Architectural and Landscaping Review Committee (or other drain-
13 age study approved by such Committee, if no such master drain-
14 age study exists); and (b) grading plans approved by the
15 Architectural and Landscaping Review Committee in accordance
16 with the provisions of Article IV hereof and applicable County
17 ordinances. Finished grades along the periphery of a Lot or
18 Parcel shall match the existing grades or the top of curb of
19 any constructed or proposed streets which are part of the over-
20 all master infrastructure for Rancho Vistoso; the tolerance
21 allowed shall be within plus or minus one foot of the existing
22 grades or top of curb within a horizontal distance of twenty
23 (20) feet unless otherwise previously approved in writing by
24 the Architectural and Landscaping Review Committee. Further,
25 no Owner or Occupant shall interfere with the drainage estab-
26 lished by the grading plan for the remainder of the Covered
Property or any other property adjacent to the Parcel;

18 **5.4.22 Building Exteriors.** All colors of
19 materials on the building exteriors and all exterior wall sur-
20 faces of any building shall be in accordance with plans and
21 designs approved by the Architectural and Landscaping Review
22 Committee in accordance with the provisions of Article IV
23 hereof. All materials used for the exterior of the buildings
24 shall be high quality, long-life, low maintenance materials.

22 **5.5 Variances.** The Board may, at its sole discretion,
23 grant variances from the restrictions set forth in Article V
24 hereof or in any Recorded Tract Declaration if the Board deter-
25 mines that:

25 **5.5.1 either:**

1 (a) a particular restriction would create a
2 substantial hardship or burden on an Owner or Occupant and that
such hardship is not attributable to the Owner's or Occupant's
acts; or,

3 (b) a change of circumstances has rendered
4 the particular restriction obsolete; and,

5 5.5.2 the activity permitted under the requested
variance will not have a substantially adverse effect on other
6 Owners and Occupants and is consistent with the high quality of
life intended for Rancho Vistoso. The request for a variance
7 must be made in writing and be accompanied by adequate support-
ing documentation. The Board shall approve or disapprove the
8 request, in writing, as promptly as possible under the particu-
lar circumstances. All decisions of the Board shall be final
and nonappealable.

10 ARTICLE VI

11 ORGANIZATION OF ASSOCIATION

12 6.1 Formation of Association. The Association shall
be a nonprofit Arizona corporation charged with the duties and
13 vested with the powers prescribed by law and set forth in the
Articles, the Bylaws, and this Declaration. Neither the
14 Articles nor the Bylaws shall be amended or interpreted so as
to be inconsistent with this Declaration.

15 6.2 Board of Directors and Officers. The affairs of
the Association shall be conducted by the Board and such offi-
16 cers as the Board may elect or appoint in accordance with the
Articles and the Bylaws. The initial Board and each Board
17 thereafter for so long as there is a Class B Member of the
Association shall consist of 3 Members or other persons, and
18 Declarant shall have the right to appoint all such directors.
Commencing with the first annual meeting of the Members when
19 there is no longer a Class B Member, the Board shall consist
of, and the voting Members shall elect, 7 directors, all of
20 whom must be Members (or an individual designated by a corpo-
rate, partnership or other non-individual Member). The forego-
21 ing reference to 7 directors shall be subject to increase in
the number of Directors as provided in the Bylaws. The term of
22 each of the Directors shall be for 1 year until there is no
longer a Class B Member. Thereafter the initial terms shall be
23 4 Directors for a 1-year term and 3 Directors for a 2-year
term, thus establishing a staggered Board. In succeeding
24 years, all directors shall be elected for a 2-year term. The
Board may appoint various committees at its discretion. The
25 Board may also appoint or engage a manager to be responsible
for the day-to-day operation of the Association and the Common
26

1 Areas. The Board shall determine the compensation to be paid
2 to the manager.

3 6.3 Association Rules. By a majority vote of the
4 Board, the Association may, from time to time and subject to
5 the provisions of this Declaration, adopt, amend and repeal the
6 Association Rules. The Association Rules may restrict and gov-
7 ern the use of the Common Areas, provided, however, that the
8 Association Rules shall not discriminate among Owners and
9 Occupants except to reflect their different rights and obliga-
10 tions as provided herein, and shall not be inconsistent with
11 this Declaration, the Articles, or the Bylaws. The Association
12 Rules shall be intended to enhance the preservation and devel-
13 opment of the Covered Property, the Common Areas and the
14 Limited Common Areas. Upon adoption, the Association Rules
15 shall have the same force and effect as if they were set forth
16 herein. A copy of the Association Rules as adopted, or
17 amended, shall be available for inspection at the office of the
18 Association.

19 5.4 Personal Liability. No Board member, officer,
20 committee member, employee or representative of the
21 Association, or the Association, shall be personally liable to
22 any Owner, or to any other Person, including the Association,
23 for any damage, loss, costs, fees (including reasonable attor-
24 neys' fees), or prejudice suffered or claimed on account of any
25 of their acts, omissions, errors or negligence, provided, how-
26 ever, that the limitations set forth in this Section 6.4 shall
not apply to any Person who has failed to act in good faith or
has engaged in willful or intentional misconduct.

1 6.5 Subsidiary Associations. In the event any home-
2 owners' or similar Subsidiary Association is formed by a
3 Developer Owner (other than Declarant) of a Parcel or portion
4 thereof, or group of Lots, such Subsidiary Association's
5 governing documents shall not be effective unless they have
6 been approved in advance by the Board and they specify that
7 such governing documents, such Parcel or portion thereof, or
8 group of Lots, the Subsidiary Association, and the Subsidiary
9 Association's members are subject and subordinate to this
10 Declaration and the Articles, Bylaws, and Association Rules.
11 The Board shall not disapprove any such governing documents
12 unless, in the Board's sole discretion, either: (a) they are
13 inconsistent or in conflict with this Declaration, the
14 Articles, the Bylaws, the Association Rules, the Architectural
15 and Landscaping Review Committee and any applicable Recorded
16 Tract Declaration; or (b) they fail to contain the specifica-
17 tion required by the preceding sentence.

18 6.6 Mergers or Consolidations. The Association shall
19 have the right, power and authority to participate in mergers
20

1 or consolidations with any other nonprofit corporation whose
2 objectives, methods, and taxable status and format of operation
3 are similar to those of the Association (a "Merger
4 Candidate"). Merger or consolidation of the Association with a
5 Merger Candidate must be approved in advance by Members holding
6 at least two-thirds (2/3) of the votes in each class of Members
7 of the Association, whether in Person or by proxy, at a meeting
8 duly called for such purpose. The Association's properties,
9 rights and obligations shall be transferred to and assumed by
10 the surviving or consolidated corporation by operation of law,
11 or, alternatively, the properties, rights and obligations of
12 the Merger Candidate shall be transferred by operation of law
13 to the Association as the surviving corporation. The surviving
14 or consolidated corporation, at a minimum, shall have the same
15 administrative responsibilities and enforcement rights estab-
16 lished by this Declaration in regard to the Covered Property.
17 In addition, for so long as there is a Class B Member and to
18 the extent Declarant has theretofore sought the approval of an
19 Agency in regard to the Association or any Subsidiary
20 Association, any such merger or consolidation will be subject
21 to the approval by such Agency if so required by the rules and
22 regulations of the Agency.

12 ARTICLE VII

13 MEMBERSHIPS AND VOTING

14 7.1 Votes of Owners of Lots and Parcels. Every Owner
15 of a Lot or Parcel which is subject to assessment automatically
16 shall be a Member of the Association and shall remain a Member
17 for so long as such ownership continues. Each Owner (other
18 than Declarant) shall have the following applicable number of
19 votes in regard to votes of the Members of the Association:

18 7.1.1 One vote for each Lot owned;

19 7.1.2 One-half of one vote for each completed
20 Apartment Unit owned;

21 7.1.3 One-half of one vote for each Dwelling Unit
22 permitted under the applicable Recorded Tract Declaration upon
23 an Apartment Parcel upon which construction has not been com-
24 pleted (or, if no Tract Declaration has been Recorded with
25 respect to such Parcel, then one-half of one vote for each
26 Dwelling Unit permitted upon such Parcel under the then current
Master Development Plan.) The number of such Dwelling Units
shall be determined based on the assumption that the number of
Dwelling Units will be spread evenly over such Parcel. If a
Tract Declaration or a subdivision plat for such Parcel is
thereafter Recorded for a different number of Dwelling Units,
the number of votes shall be adjusted to reflect the actual

1 number of Dwelling Units as set forth in such Recorded Tract
2 Declaration or Recorded subdivision plat;

3 7.1.4 In the case of the Owner of a Single Family
4 Parcel or Residential Condominium Development Parcel which has
5 not been divided into Lots by a Recorded subdivision plat or
6 other Recorded instrument, one vote for each Dwelling Unit
7 permitted upon the Parcel under the applicable Recorded Tract
8 Declaration, or if no Tract Declaration has been Recorded, then
9 one vote for each Dwelling Unit permitted upon such Parcel
10 under the then current Master Development Plan. If a subdivi-
11 sion plat or other instrument creating Lots is Recorded cover-
12 ing all or part of such Parcel, then the votes attributable to
13 the Lots shall be determined pursuant to Section 7.1.1 above,
14 and the number of votes held by the Owner of such Parcel as
15 Owner of the portion of such Parcel not so divided into Lots
16 (if any) shall be equal to the number of Dwelling Units
17 permitted on such Parcel pursuant hereto less the number of
18 votes determined pursuant to Section 7.1.1 above. If a Tract
19 Declaration or subdivision plat for such Parcel is thereafter
20 Recorded for a different number of Dwelling Units, the number
21 of votes shall be adjusted to reflect the actual number of
22 Dwelling Units as set forth in such Recorded Tract Declaration
23 or Recorded subdivision plat. All votes attributable to such
24 Parcel shall cease when the property ceases to be a Parcel
25 because all of the area therein is platted (or otherwise
26 divided into Lots) or dedicated to the public; and,

15 7.1.5 In the case of the Owner of a
16 Non-Residential Parcel, six (6) votes for each Net Acre owned
17 (in the case of fractional Net Acres rounding to the nearest
18 whole number of votes, e.g., 1.7 Net Acres = 15 votes),
19 provided, however, that if a commercial condominium is estab-
20 lished, Declarant or the Board, as applicable, may allocate
21 votes in a manner deemed appropriate so that the allocated
22 votes do not exceed six (6) per Net Acre.

19 Each Owner's Membership in the Association shall be
20 appurtenant to and may not be separated from ownership of the
21 Lot or Parcel to which the Membership is attributable. There
22 shall be only the Memberships for each Lot and Parcel as are
23 described herein. Joint ownership or ownership of undivided
24 interests in any property as to which a Membership is estab-
25 lished pursuant hereto shall not cause there to be more
26 Memberships than the number established herein. Memberships
shall be shared by any joint owners of, or owners of undivided
interests in, the property interests to which such Memberships
are attributable. Memberships attributable to a Lot or Parcel
shall not be increased because of joint or undivided multiple
ownership thereof.

1 7.2 Declarant. Declarant shall be a Member of the
2 Association for so long as it holds a Class A or Class B
Membership.

3 7.3 Voting Classes. The Association shall have two
4 classes of voting Members:

5 7.3.1 Class A. Class A Members shall be all
6 Owners except Declarant (until the conversion of Declarant's
7 Class B Membership to Class A Membership as provided below).
8 Subject to the authority of the Board to suspend an Owner's
9 voting rights in accordance with the provisions hereof, a
Class A Member shall have the number of votes provided in
Section 7.1. Notwithstanding the foregoing, a Class A Member
shall not be entitled to vote with respect to any Lots, Parcels
or Apartment Units in regard to which the Owner is paying only
a reduced Assessment pursuant to Section 8.3; and,

10 7.3.2 Class B. The Class B Member shall be
11 Declarant. The Class B Member shall be entitled to the number
12 of votes equal to 3 times the number of votes which would be
13 attributable to Lots and Parcels owned by Declarant as deter-
14 mined pursuant to Section 7.1 above, provided that as to any
15 Parcel owned by Declarant which has not yet been subjected to a
16 Tract Declaration (and therefore has not yet been assigned to a
17 particular Land Use Classification), for purposes of determin-
18 ing the votes to which Declarant shall be entitled with respect
19 to such Parcel: (a) such Parcel shall be deemed to be either a
20 residential Parcel or a Non-Residential Parcel, depending upon
21 the use for such Parcel designated on the then-current approved
neighborhood plan affecting such Parcel, if any, and otherwise
as designated on the then-current approved community plan
affecting such Parcel; and (b) a Parcel deemed pursuant to sub-
paragraph (a) to be a residential Parcel shall be deemed to
have the maximum number of Dwelling Units permitted for such
Parcel under the then-current neighborhood plan affecting such
Parcel, if any, and otherwise under the then-current approved
community plan affecting such Parcel. Subject to the provi-
sions of Section 14.2 below, the Class B Membership automati-
cally shall cease and be converted to a Class A Membership upon
the happening of the first of the following events:

22 (x) the date which is 120 days after the date
23 upon which the total votes of the Class A Members entitled to
vote equals the total votes of the Class B Member; or,

24 (y) the date which is seven (7) years after
25 the date this Declaration is Recorded.
26

1 7.4 Right to Vote. No change in the ownership of a
2 Lot, Parcel or Apartment Unit shall be effective for voting
3 purposes until the Board receives written notice of such change
4 together with satisfactory evidence thereof. The vote for each
5 Member must be cast as a single unit. Fractional votes shall
6 not be allowed. In the event that a Lot, Parcel, or Apartment
7 Unit is owned by more than one Person and such Owners are
8 unable to agree as to how their vote or votes shall be cast,
9 they shall not be entitled to vote on the matter in question.
10 If any Owner casts a vote or votes representing a certain Lot,
11 Parcel or Apartment Unit, the Owner will thereafter be conclu-
12 sively presumed to be acting with the authority and consent of
13 all other Owners of such Lot, Parcel or Apartment Unit unless
14 objection thereto is made to the Board, in writing, at or prior
15 to the time the vote or votes are cast. In the event more than
16 1 Person casts or attempts to cast a vote for a particular Lot,
17 Parcel or Apartment Unit all such votes shall be deemed void.

18 7.5 Members' Rights. Each Member shall have the
19 rights, duties and obligations set forth in this Declaration,
20 the Articles, the Bylaws, the Association Rules, and the
21 Architectural and Landscaping Review Committee Guidelines.

22 7.6 Transfer of Membership. Except as otherwise
23 provided in this Declaration, the rights, duties and obliga-
24 tions of a Class A Member cannot and shall not be assigned,
25 transferred, pledged, conveyed or alienated in any way except
26 upon transfer of ownership of such Class A Member's Lot, Parcel
or Apartment Unit, and then only to the transferee thereof.
Such transfer may be effected by deed, intestate succession,
testamentary disposition, foreclosure, or other legal process
authorized under Arizona law. Any attempt to make a
nonapproved form of transfer shall be void. Any transfer of
ownership in a Lot, Parcel or Apartment Unit shall operate to
transfer the Membership appurtenant thereto to the new Owner.

ARTICLE VI.1

ASSESSMENTS AND CREATION OF LIEN

21 8.1 Creation of Assessment Lien; Personal Obligation
22 of Lot or Parcel Owner. Declarant, for each Lot and Parcel
23 constituting part of the Covered Property, hereby covenants and
24 agrees, and each Owner by acceptance of a deed therefor
(whether or not it should be so expressed in any such deed or
other instrument) is deemed to covenant and agree, to pay to
the Association the following:

25 8.1.1 the Special Use Fees as provided in
26 Section 3.1; and,

1 8.1.2 the Assessments, as hereinafter established.
2 The amount and time for payment of the Special Use
3 Fees and the Assessments shall be determined by the Board pur-
4 suant to this Declaration and the Articles and Bylaws. The
5 Special Use Fees and the Assessments, together with interest
6 thereon and the costs and reasonable attorneys' fees, if any,
7 incurred by the Association in connection with the enforcement
8 and collection thereof or in otherwise enforcing this
9 Declaration, shall be a charge and continuing servitude and
10 lien upon the Lot or Parcel against which such Special Use Fees
11 or Assessments are made and, in addition, shall be the personal
12 obligation of the Owner of such Lot or Parcel at the time when
13 such Special Use Fees or Assessments become due and payable.
14 Notwithstanding any other provision of this Declaration to the
15 contrary, as to each Lot or Parcel owned by Declarant,
16 Declarant shall be obligated to pay only twenty-five percent
17 (25%) of the Assessments which would otherwise be payable in
18 respect of such Lot or Parcel until either an occupied Dwelling
19 Unit or commercial building shall be situated on such Lot or
20 Parcel, provided that during any period when Declarant is
21 paying reduced Assessments pursuant to this sentence, Declarant
22 shall contribute to the Association such funds as may be
23 required from time to time to meet any budget deficit which
24 results from Declarant having paid such reduced Assessments.
25
26

13 8.2 Annual Assessments. The Association by and
14 through the Board shall levy the Annual Assessments for the
15 purposes set forth hereinbelow. The Annual Assessments levied
16 by the Association shall be used to promote the recreation,
17 health, safety and welfare of the Owners and Occupants, to
18 enhance the quality of life within the Covered Property, to
19 preserve the value of the Covered Property, to pay the costs of
20 administration of the Association and the maintenance of the
21 Common Areas, and to otherwise further the interests of the
22 Association as the Board deems appropriate. Subject to the
23 provisions of Section 8.4, the Board may, during an Assessment
24 Period, revise the amount of the Annual Assessment in order to
25 meet expenses which exceed the amounts previously budgeted by
26 the Association and collect such increased Annual Assessment in
accordance with Section 8.9 below. The Annual Assessment for
each Apartment Unit shall always equal one-half of the Annual
Assessment for each Lot. The Annual Assessment for each Net
Acre in a Non-Residential Parcel shall always equal six (6)
times the Annual Assessment for each Lot. The Annual
Assessment for a Single Family Parcel which has not yet been
subdivided into Lots or a Condominium Parcel as to which a con-
dominium declaration has not yet been recorded shall be an
amount equal to the Annual Assessment for a Lot multiplied by
the number of Dwelling Units permitted to be constructed on the
Parcel under the applicable Recorded Tract Declaration (or, if

1 there is no Recorded Tract Declaration, under the Master
2 Development Plan).

3 **8.3 Rate of Assessment.** Subject to Sections 8.4 and
4 8.5 hereof, the amount of the Annual Assessments and Special
5 Assessments shall be fixed by the Board, in its sole discre-
6 tion, but always in the ratios, as among Owners of Lots,
7 Apartment Units and Non-Residential Parcels, provided for in
8 Section 8.2.

9 **8.3.1** The Developer Owner of a Lot (other than a
10 Condominium Unit) shall pay only 25% of the Annual Assessments
11 and Special Assessments for such Lot until the earliest of:

12 (a) the initial conveyance of
13 a completed Dwelling Unit thereon
14 to a Non-Developer Owner; or,

15 (b) 12 months from the date of
16 Declarant's conveyance of the Lot
17 (or the Parcel from which such Lot
18 was established) to a Developer
19 Owner.

20 If the Developer Owner ceases to be entitled to the 25% rate
21 because of the occurrence of the event described in
22 Section 8.3.1(b) above, then thereafter the Developer Owner
23 shall pay only 40% of the Annual Assessments and Special
24 Assessments for such Lot until the earliest of:

25 (c) the initial conveyance of
26 a completed Dwelling Unit thereon
to a Non-Developer Owner; or,

(d) 12 months after the date
the 25% rate terminated;

8.3.2 The Developer Owner of an Apartment Parcel
(which has not been converted to a Condominium Parcel) shall
pay only 25% of the Annual Assessments and Special Assessments
until the earliest of:

(a) completion of construction
of the Apartment Units as
evidenced by the issuance of a
certificate of occupancy therefor;
or,

(b) 12 months from the date of
Declarant's conveyance of the
Parcel to a Developer Owner.

1 If the Developer Owner ceases to be entitled to the 25% rate
2 because of the occurrence of the event described in
3 Section 8.3.2(b) above, then thereafter the Developer Owner
shall pay only 40% of the Annual Assessments and Special
Assessments until the earliest of:

4 (c) completion of the
5 Apartment Units as evidenced by
6 the issuance of a certificate of
7 occupancy therefor; or,

8 (d) 12 months after the date
9 the 25% rate terminated;

10 However, if the approved site plan for the Apartment Parcel
11 contemplates the construction of more than one apartment build-
12 ing thereon, the Apartment Parcel shall, for purposes of this
13 Section 8.3.2 only, be deemed subdivided into the number of
14 sub-parcels equal to the number of approved buildings on the
approved site plan, in which case the Annual Assessments and
Special Assessments shall be deemed divided equally among such
sub-parcels such that each of the buildings shall be allocated
to a separate sub-parcel, and the Developer Owner shall pay
only 25% or 40% as applicable of the prorated Annual
Assessments and Special Assessments against each sub-parcel
until the earliest of the events specified in subsections (a)
and (b) above, or (c) and (d) above, as applicable, with
respect to such sub-parcel.

15 8.3.3 The Developer Owner of a Single Family
16 Parcel which remains an intact Parcel because it has not yet
17 been subdivided shall pay only 25% of the Annual Assessments
and Special Assessments until the earlier of:

18 (a) such time as the Parcel is
19 subdivided into Lots at which time
20 Section 8.3.1 above shall apply;
21 or,

22 (b) 12 months from the date of
23 Declarant's conveyance of the
24 Parcel to a Developer Owner.

25 If the Developer Owner ceases to be entitled to the 25% rate
26 because of the occurrence of the event described in
Section 8.3.3(b) above, then thereafter the Developer Owner
shall pay only 40% of the Annual Assessments and Special
Assessments until the earlier of:

(c) such time as the Parcel is
subdivided into Lots at which time

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Section 8.3.1 above shall apply;
or,

(j) 12 months after the date
the 40% rate terminated,

In the event the Parcel is subdivided into phases and less than all of such phases are subdivided into Lots, the applicable reduced rates set forth above in this Section 8.3.3 will continue to apply to the unsubdivided remainder of the Parcel;

8.3.4 The Developer Owner of a Condominium Parcel shall pay only 25% of the Annual Assessments and Special Assessments for such Parcel until a condominium declaration is Recorded against all or part of such Parcel. Subsequent to such Recording, the Developer Owner shall pay with respect to each Condominium Unit to be constructed on such Parcel pursuant to such condominium declaration 25% of the Annual Assessments and Special Assessments until the earliest of:

(a) completion of the initial Condominium Units as evidenced by the issuance of a certificate of occupancy therefor; or,

(b) 12 months from the date of Declarant's conveyance of the Parcel to a Developer Owner.

In the event the Developer Owner ceases to be entitled to the 25% rate because of the occurrence of the event described in Section 8.3.4(b) above, then thereafter the Developer Owner shall pay only 40% of the Annual Assessments and Special Assessments until the earliest of:

(c) completion of the initial Condominium Units as evidenced by the issuance of a certificate of occupancy therefor; or,

(d) 12 months after the date the 25% rate terminated.

In the event the condominium development is to be built in phases, the reduced rate as provided hereinabove shall terminate with respect to each phase upon the conveyance of the first Condominium Unit in such phase by a Developer Owner to a third-party; and,

1 8.3.5 The Developer Owner of a Non-Residential
2 Parcel shall pay only 25% of the Annual Assessments and Special
Assessments for such Parcel until the earliest of:

3 (a) completion of the first
4 building thereon as evidenced by
5 the issuance of the certificate of
6 occupancy therefor;

7 (b) 12 months from the date of
8 Declarant's conveyance of the
9 Parcel to a Developer Owner.

10 In the event the Developer Owner ceases to be entitled to the
11 25% rate because of the occurrence of the event described in
12 Section 8.3.5(b) above, then thereafter the Developer Owner
13 shall pay only 40% of the Annual Assessments and Special
14 Assessments until the earliest of:

15 (c) completion of the first
16 building on such Parcel as
17 evidenced by the issuance of a
18 certificate of occupancy therefor;
19 or,

20 (d) 12 months from the date
21 the 25% rate terminated.

22 However, if the approved site plan for the Parcel contemplates
23 the construction of more than one building thereon, the Parcel
24 shall, for the purposes of this Section 8.3.5 only, be deemed
25 subdivided into the number of sub-parcels equal to the number
26 of approved buildings set forth on the approved site plan, in
which case the Annual Assessments and Special Assessments shall
be deemed divided equally among such sub-parcels such that each
of the buildings shall be allocated to a separate sub-parcel,
and the Developer Owner shall pay only 25% or 40% as applicable
of the Annual Assessments and Special Assessments against each
sub-parcel until the earliest of the events specified in
subsections (a) and (b) above, or (c) and (d) above, as appli-
cable, with respect to each sub-parcel.

A Non-Developer Owner shall not be entitled to the
reduced assessment rates provided in Sections 3.1 through
8.3.5 and a Developer Owner shall be entitled to such reduced
rates only if he is a Developer Owner with respect to the spe-
cific Lot or Parcel in question. If a Developer Owner ceases
to qualify for the reduced payments provided for hereinabove
during an Assessment Period, the Developer Owner shall immedi-
ately notify the Board, in writing, of the change in status and
the Annual Assessments and Special Assessments shall be

1 prorated between the applicable rates on a per diem basis. The
2 failure of a Developer Owner to notify the Board of the change
3 in status shall not prevent or preclude the reinstatement of
4 the full payment obligation pursuant hereto from taking effect
5 as of the applicable date as provided herein. The Association
6 may from time to time request that any Developer Owner of prop-
7 erty being assessed at a reduced rate furnish to the
8 Association evidence that such Developer Owner continues to be
9 entitled to a reduced assessment rate under this Section 8.3,
10 and if such Developer Owner fails to produce such evidence
11 within 30 days following the date of the Association's request,
12 or if such evidence as is furnished is unsatisfactory, in the
13 Board's reasonable discretion, to demonstrate such Developer
14 Owner's continued entitlement to the reduced assessment rate,
15 the Board may terminate such reduced assessment rate as of the
16 date reasonably deemed appropriate by the Board.

9 **8.4 Maximum Annual Assessment.** The Maximum Annual
10 Assessment shall be determined as follows:

11 **8.4.1** For the fiscal year ending April 30, 1988,
12 the Maximum Annual Assessment shall be:

- 13 (a) for each Lot, \$150.00;
- 14 (b) for each Apartment Unit, \$75.00; and
- 15 (c) for each Non-Residential Parcel,
16 \$ 900.00 times the number of Net Acres (to the nearest one-
17 tenth of a Net Acre) in such Non-Residential Parcel.

18 **8.4.2** Thereafter, except as provided in
19 Section 8.4.3 below, the Maximum Annual Assessment for each
20 Lot, each Apartment Unit, and each Non-Residential Parcel for
21 any fiscal year of the Association shall be equal to the
22 Maximum Annual Assessment for the immediately preceding fiscal
23 year, increased by the greater of:

24 (a) 5% of the Maximum Annual Assessment for
25 the Lot or Apartment Unit or Non-Residential Parcel in effect
26 during the immediately preceding fiscal year; or,

(b) an amount equal to the amount of increase
in the Index during the prior year, if any, calculated as fol-
lows: If the Comparison Index has increased over the Base
Index, the Maximum Annual Assessment for the immediately
succeeding Assessment Period shall be calculated by multiplying
the then effective Maximum Annual Assessment by a fraction, the
numerator of which is the Comparison Index and the denominator
of which is the Base Index. In no case, however, shall the
Maximum Annual Assessment calculated pursuant to the preceding

1 formula ever be less than the Maximum Annual Assessment in
2 effect prior to the Adjustment Date. If the Index is eliminat-
3 ed or its method of determination is changed, the foregoing
4 formula shall be altered, if possible, so as to achieve sub-
5 stantially the same effect as the foregoing formula. If this
6 is not possible, a new formula shall be adopted by the Board;
7 and,

8 8.4.3 The Maximum Annual Assessment for an
9 Assessment Period may be increased above the Maximum Annual
10 Assessment for such Assessment Period otherwise determined
11 under Section 8.4.2 above by an affirmative vote of Members
12 holding at least two-thirds (2/3) of the votes in each class of
13 Members represented in person or by proxy at a meeting of the
14 Members of the Association duly called for such purpose, except
15 that if the utility charges or insurance premiums paid by the
16 Association in the 12-month period prior to the subject
17 Assessment Period are in excess of those paid during the
18 12-month period immediately preceding such prior 12-month
19 period, or such utility charges or insurance premiums increase
20 unexpectedly during the course of the subject Assessment
21 Period, the Board may increase the Maximum Annual Assessment
22 otherwise determined under Section 8.4.2 above for the subject
23 Assessment Period by the pro rata share for each Lot, Apartment
24 Unit or Parcel of the additional utility or insurance costs
25 without the Membership vote described in this Section 8.4.3
26 (with such pro rata share to be in the same relative propor-
tions, as among Lots, Parcels and Apartment Units, as the ini-
tial Maximum Annual Assessments set forth in Section 8.4.1
above).

16 8.5 Special Assessments. The Association may levy a
17 Special Assessment but only for the purpose of defraying, in
18 whole or in part, the cost of any construction, reconstruction,
19 repair or replacement of a capital improvement owed by the
20 Association or for defraying other extraordinary expenses,
21 provided, however, that such Special Assessment shall have the
22 prior assent of two-thirds (2/3) of the votes of each class of
23 Members voting in Person or by proxy at a meeting of the
24 Association duly called for such purpose. Special Assessments
25 shall be assessed uniformly among the Owners, except as autho-
26 rized under Section 8.3 hereof.

22 8.6 Notice and Quorum for Any Action Authorized Under
23 Sections 8.4 and 8.5. Written notice of any meeting of the
24 Members of the Association called for the purpose of conducting
25 a vote required under Sections 8.4 or 8.5 shall be sent to all
26 Owners not less than 30 days nor more than 60 days in advance
of such meeting. At such meeting, the presence of Members or
of proxies entitled to cast 60% of all the votes (exclusive of
suspended voting rights) of each class of Members shall consti-

1 lute a quorum. If the required quorum is not present, another
2 meeting shall be called for such purpose, subject to the fore-
3 going notice requirements, and the required quorum at the sub-
4 sequent meeting shall be one-half of the quorum required at the
initially scheduled meeting. The subsequent meeting shall be
held within 60 days following the date of the initially sched-
uled meeting.

5 **8.7 Maintenance Assessments.** In addition to any
6 Annual Assessment or Special Assessment and the Assessments
7 arising under Section 11.2, the Board shall have the authority
8 to levy and collect Maintenance Assessments for costs and
9 expenses arising by or attributable to the special characteris-
tics or needs of a particular Lot or Parcel, or if the Owner of
a Lot or Parcel contracts with the Association for the
Association to provide particular maintenance services in
regard to such Owner's Lot or Parcel.

10 **8.8 Annual Assessment Period.** Except as otherwise
11 provided hereinbelow, the Assessment Period shall be the fiscal
12 year commencing on May 1 of each year and terminating on
13 April 30 next following. The Board may, in its sole discre-
14 tion, from time to time, change the Assessment Period. The
initial Assessment Period shall commence on the date of
Recording of this Declaration and terminate on April 30 follow-
ing the date of Recording. The Assessments provided for
hereinabove shall be prorated for the initial Assessment Period.

15 **8.9 Billing and Collection Procedures.** The Board
16 shall have the right to adopt procedures for the purpose of
17 making, billing and collecting the Assessments and Special Use
18 Fees, which procedures may include delegating to the applicable
19 Subsidiary Association the authority and obligation of billing
20 and collecting some or all of the Assessments and Special Use
21 Fees. The failure of the Association to send a bill to an
22 Owner shall not relieve such Owner of the Owner's liability for
23 an Assessment or Special Use Fee. No Recorded Assessment Lien
24 shall be foreclosed or otherwise enforced until the Owner has
25 been given not less than 30 days written notice thereof prior
26 to the commencement of such foreclosure or enforcement. The
notice shall be addressed to the Owner at the address of the
Owner on the records of the Association. It shall be the
responsibility of the Owner to inform the Association in writ-
ing of a change of address. The Association shall be under no
duty to refund any payments received by the Association even if
the ownership of a Lot or Parcel changes during an Assessment
Period. Any successor Owner shall be given credit for any
unrefunded prepayments made by a prior Owner. In case the
Owner of a Lot or Parcel having a right to pay a reduced
payment amount as provided herein fails to notify the Board at
such time as the payment amount should be increased, such Owner

1 shall nonetheless be liable for the full amount of the
2 Assessment and such Owner's failure to notify the Board shall
3 not relieve such Owner of the liability for such full
4 Assessment.

5 8.10 Collection Costs and Interest on Delinquent
6 Amounts. Any Delinquent Amount shall have added thereto a late
7 charge of 15% if such Delinquent Amount is not paid within 15
8 days after its due date. In addition, the Delinquent Amount
9 shall bear interest from its due date until paid at a rate
10 equal to the greater of: (a) 12% per annum; or (b) the then
11 prevailing interest rate on loans insured by FHA or VA. The
12 Owner shall be liable for all costs, including but not limited
13 to attorneys' fees and collection agency fees, which may be
14 incurred by the Association in collecting any Delinquent
15 Amount. The Board may also Record a Recorded Assessment Lien
16 against the applicable Lot or Parcel and may establish a fixed
17 fee to be reimbursed to the Association for the Association's
18 cost in Recording such Recorded Assessment Lien, processing the
19 delinquency, and Recording a release of lien. The foregoing
20 fee shall be treated as a collection cost of the Association
21 secured by the Recorded Assessment Lien.

22 8.11 Statement of Payment. Upon receipt of a written
23 request therefor from any Owner or Resident, the Board, within
24 a reasonable time thereafter, shall issue to the requesting
25 party a written statement stating that as of the date of that
26 statement:

8.11.1 all Assessments and Special Use Fees
(including collection fees, if any in regard thereto), have
been paid with respect to such Owner's or Resident's Lot or
Parcel; or,

8.11.2 if such have not been paid, the amount(s)
then due and payable.

The Association may make a reasonable charge for the
issuance of such statement. Any such statement shall be con-
clusive and binding with respect to any matter set forth
therein.

8.12 Exempt Property. Exempt Property shall be exempt
from Assessments (except as may be provided in Section 11.3
with respect to Maintenance Assessments) and the Assessment
Lien, and shall have no voting rights in the Association,
provided, however, that should any Exempt Property cease to be
Exempt Property for any reason, it shall thereupon be subject
to Assessments (prorated as of the date it ceased to be Exempt
Property) and the Assessment Lien, and shall have voting rights
in the Association as otherwise determined in this Declaration.

1 **ARTICLE IX**

2 **ENFORCEMENT AND THE ASSESSMENT LIEN**

3 9.1 **Association Remedies to Enforce Assessments.** If
4 any Owner fails to pay any Assessments or Special Use Fees when
5 due, the Association may (and each Owner hereby authorizes the
6 Association to) enforce the payment thereof and the Assessment
Lien and Recorded Assessment Lien by taking either or both of
the following actions, concurrently or separately (and by
exercising either remedy the Association does not prejudice or
waive its right to exercise the other remedy):

7 9.1.1 Bring an action at law against the Owner to
8 recover judgment against the Owner who is personally liable for
the Assessments or Special Use Fees; and,

9 9.1.2 Foreclose the Recorded Assessment Lien
10 against the appropriate Lot or Parcel in accordance with then
11 prevailing Arizona law relating to the foreclosure of realty
12 mortgages (including the right to recover any deficiency) and,
13 at the Association's option, the Association may bid for and
14 purchase the Lot or Parcel at any foreclosure sale. For pur-
15 poses of this Article IX, the Assessment Lien shall extend to
16 (and phrases such as "appropriate Lot or Parcel" or "the "Lot
or Parcel" shall be deemed to include) all Non-Residential
Parcels owned by the delinquent Owner and, in the case of a
delinquent Developer Owner, to all Lots and Parcels owned by
such Developer Owner, regardless of whether the Delinquent
Amounts owed by the Owner in question relate to all or less
than all of the Lots or Parcels owned by such Owner.

17 9.2 **Subordination of Assessment Lien.** The Assessment
18 Lien shall be superior to all charges, liens or encumbrances
which hereafter are or may be imposed on any Lot or Parcel
except:

19 9.2.1 the lien of any first mortgage or deed of
20 trust encumbering the Lots and Parcels which was Recorded prior
to this Declaration;

21 9.2.2 the lien for taxes or other governmental
22 assessments which is deemed superior hereto by applicable law;
and,

23 9.2.3 the lien of any first mortgage or deed of
24 trust.

25 Sale or transfer of any Lot or Parcel shall not affect the
26 Assessment Lien provided, however, the sale or transfer of any
Lot or Parcel pursuant to any first mortgage or deed of trust

1 foreclosure or any proceeding in lieu thereof, shall extinguish
2 the Assessment Lien only as to payments which became due prior
3 to such sale or transfer. No other sale or transfer shall
4 relieve a Lot or Parcel, or the Owner thereof, for liability
5 from any Assessment theretofore becoming due nor from the
6 Assessment Lien arising in regard thereto. In addition, no
7 Event of Foreclosure shall impair the Assessment Lien or a
8 Recorded Assessment Lien, except that a Person obtaining an
9 interest in a Lot or Parcel through an Event of Foreclosure
10 shall take title subject only to such Assessments as shall
11 accrue subsequent to the date the Person acquires its interest.

12 **9.3 Release of Recorded Assessment Lien.** Upon the
13 complete curing of any default for which a Recorded Assessment
14 Lien was Recorded by the Association, the Association shall
15 Record an appropriate release of the Recorded Assessment Lien.

16 **ARTICLE X**

17 **USE OF ASSOCIATION FUNDS**

18 **10.1 Use of Association Funds.** In addition to the
19 powers enumerated in the Articles and Bylaws, the Association
20 shall apply all Funds for the common good and benefit of the
21 Covered Property, the Owners and the Occupants. The Funds may
22 be used, among other things, to insure, acquire, construct,
23 alter, maintain, provide and operate, in any manner whatsoever,
24 any and all land, properties, improvements, services, projects,
25 programs, studies and systems, within the Covered Property and
26 the Common Areas, which may be necessary, desirable or benefi-
cial to the general common interests of the Owners and the
Occupants.

10.2 Borrowing Power. The Association may borrow money
in such amounts, at such rates, upon such terms and security,
and for such periods of time as the Board deems necessary or
appropriate.

**10.3 Association's Rights in Spending Funds From Year
to Year.** The Association shall not be obligated to spend in
any year all Funds received by it in such year, and the Board
may carry forward as surplus any balances remaining. The
Association shall not be obligated to reduce the amount of the
Annual Assessment in the succeeding year if a surplus exists
from a prior year.

1 ARTICLE XI

2 MAINTENANCE

3 11.1 Common Areas and Public Rights-of-Way.

4 11.1.1 Areas of Association Responsibility. The
5 Association, or its duly delegated representative, shall
6 maintain and otherwise manage all Common Areas, provided, how-
7 ever, that the Association shall not be responsible for
8 providing or maintaining the landscaping or structures on any
9 Common Areas located on or within Lots or Parcels unless:

7 (a) such landscaping or structures are
8 intended for the general benefit of the Owners and Occupants;
9 and,

9 (b) the Association assumes in writing the
10 responsibility for such maintenance and such instrument is
11 Recorded.

11 The Association shall also maintain any landscaping
12 and other improvements not located on Lots or Parcels but
13 located within the Covered Property if such areas are intended
14 for the benefit of Owners and Occupants, unless such areas are
15 to be maintained by a governmental entity or public utility and
16 in fact are being maintained by such entity or utility or are
17 the responsibility of a Lot or Parcel Owner pursuant to
18 Section 5.4.4 above. Common Areas to be maintained by the
19 Association may be identified on Recorded subdivision plats
20 approved by Declarant, or in a Recorded Tract Declaration or in
21 deeds from Declarant, but the failure to so identify such areas
22 shall not affect the Association's rights or responsibilities
23 with respect thereto.

18 11.1.2 Delegation of Responsibilities. In the
19 event any Recorded subdivision plat, Recorded Tract
20 Declaration, Recorded map of dedication, Recorded deed restric-
21 tion or this Declaration permits the Association to determine
22 whether Owners of certain Lots or Parcels shall be responsible
23 for maintenance of certain Common Areas or public rights-of-
24 way, the Board shall have the sole discretion to determine
25 whether the Association or an individual Owner should be
26 responsible for such maintenance, considering cost, uniformity
of appearance, location and other relevant factors. The Board
may also cause the Association to contract with others for the
performance of such maintenance and other obligations of the
Association and, in order to promote uniformity and harmony of
appearance, the Board may also cause the Association to con-
tract to provide maintenance services to Owners of Lots and

1 Parcels having such responsibilities in exchange for the
2 payment of such fees as the Association and the Owner may agree.

3 11.1.3 Standard of Care. The Association shall
4 use a reasonably high standard of care in providing for the
5 repair, management and maintenance of the Common Areas so that
6 Rancho Vistoso will reflect a high degree of pride of owner-
7 ship. The Board shall be the sole judge as to the appropriate
8 level of maintenance of all Common Areas.

9 11.2 Assessment of Certain Maintenance Costs. In the
10 event the need for maintenance or repair of areas maintained by
11 the Association is caused through the willful or negligent act
12 or omission of any Owner (or of any other Person for whom such
13 Owner is legally responsible under applicable state law), the
14 cost of such maintenance or repair shall be added to and become
15 a part of the Assessments to which such Owner and such Owner's
16 Lot or Parcel is subject and shall be secured by the Assessment
17 Lien, and by a Recorded Assessment Lien if deemed appropriate
18 by the Board. Any charges to be paid by an Owner in connection
19 with a maintenance contract entered into by the Association
20 pursuant to Section 11.1 shall also become a part of such
21 Assessments and be secured by the Assessment Lien, and by a
22 Recorded Assessment Lien if deemed appropriate by the Board.

23 11.3 Improper Maintenance and Use of Lots and Parcels.
24 In the event any portion of any Lot or Parcel is maintained so
25 as to present a nuisance, or substantially detracts from or
26 affects the appearance or quality of any neighboring Lot,
Parcel or other area, or is used in a manner which violates
this Declaration or any applicable Recorded Tract Declaration,
or in the event the Owner of any Lot or Parcel fails to perform
such Owner's obligations under this Declaration, any applicable
Recorded Tract Declaration, the Association Rules, or the
Architectural and Landscaping Review Committee Guidelines, the
Association, by Board resolution, may make a finding to such
effect, specifying the particular condition(s) that exist, and
thereafter give notice to the Owner of such Lot or Parcel that
unless specified corrective action is taken within a specified
time period the Association, at such Owner's cost, may take
whatever action is appropriate to compel compliance including,
without limitation, appropriate legal action. If at the expi-
ration of the specified time period the requisite corrective
action has not been taken by the Owner, the Association is
hereby authorized and empowered, at its sole discretion, to
cause corrective action to be taken or to commence appropriate
legal action and the cost thereof, including court costs and
attorneys' fees, shall be added to and become a part of the
Assessments to which the offending Owner and the Owner's Lot or
Parcel is subject and shall be secured by the Assessment Lien,

1 and by a Recorded Assessment Lien if deemed appropriate by the
2 Board.

3 11.4 Excess Maintenance Costs. In the event any use
4 of, or activity on, any Lot or Parcel causes the maintenance or
5 repair costs incurred or to be incurred by the Association with
6 respect to any portion of the Common Areas to be substantially
7 greater than those costs which would typically be incurred for
8 such portion of the Common Areas if such portion were adjacent
9 to Lots used only for typical Single Family residential housing
10 and related purposes, whether such use or activity is of a
11 continuing nature or an isolated event, the Board may, by reso-
12 lution, make a finding to such effect, of the amount of the
13 excess costs incurred or expected to be incurred by the
14 Association and of the method of determining such excess
15 costs. Upon the adoption of such a resolution, the amount of
16 such excess costs at any time or from time to time incurred by
17 the Association for the reasons specified in the resolution
18 shall be added to and become a part of the Assessments for
19 which the Owner of any Lot or Parcel upon which such use or
20 activity is conducted is liable and all of such Assessments
21 shall be secured by the Assessment Lien on such Owner's Lot or
22 Parcel.

23 ARTICLE XII

24 RIGHTS AND POWERS OF ASSOCIATION

25 12.1 Rights, Powers and Duties of the Association. In
26 addition to the rights and powers of the Association set forth
in this Declaration, the Association shall have such rights and
powers as are set forth in the Articles and Bylaws, together
with such rights and powers and duties as may be reasonably
necessary in order to effect all the objectives and purposes of
the Association as set forth herein. A copy of the Articles
and Bylaws shall be available for inspection at the office of
the Association during reasonable business hours.

12.2 Rules and Regulations. In addition to the right
to adopt, amend and repeal rules and regulations on the matters
expressly mentioned elsewhere in this Declaration, the
Association, acting through the Board, shall have the right to
adopt, amend and repeal rules and regulations with respect to
all other aspects of the Association's rights, activities and
duties, provided such rules and regulations are not inconsis-
tent with the provisions of this Declaration, the Articles, and
the Bylaws. Upon adoption, the Association Rules shall be
enforceable in the same manner as this Declaration and shall
have the same force and effect as if they were set forth in and
were a part of this Declaration.

1 **12.3 Association's Rights of Enforcement.** The
2 Association, as the agent and representative of the Owners,
3 shall have the right, but not the obligation, to enforce the
4 provisions of this Declaration. Further, any Owner (including
5 Declarant, so long as Declarant is an Owner) shall have the
6 right and authority, but not the obligation, to enforce the
7 provisions of this Declaration.

8 **12.4 Contracts with Others.** Subject to the restric-
9 tions and limitations contained herein, the Articles, the
10 Bylaws, and the laws of the State of Arizona, the Association
11 may enter into contracts with others, including Declarant and
12 Declarant's affiliated companies, and such contracts shall not
13 be invalidated by the fact that one or more directors or offi-
14 cers of the Association are employed by or otherwise affiliated
15 with Declarant or Declarant's affiliate, provided, however,
16 that the fact of such interest shall be previously disclosed or
17 made known to the other members of the Board acting upon such
18 contract or transaction and, provided further, that the trans-
19 action or contract is fair and reasonable. Notwithstanding the
20 foregoing, any management contract entered into by the
21 Association must be terminable, without penalty, by the
22 Association for cause at any time and without cause upon rea-
23 sonable notice. Any contract between the Association and
24 Declarant or Declarant's affiliates must be terminable by the
25 Association without penalty upon no more than 30 days notice.

26 **12.5 Procedure for Change of Use of Common Areas.** Upon
adoption of a resolution by the Board stating that the then
current use of a specified part of the Common Areas is no
longer in the best interests of the Owners and Occupants, and
the approval of such resolution by not less than two-thirds
(2/3) of the votes of each class of Members voting in person or
by proxy at a meeting duly called for such purpose, the Board
shall have the power and right to change the use thereof (and
in connection therewith to take whatever actions are required
to accommodate the new use), provided such new use: (a) also
shall be for the common benefit of the Owners and Occupants;
and (b) shall be consistent with any Recorded deed, Recorded
Tract Declaration, Recorded restrictions or zoning regulations.

12.6 Procedure for Transfers of Common Areas. The
Association shall have the right to dedicate or transfer all or
any part of the Common Areas to any public authority or utility
provided that:

12.6.1 such a transfer or dedication does not have
a substantial adverse effect on the enjoyment of the Common
Areas by the Owners and Occupants or on the easements and
licenses with respect to the Common Areas granted by this
Declaration to the Owners and Occupants;

1 12.6.2 it is required by a Recorded subdivision
2 plat, a zoning stipulation or an agreement with the County; and

3 12.6.3 so long as the Class B Membership shall not
4 have terminated, the transfer or dedication has been approved
5 by VA or FHA, as applicable, to the extent VA or FHA may be
6 involved in the Rancho Vistoso project.

7 Except as authorized above, the Association shall not make any
8 such dedication or transfer or change the size, shape or
9 location of the Common Areas, exchange the Common Areas for
10 other property or interests which become Common Areas, or abandon
11 or otherwise transfer Common Areas (to a nonpublic authority)
12 except upon: (a) the adoption of a resolution by the
13 Board stating that ownership and/or use of the relevant Common
14 Area is no longer in the best interests of the Owners and
15 Occupants, and that the change desired shall be for their benefit
16 and shall not substantially adversely affect them; (b) the
17 approval of such resolution by not less than two-thirds (2/3)
18 of the votes of each class of Members voting in Person or by
19 proxy at a meeting called for such purpose; and (c) approval of
20 the proposed action by VA or FHA, as applicable, to the extent
21 this Declaration has been mutually approved by VA or FHA.

22 ARTICLE XIII

23 TERM: AMENDMENTS: TERMINATION

24 13.1 Term: Method of Termination. This Declaration
25 shall be effective upon its Recordation and, as amended from
26 time to time, shall continue in full force and effect for a
term of 20 years from the date of its Recordation. Thereafter,
this Declaration (as amended from time to time) shall be automatically
extended for successive periods of 10 years each, unless there is an
affirmative vote to terminate this Declaration by the then Owners
casting 90% of the total votes then entitled to be cast at an election
held for such purpose within 6 months prior to the expiration of the
initial term hereof or any 10-year extension. In addition, this Declaration
may be terminated at any time if 90% of the votes then entitled to
be cast by each class of Members shall be cast in favor of termination
at an election held for such purpose. If the necessary votes and
consents are obtained, the Board shall Record a Certificate of
Termination, duly executed by the President or Vice President of the
Association and attested to by the Secretary of the Association.
Upon the Recording of the Certificate of Termination this Declaration
shall have no further force and effect and the Association thereupon
shall be dissolved in accordance with the terms of its Articles and
Bylaws and the laws of the State of Arizona.

1 13.2 Amendments. Until the first sale of a Lot within
2 the Covered Property to a Non-Developer Owner for use and occu-
3 pancy as a Dwelling Unit, this Declaration may be amended by
4 Recorded instrument duly executed by Declarant, without the
5 necessity of calling a meeting of Owners or obtaining the con-
6 sent of Owners. Thereafter, this Declaration may be amended
7 (either during the initial 20-year term or during any extension
8 thereof pursuant to Section 13.1 above) by Recording a
9 Certificate of Amendment, duly executed by the President or
10 Vice President of the Association, which Certificate of
11 Amendment shall set forth in full the text of the amendment
12 adopted, and, except as provided in Section 13.3, shall certify
13 that at an election duly called the Owners casting 75% of the
14 votes then entitled to be cast at the election voted
15 affirmatively for the adoption of the amendment. A Recorded
16 Tract Declaration may be amended at any time by a Recorded
17 instrument (or by counterpart instruments) executed by
18 Declarant and the Owners (other than Declarant, if Declarant is
19 an Owner of any Lot(s) or Parcel(s) subject to the Recorded
20 Tract Declaration) holding 75% of the Class A votes attribu-
21 able to all Lots and Parcels subject to the Recorded Tract
22 Declaration.

12 13.3 Right of Amendment if Requested by Governmental
13 Agency or Federally Chartered Lending Institution. Anything in
14 this Article to the contrary notwithstanding, Declarant
15 reserves the right to amend this Declaration or a Recorded
16 Tract Declaration as may be requested or required by the FHA,
17 VA or any other Agency with whom Declarant elects to do busi-
18 ness as a condition precedent to such Agency's approval of this
19 Declaration or an applicable Tract Declaration, or by any fed-
20 erally chartered lending institution as a condition precedent
21 to lending funds upon the security of any Lot or Parcel or pur-
22 chasing loans secured thereby. Any such amendment shall be
23 effected by Declarant Recording a Certificate of Amendment duly
24 executed and acknowledged by Declarant specifying the Agency or
25 the lending institution requesting the amendment and setting
26 forth the requested or required amendment(s). Recordation of
such a Certificate shall be deemed conclusive proof of the
Agency's or institution's request or requirement and such
Certificate, when Recorded, shall be binding upon all of the
Covered Property and all persons having an interest therein.
It is the desire of Declarant to retain control of the
Association and the Association's activities during the period
of planning and development of the Covered Property. If any
amendment requested or required pursuant to the provisions of
this Section deletes, diminishes or alters such control,
Declarant shall have the right to prepare, provide for and
adopt as an amendment hereto, other and different control pro-
visions which shall be binding upon the Covered Property and
Owners without a vote of the Owners. Except as provided in

1 this Section 13.3 Declarant shall not have any right to amend
2 this Declaration or a Recorded Tract Declaration otherwise than
3 in accordance with and pursuant to the provisions of
4 Section 13.2.

5 ARTICLE XIV

6 ANNEXATION OF ADDITIONAL PROPERTY

7 14.1 Annexation of Additional Property. Declarant may,
8 in its sole discretion, at any time and from time to time up to
9 the date which is seven (7) years after the date this
10 Declaration is Recorded, annex to the Covered Property the
11 Additional Property or any portion or portions thereof,
12 provided that the FHA or VA, as the case may be and to the
13 extent they or each of them may be involved with the Covered
14 Property, has determined that the annexation is in accordance
15 with the Master Development Plan (and subject to the written
16 consent of the owner of the portion or portions to be annexed,
17 if other than Declarant). To effect such annexation, a
18 Supplementary Declaration of Covenants, Conditions,
19 Restrictions and Easements, as described in Section 14.2,
20 covering the Additional Property (or the applicable portion or
21 portions thereof) shall be executed and Recorded by Declarant.
22 The Recordation of such Supplementary Declaration shall consti-
23 tute and effectuate the annexation of the Additional Property
24 (or the applicable portion or portions thereof) described
25 therein, making such Additional Property (or the applicable
26 portion or portions thereof) and the Owners and Occupants
thereof subject to this Declaration and the jurisdiction of the
Association. Except as provided in Section 14.3 below, any
annexation to the Covered Property of property not included
within the Additional Property shall require an amendment to
this Declaration pursuant to Section 13.2 above, provided that
such amendment must be approved by: (a) Owners holding two-
thirds (2/3) of all Class A votes; and (b) Declarant, so long
as the Class B Membership is in existence.

20 14.2 Supplementary Declarations. The annexations
21 authorized under Section 14.1 shall be made by Recording a
22 Supplementary Declaration of Covenants, Conditions,
23 Restrictions and Easements. A Supplementary Declaration may
24 contain such complementary additions to and modifications of
25 this Declaration as may be necessary to reflect the different
26 character, if any, of the Additional Property (or the applica-
ble portion or portions thereof). In no event, however, shall
any such Supplementary Declaration revoke or conflict with this
Declaration or any Recorded Tract Declaration. If so annexed,
Declarant shall be entitled to additional votes under
Section 7.3, in an amount equal to three votes for each "lot"
within the Additional Property (or the applicable portion or

1 portions thereof), as determined in accordance with Section
2 7.3.2 above and the Master Development Plan, and the Additional
3 Property (or applicable portion(s) thereof) shall thereupon
4 become fully a part of the Covered Property subject to all pro-
5 visions of this Declaration (including, but not limited to,
6 provisions hereof regarding Assessments). If the Class B
7 Membership shall have terminated prior to any such annexation
8 by reason of the occurrence of the event described in
9 subsection 7.3.2(x) above, and if the votes to which Declarant
10 would be entitled with respect to such annexed property pur-
11 suant to the preceding sentence, together with the other
12 Class B votes to which Declarant would be entitled under
13 Section 7.3.2 absent termination of the Class B votes, exceed
14 the total number of Class A votes then outstanding, Declarant's
15 Class E membership shall be reinstated until the earlier of the
16 events described in subsections 7.3.2(x) and 7.3.2(y).

9 14.3 Annexation and De-Annexation of Certain Property.

10 14.3.1 Prior to the Recordation of this
11 Declaration, Samcor, Inc., an Arizona non-profit corporation
12 ("Samcor"), has acquired from Declarant the real property
13 described on Exhibit "H" hereto (the "Samcor Property"), and
14 has obtained certain rights to exchange the Samcor Property for
15 the real property described on Exhibit "I" hereto (the
16 "Exchange Property"). As of the date of Recordation of this
17 Declaration, the Samcor Property is not a part of the Covered
18 Property, while the Exchange Property is part of the Covered
19 Property and subject to this Declaration. Declarant has, how-
20 ever, prior to the Recordation of this Declaration, Recorded
21 against the Samcor Property an instrument entitled "Tract
22 Declaration" imposing certain covenants, conditions and
23 restrictions upon the Samcor Property (the "Samcor
24 Declaration").

18 14.3.2 In the event Samcor exercises its right to
19 exchange the Samcor Property for the Exchange Property, with
20 the result that Samcor (or its permitted successor, if any)
21 acquires title to the Exchange Property and Declarant re-
22 acquires title to the Samcor Property, then: (a) at any time
23 within ninety (90) days after the date of Recordation of the
24 deed or other instrument conveying title to the Exchange
25 Property to Samcor, either Declarant or Samcor may, at their
26 respective option, execute and Record an instrument deleting
the Exchange Property from the Covered Property and thereby
removing the Exchange Property from the effect of this
Declaration; and (b) upon Recordation of the deed or other
instrument conveying title to the Samcor Property to
Declarant: (i) the Samcor Property shall be deemed to be a
part of the Additional Property annexable to the Covered
Property and to the effect of this Declaration at Declarant's

1 discretion in accordance with Section 14.1 above; and (ii)
2 Declarant shall thereafter have the option, in its sole discre-
tion, to revoke and rescind the Samcor Declaration by Recorded
instrument.

3 14.3.3 The Samcor Declaration provides, among
4 other things, that upon the occurrence of certain events, as
5 more particularly set forth in the Samcor Declaration,
6 Declarant and the then-owner of the Samcor Property shall:
7 (a) execute and Record an instrument annexing the Samcor
8 Property to the Covered Property and subjecting the Samcor
9 Property to this Declaration, and terminating the Samcor
10 Declaration; and (b) execute and Record a Tract Declaration
with respect to the Samcor Property establishing and describing
the Land Use Classification for the Samcor Property. The annex-
ation and other actions contemplated by this Subsection 14.3.3
shall be permitted notwithstanding any other provision of this
Article XIV (subject only to the determination by FHA or VA
contemplated by Section 14.1 above, if applicable).

11 ARTICLE XV

12 EMINENT DOMAIN AND INSURANCE INVOLVING 13 THE COMMON AREA

14 15.1 Eminent Domain. The term "Taking" as used in this
15 Section shall mean condemnation by eminent domain or sale under
16 threat of condemnation. In the event of a threatened Taking of
17 all or any portion of the Common Area, the Owners hereby
18 appoint the Board and such persons as the Board may delegate to
19 represent all of the Owners in connection with the Taking. The
20 Board shall act, in its sole discretion, with respect to any
21 awards made or to be made in connection with the Taking and
22 shall be entitled to make a voluntary sale to the condemnor in
lieu of engaging in a condemnation action. Any awards received
on account of the Taking shall be paid to the Association. In
the event of a total Taking, the Board may, in its sole discre-
tion, retain any award in the general funds of the Association
or distribute pro rata all or a portion thereof to the Owners,
(taking into account a reduction in the distribution to those
Owners paying reduced amounts for Assessments pursuant
therein), and all holders of liens and encumbrances, as their
interest may appear of Record.

23 15.2 Authority to Purchase Insurance. The Association
24 shall purchase and maintain such property damage and liability
25 insurance upon the Common Areas and such other insurance as the
26 Board, in its absolute discretion, may determine. The
Association shall be the named insured in all policies
providing such insurance. Neither the Association nor the
Board, nor any member of the Board or officer or agent of the

1 Association, shall be liable to any Person for failure of the
2 Association to secure and maintain any such insurance coverage
3 where such insurance coverage is not available in the State of
4 Arizona at a reasonable cost and on other reasonable terms and
5 conditions. Notwithstanding the foregoing, the Association
6 shall obtain and maintain at all times, at the Association's
7 expense, directors' and officers' liability insurance covering
8 all officers and directors of the Association, as well as all
9 regular and alternate members of the Architectural and
10 Landscaping Review Committee, in amounts and on terms adequate
11 to permit the Association to meet its obligations to indemnify
12 such persons pursuant to the Articles and Bylaws.

13 15.3 Individual Responsibility. It shall be the
14 responsibility of each Owner or Occupant to provide insurance
15 for himself on his real or personal property interests on or
16 within the Covered Property, including, but not limited to, his
17 additions and improvements thereto, furnishings and personal
18 property therein, his personal liability to the extent not cov-
19 ered by the property and public liability insurance, if any,
20 obtained by the Association. Each Owner and Occupant shall
21 also provide such other insurance which is not carried by the
22 Association as such Person desires. No Person shall maintain
23 any insurance which would limit or reduce in any manner the
24 insurance proceeds payable under the insurance maintained by
25 the Association in the event of damage to the improvements or
26 fixtures on the Common Areas. Neither the Association nor any
Board member nor Declarant shall be liable to any Person or
mortgagee if any risks or hazards are not covered by the insur-
ance obtained by the Association or if the amount of such
insurance is not adequate.

17 15.4 Insurance Claims. The Association is hereby
18 irrevocably appointed and authorized by the Owners to adjust
19 all claims arising under insurance policies purchased by the
20 Association and to execute and deliver releases upon the
21 payment of claims, and to do all other acts reasonably neces-
22 sary to accomplish any of the foregoing. The Board has full
23 and complete power to act for the Association in this regard
24 and may, at its discretion, appoint an authorized representa-
25 tive or committee, or enter into an insurance trust agreement
26 wherein the trustee shall have authority, to negotiate losses
under any policy purchased by the Association.

ARTICLE XVI

MISCELLANEOUS

25 16.1 Enforcement Rights. Each Owner (including
26 Declarant, so long as Declarant is an Owner) shall have the

1 right and authority, but not the obligation, to enforce the
2 provisions of this Declaration.

3 16.2 Interpretation of the Covenants. Except for judi-
4 cial construction and as hereinafter provided, the Association,
5 by its Board, shall have the exclusive right to construe and
6 interpret the provisions of this Declaration, including without
7 limitation, the land use restrictions in Article V hereof and
8 in any Recorded Tract Declarations. In the absence of any
9 adjudication to the contrary by a court of competent jurisdic-
10 tion, the Association's construction or interpretation of the
11 provisions hereof shall be final, conclusive and binding as to
12 all persons and property benefited or bound by this Declaration.

13 16.3 Severability. Any determination by any court of
14 competent jurisdiction that any provision of this Declaration
15 is invalid or unenforceable shall not affect the validity or
16 enforceability of any of the other provisions hereof.

17 16.4 Rule Against Perpetuities. If any of the
18 interests, privileges, covenants or rights created by this
19 Declaration shall be unlawful, void or voidable for violation
20 of the Rule against Perpetuities or any related rule, then such
21 provision shall continue until 21 years after the death of the
22 survivor of the now living descendants of the President of the
23 United States living on the date this Declaration is Recorded.

24 16.5 Change of Circumstances. Except as otherwise
25 expressly provided in this Declaration, no change of conditions
26 or circumstances shall operate to extinguish, terminate or
modify any of the provisions of this Declaration.

16.6 Declarant's Disclaimer of Representations.
Notwithstanding anything to the contrary herein, Declarant
makes no warranties or representations whatsoever that the
plans presently envisioned for the complete development of
Rancho Vastoso can or will be carried out, or that any real
property now owned or hereafter acquired by it is or will be
subjected to this Declaration, or that any such real property
(whether or not it has been subjected to this Declaration) is
or will be committed to or developed for a particular (or any)
use, or that if such real property is once used for a particu-
lar use, such use will continue in effect. While Declarant has
no reason to believe that any of the restrictive covenants con-
tained in this Declaration are or may be invalid or unenforce-
able for any reason or to any extent, Declarant makes no
warranty or representation as to the present or future validity
or enforceability of any such restrictive covenant. Any Owner
acquiring a Lot or Parcel in reliance on one or more of such
restrictive covenants shall assume all risks of the validity

1 and enforceability thereof and by accepting a deed to the Lot
2 or Parcel agrees to hold Declarant harmless therefrom.

3 16.7 Successors and Assigns. Any reference in this
4 Declaration to Declarant shall include any successors or
5 assignees of Declarant's rights and powers hereunder. Any such
6 assignment shall be evidenced by a Recorded instrument executed
7 by Declarant and its successor or assignee.

8 16.8 Gender and Number. Wherever the context of this
9 Declaration so requires, words used in the masculine gender
10 shall include the feminine and neuter genders; words used in
11 the neuter gender shall include the masculine and feminine
12 genders. Words in the singular shall include the plural; and
13 words in the plural shall include the singular.

14 16.9 Captions. All captions, titles or headings of the
15 Articles and Sections in this Declaration are for the purpose
16 of reference and convenience only and are not to be deemed to
17 limit, modify or otherwise affect any of the provisions hereof
18 or to be used in determining the intent or context thereof.

19 16.10 Notices. If notice of any action or proposed
20 action by the Board or any committee or of any meeting is
21 required by applicable law, this Declaration or any resolution
22 of the Board to be given to any Owner or Resident then, unless
23 otherwise specified herein or in the resolution of the Board,
24 such notice requirement shall be deemed satisfied if notice of
25 such action or meeting is published once in any newspaper in
26 general circulation within the County. This Section shall not
be construed to require that any notice be given if not other-
wise required and shall not prohibit satisfaction of any notice
requirement in any other manner.

16.11 FHA/VA Approval. If this Declaration has been
initially approved by the FHA or the VA in connection with any
loan programs made available by FHA or VA in regard to the
Covered Property, then for so long as there is a Class B Member
of the Association, the following actions will require the
prior approval of the FHA or the VA, as applicable, unless the
need for such approval has been waived by FHA or VA:
dedications or other changes in configuration or use of Common
Areas (except where such dedication or change is required as of
the date hereof by the County); and amendments of this
Declaration.

16.12 Supplementation Rights. In furtherance of the
orderly sale and development of Parce's within the Covered
Property, and of the protection and enhancement of the value of
the Covered Property generally, Declarant shall have the right,
power and authority (but not the obligation), where in

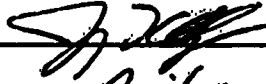
1 Declarant's discretion the circumstances so warrant and the
2 resulting development will be generally consistent with the
3 Master Development Plan, to execute with the purchaser of any
4 Parcel, prior to or concurrently with the sale of such Parcel
5 to such purchaser, a supplement to this Declaration qualifying
6 or limiting the application to such Parcel of, or entirely
7 excepting such Parcel from the coverage of, any or all of the
8 restrictions, limitations or other provisions included in
9 Article IV and Sections 5.2, 5.3 and 5.4 of this Declaration.
10 No such supplement shall exempt any Parcel or its Owner (or any
11 Lots into which such Parcel is divided, or the respective
12 Owners thereof) from the obligations to pay Assessments here-
13 under or from the Assessment Lien or deprive such Parcel or its
14 Owner (or any Lots into which such Parcel is divided, or the
15 respective Owners thereof) of membership and voting rights
16 otherwise established by this Declaration. Such supplements
17 shall be Recorded and shall be binding upon Declarant, the
18 Association, the Architectural and Landscaping Review Committee
19 and each Owner and Occupant (including the Owner and each
20 Occupant of the Parcel referenced in such supplement, or of any
21 Lot into which such Parcel is subdivided). Declarant shall
22 deliver a true and complete copy of any such supplement to the
23 Association within a reasonable time after Recordation thereof
24 (or, if the Association shall not yet have been formed, after
25 formation of the Association). Notwithstanding provisions of
26 this Declaration stating that in the event of any conflict or
inconsistency between this Declaration and any supplement,
Tract Declaration or other such instrument this Declaration
governs, in the event of any conflict or inconsistency between
this Declaration and a supplement executed pursuant to this
Section 16.12, such supplement shall govern as to the Parcel
referenced therein. Further, notwithstanding anything in this
Section 16.12 to the contrary, no supplement adopted pursuant
to this Section with respect to a Parcel restricted by a
Recorded Tract Declaration to any of the following Land Use
Classifications shall be effective unless approved by the VA or
the FHA (but only if this Declaration has been initially
approved by the FHA or VA): Single Family Residential,
Residential Condominium Development or Cluster Residential.

21 16.13 Water Rights. The Association shall have the
22 right to receive all water which any Lot or Parcel, or the
23 Owner thereof, is entitled to receive from any irrigation dis-
24 trict serving such Lot or Parcel. The Association shall use
25 such water for maintaining the Common Areas and for other
26 appropriate uses for the benefit of the Owners and Occupants
generally. Each Owner shall execute any assignments or
instructions as the Association or any irrigation district may
request in order to maintain, increase or obtain allocations of
water to which such Owner's Lot or Parcel is entitled and to
enable the Association to receive all water which is at any

1 time allocated to the Lot or Parcel. The right to receive such
2 water from an irrigation district is and shall remain appurte-
3 nant to the Lot or Parcel. Declarant, for each Lot or Parcel
4 and any portion thereof, covenants and agrees and each Owner by
5 acceptance of a deed therefor is deemed to covenant and agree
6 that the irrigation district shall have no obligation or duty
7 to construct or in any way provide ditches for water delivery,
8 regardless of the then current use of the Lot or Parcel. The
9 Association shall pay any and all assessments and charges made
10 by the irrigation district for the delivery and use of water to
11 which the Lot or Parcel is entitled when used by the
12 Association for maintaining the Common Areas and for other
13 appropriate uses for the benefit of the Owners and Occupants
14 generally. Notwithstanding the foregoing, any Owner has the
15 right to require direct delivery of water to which his, her or
16 its land is entitled from any such irrigation district. In the
17 event an Owner requires direct delivery, such Owner, and not
18 the Association, shall bear any and all expenses associated
19 with direct delivery, including, but not limited to, the con-
20 struction and installation of a delivery system and all future
21 assessments and charges for the delivery and use by such Owner
22 of water to which his, her or its land is entitled.

23 IN WITNESS WHEREOF, Declarant has caused this
24 Declaration to be duly executed.

25 WOLFSWINKEL GROUP, INC., an Arizona
26 corporation

By 
Its President

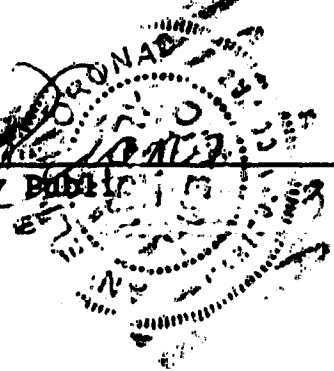
19 STATE OF ARIZONA)
20) ss.
21 County of Maricopa)

22 On this 22nd day of April, 1987, before me, the
23 undersigned officer, personally appeared Jay Ellingson
24 President, who acknowledged himself to be the
25 President of WOLFSWINKEL GROUP, INC., an Arizona corpora-
26 tion, and that he, in such capacity, being authorized so to do,

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executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself.

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

Angelina
Notary Public


My Commission Expires:
My Commission Expires Sept. 2, 1989

CONSENT AND APPROVAL OF LENDER

The undersigned Lender, which is the Beneficiary of that certain Deed of Trust and Assignment of Rents, dated August 27, 1986, by Declarant as Trustor, recorded at Docket 7852, Page 1603-1645, as re-recorded at Docket 7897, Page 1305 in the Records of the Pima County Recorder, as amended by that certain First Amendment to Deed of Trust, dated December 31, 1986, by Declarant as Trustor, recorded at Docket 7942, Page 2129 in the Records of the Pima County Recorder (collectively referred to as the "Deed of Trust"), as a first lien on the property described in Exhibit "B" hereto, for and on behalf of itself and its successors and assigns, hereby consents to and approves the foregoing Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso (the "Declaration"), and agrees that its lien and all rights it may have with respect to the property described are subject and subordinate to Declaration; provided, however, that this consent and approval shall not constitute a subordination of the lien of the Deed of Trust to any lien or charge created or arising pursuant to the terms of the foregoing Declaration including, without limitation, Articles VIII and IX of the Declaration.

Dated as of the 23rd day of April, 1987.

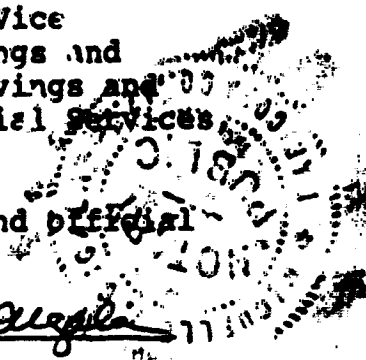
LINCOLN SAVINGS AND LOAN ASSOCIATION, a California state chartered savings and loan association, dba American Continental Financial Services, Inc.

By: [Signature] Itsy [Signature] President

STATE OF ARIZONA)) ss. County of Maricopa)

The forgoing instrument was acknowledged before me this 23rd day of April, 1987, by Jeffrey Erhart, the Vice President and Assistant Secretary of Lincoln Savings and Loan Association, a California state chartered savings and loan association, dba American Continental Financial Services Inc.

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



[Signature] Notary Public

My commission expires: 5/3/87

ANNEXABLE PROPERTY



KEY MAP

LEGEND

RESIDENTIAL		CIRCULATION	
1.00	Single-Family Residential	1.00	Major Arterial
2.00	Medium-Density Residential	2.00	Minor Arterial
3.00	High-Density Residential	3.00	Local Street
4.00	Mobile Home Residential	4.00	Other
SERVICE EMPLOYMENT		UTILITIES	
1.00	General Service	1.00	Water
2.00	Professional Office	2.00	Sewer
3.00	Business Office	3.00	Gas
4.00	Public Office	4.00	Electric
OPEN SPACE		Other	
1.00	Open Space	1.00	Other
2.00	Open Space	2.00	Other
3.00	Open Space	3.00	Other

LAND USE PLAN
GENERAL DEVELOPMENT PLAN

Rancho Vistoso
Master Planned Community

Pima County, Arizona

DEVELOPED BY
WILLIAMS CONSULTING GROUP, INC.
1111 N. 1ST AVENUE, SUITE 100
TUCSON, ARIZONA 85702

DESIGNED BY
E.W.L.B.
2001 W. WILSON AVENUE
TUCSON, ARIZONA 85702

PLANNED BY
LANGE DAVID ASSOCIATES
1111 N. 1ST AVENUE, SUITE 100
TUCSON, ARIZONA 85702



LEGAL DESCRIPTION
RANCHO VISTOSO

That portion of Sections 25 and 36, Township 11 South, Range 13 East, and Sections 29, 30, 31 and 32, Township 11 South, Range 14 East, G. & S.R.B. & M., Pima County, Arizona, described as follows:

COMMENCING at the Southwest corner of the said Section 36;

THENCE N 00°02'10" W, along the West line of the said Section 36, a distance of 150.00 feet to the POINT OF BEGINNING;

THENCE N 00°02'10" W, along the said West line, a distance of 2,487.13 feet to the West One-Quarter (W 1/4) corner;

THENCE N 00°01'56" W, along the said West line, a distance of 2,608.81 feet to a line 30.00 feet south of and parallel with the North line of the said Section 36;

THENCE N 89°48'48" E, along the said parallel line, a distance of 75.00 feet;

THENCE N 00°01'56" W, 30.00 feet to the said North line;

THENCE N 89°48'48" E, along the said North line, a distance of 452.00 feet to a point of curvature of a tangent curve, concave to the North;

THENCE Easterly, along the arc of said curve, to the left, having a radius of 2,000.00 feet and a central angle of 031°57'55" for an arc distance of 1,115.80 feet to a point of tangency;

THENCE N 57°50'53" E, 346.73 feet to a point of curvature of a tangent curve, concave to the Northwest;

THENCE Northeasterly, along the arc of said curve, to the left, having a radius of 500.00 feet and a central angle of 046°30'00" for an arc distance of 405.79 feet to a point of tangency;

THENCE N 11°20'53" E, 458.89 feet to a point of curvature of a tangent curve, concave to the Southeast;

THENCE Northeasterly, along the arc of said curve, to the right, having a radius of 500.00 feet and a central angle of 046°30'00" for an arc distance of 405.79 feet to a point of tangency;

THENCE N 57°50'53" E, 675.00 feet to a point of curvature of a tangent curve, concave to the Northwest;



THENCE Northeasterly, along the arc of said curve, to the left, having a radius of 450.00 feet and a central angle of $065^{\circ}30'00''$ for an arc distance of 514.44 feet to a point of tangency;

THENCE $N 07^{\circ}39'07'' W$, 290.00 feet to a point of curvature of a tangent curve, concave to the East;

THENCE Northerly, along the arc of said curve, to the right, having a radius of 450.00 feet and a central angle of $045^{\circ}00'00''$ for an arc distance of 353.43 feet to a point of tangency;

THENCE $N 37^{\circ}20'53'' E$, 660.54 feet to a point of curvature of a tangent curve, concave to the West;

THENCE Northerly, along the arc of said curve, to the left, having a radius of 500.00 feet and a central angle of $036^{\circ}27'22''$ for an arc distance of 318.14 feet to a point of tangency;

THENCE $N 00^{\circ}53'31'' E$, 248.56 feet to a point of curvature of a tangent curve, concave to the Southeast;

THENCE Northeasterly, along the arc of said curve, to the right, having a radius of 500.00 feet and a central angle of $054^{\circ}18'00''$ for an arc distance of 473.86 feet to a point of tangency;

THENCE $N 55^{\circ}11'31'' E$, 1,245.00 feet to a point of curvature of a tangent curve, concave to the South;

THENCE Easterly and Southeasterly, along the arc of said curve, to the right, having a radius of 500.00 feet and a central angle of $111^{\circ}00'00''$ for an arc distance of 968.66 feet to a point of tangency;

THENCE $S 13^{\circ}48'29'' E$, 250.00 feet to a point of curvature of a tangent curve, concave to the Northeast;

THENCE Southeasterly, along the arc of said curve, to the left, having a radius of 500.00 feet and a central angle of $054^{\circ}37'00''$ for an arc distance of 476.62 feet to a point of tangency;

THENCE $S 68^{\circ}25'29'' E$, 330.00 feet to a point of curvature of a tangent curve, concave to the Southwest;

THENCE Southeasterly, along the arc of said curve, to the right, having a radius of 2,125.00 feet and a central angle of $017^{\circ}28'00''$ for an arc distance of 647.81 feet to a point of tangency;



THENCE S 50°57'29" E, 425.00 feet to a point of curvature of a tangent curve, concave to the Northeast;

THENCE Southeasterly, along the arc of said curve, to the left, having a radius of 1,600.00 feet and a central angle of 024°00'00" for an arc distance of 670.21 feet to a point of tangency;

THENCE S 74°57'29" E, 675.00 feet to a point of curvature of a tangent curve, concave to the Northwest;

THENCE Northeasterly, along the arc of said curve, to the left, having a radius of 965.00 feet and a central angle of 079°30'00" for an arc distance of 1,338.97 feet to a point of tangency;

THENCE N 25°32'31" E, 650.00 feet to a point of curvature of a tangent curve, concave to the Southeast;

THENCE Northeasterly, along the arc of said curve, to the right, having a radius of 500.00 feet and a central angle of 033°00'00" for an arc distance of 287.98 feet to a point of tangency;

THENCE N 58°32'31" E, 149.66 feet to the Southwesterly line of that parcel recorded in Pocket 7761 at Page 1525, Pima County Recorder's Office, Pima County, Arizona;

THENCE S 35°00'33" E, along the said line, a distance of 272.33 feet to an angle point;

THENCE N 56°35'53" E, along the Southeasterly line of the said Parcel, a distance of 16.68 feet to a point on the arc of a non-tangent curve, concave to the Southwest, a radial line of said curve through said point having a bearing of N 61°24'55" E;

THENCE Southeasterly, along the arc of said curve, to the right, having a radius of 5,410.77 feet and a central angle of 001°24'31" for an arc distance of 133.03 feet to a point of tangency;

THENCE S 27°10'33" E, 1,274.36 feet to a point of curvature of a tangent curve, concave to the Southwest;

THENCE Southeasterly, along the arc of said curve, to the right, having a radius of 6,745.93 feet and a central angle of 006°18'00" for an arc distance of 741.75 feet to a point of tangency;



THENCE S 20°52'33" E, 756.34 feet to a point of curvature of a tangent curve, concave to the Northeast;

THENCE Southeasterly, along the arc of said curve, to the left, having a radius of 1,575.00 feet and a central angle of 068°25'28" for an arc distance of 1,880.92 feet to a point of tangency;

THENCE S 89°18'01" E, 453.83 feet to the West right-of-way line of Oracle Road (U.S. Highway 89);

THENCE S 00°41'59" W, along the said right-of-way line, a distance of 2,965.51 feet to a point of curvature of a tangent curve, concave to the West;

THENCE Southerly, along the said right-of-way line, along the arc of said curve, to the right, having a radius of 7,539.44 feet and a central angle of 009°25'49" for an arc distance of 1,240.93 feet to the North right-of-way line of Tangerine Road as described in Resolution No. 1926-72 recorded in Docket 7786 at Page 966;

THENCE along the said right-of-way line the following course and distances;

N 78°43'48" W, 305.80 feet to a point of curvature of a tangent curve, concave to the South;

Westerly, along the arc of said curve, to the left, having a radius of 1,677.89 feet and a central angle of 036°05'08" for an arc distance of 1,056.76 feet to a point of tangency;

S 65°11'04" W, 496.74 feet to a point of curvature of a tangent curve, concave to the North;

Westerly, along the arc of said curve, to the right, having a radius of 1,377.89 feet and a central angle of 033°56'00" for an arc distance of 816.05 feet to a point of tangency;

N 80°52'56" W, 731.49 feet to a point of curvature of a tangent curve, concave to the South;

Westerly, along the arc of said curve, to the left, having a radius of 3,969.72 feet and a central angle of 027°35'24" for an arc distance of 1,911.56 feet to a point of tangency;



S 71°31'40" W, 1,149.11 feet to a point of curvature of a tangent curve, concave to the Southeast;

Southwesterly, along the arc of said curve, to the left, having a radius of 2,441.83 feet and a central angle of 014°44'50" for an arc distance of 628.50 feet to a point of tangency;

S 56°46'50" W, 318.11 feet;

THENCE N 26°17'53" W, 50.34 feet to a point of curvature of a tangent curve, concave to the Southwest;

THENCE Northwesterly, along the arc of said curve, to the left, having a radius of 720.00 feet and a central angle of 017°27'28" for an arc distance of 219.38 feet to a point of tangency;

THENCE N 43°45'21" W, 154.94 feet;

THENCE S 43°43'51" W, 445.41 feet;

THENCE S 84°46'30" W, a distance of 576.55 feet to a point on the arc of a non-tangent curve, concave to the West, a radial line of said curve through said point having a bearing of N 71°32'50" E;

THENCE Southerly, along the arc of said curve, to the right, having a radius of 1,150.00 feet and a central angle of 011°26'34" for an arc distance of 229.67 feet to the said North right-of-way line of Tangerine Road;

THENCE S 83°52'21" W, 2,333.07 feet to the East line of that Parcel recorded in Docket 6745 at Page 608;

THENCE N 15°47'24" E, along the said East line, a distance of 451.41 feet to the Northeast corner;

THENCE N 89°59'31" W, along the North line, a distance of 737.58 feet to the Northwest corner;

THENCE S 00°00'29" W, along the West line, a distance of 435.00 feet to the said North right-of-way line of Tangerine Road;

THENCE along the said right-of-way line, the following courses and distances;



N 89°59'31" W, 54.03 feet to a point of curvature of a tangent curve, concave to the South;

Westerly, along the arc of said curve, to the left, having a radius of 11,609.16 feet and a central angle of 003°26'22" for an arc distance of 696.88 feet to a point of tangency;

S 86°34'07" W, 562.07 feet to a point of curvature of a tangent curve, concave to the North;

Westerly, along the arc of said curve, to the right, having a radius of 11,309.16 feet and a central angle of 003°26'22" for an arc distance of 678.87 feet to a point of tangency;

N 89°59'31" W, 281.15 feet to the POINT OF BEGINNING.

EXCEPT that portion of the said Sections 25 and 36 described as follows:

COMMENCING at the Northwest corner of the said Section 36;

THENCE N 89°48'48" E, along the North line of the said Section 36, a distance of 2,120.73 feet to the POINT OF BEGINNING;

THENCE S 00°00'00" E, 644.47 feet;

THENCE S 90°00'00" E, 675.00 feet;

THENCE N 00°00'00" W, 1,067.41 feet;

THENCE S 32°37'09" W, 189.84 feet to a point of curvature of a tangent curve, concave to the Northwest;

THENCE Southwesterly, along the arc of said curve, to the right, having a radius of 570.00 feet and a central angle of 057°11'39" for an arc distance of 568.99 feet to a point of tangency on the North line of the said Section 36;

THENCE S 89°48'48" W, along the said North line, a distance of 94.43 feet to the POINT OF BEGINNING.

and EXCEPT that portion of Section 31, Township 11 South, Range 14 East, G. & S.R.B. & M., Pima County, Arizona, described as follows:

COMMENCING at the Southeast corner of the said Section 31;



THENCE N 00°00'48" E, along the East line of the said Section 31, a distance of 1,427.60 feet to the North right-of-way line of Tangerine Road recorded in Docket 7786 at Page 966 Pima County Recorder's Office, Pima County, Arizona;

THENCE N 80°52'56" W, along the said right-of-way line, a distance of 385.74 feet to a point of curvature of a tangent curve, concave to the South;

THENCE Westerly, along the said right-of-way line, along the arc of said curve, to the left, having a radius of 3,969.72 feet and a central angle of 007°21'14" for an arc distance of 509.51 feet to the POINT OF BEGINNING;

THENCE Westerly, along the said right-of-way line, along the arc of said curve, to the left, having a radius of 3,969.72 feet and a central angle of 020°14'10" for an arc distance of 1,402.05 feet to a point on the arc of a non-tangent curve, concave to the East, a radial line of said curve through said point having a bearing of S 71°31'40" W;

THENCE Northerly, along the arc of said curve, to the right, having a radius of 2,370.00 feet and a central angle of 018°29'08" for an arc distance of 764.64 feet to a point of tangency;

THENCE N 00°00'48" E, 426.58 feet;

THENCE S 89°33'39" E, 1,382.04 feet;

THENCE S 18°30'00" E, 243.29 feet to a point of curvature of a tangent curve, concave to the West;

THENCE Southerly, along the arc of said curve, to the right, having a radius of 1,525.00 feet and a central angle of 021°41'54" for an arc distance of 577.53 feet to a point of tangency;

THENCE S 03°11'54" W, 141.75 feet to a point of curvature of a tangent curve, concave to the Northwest;

THENCE Southwesterly, along the arc of said curve, to the right, having a radius of 25.00 feet and a central angle of 088°33'56" for an arc distance of 38.64 feet to the POINT OF BEGINNING.

EXCEPT the following described parcel:

COMMENCING at the Southeast corner of the said Section 31;



THENCE N 00°00'48" E, along the East line of the said Section 31,
a distance of 2,329.41 feet;

THENCE N 89°59'12" W, 1,756.88 feet to the POINT OF BEGINNING;

THENCE N 89°59'12" W, 50.00 feet;

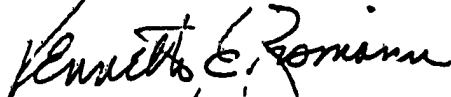
THENCE N 00°00'48" E, 50.00 feet;

THENCE S 89°59'12" E, 50.00 feet;

THENCE S 00°00'48" W, 50.00 feet to the POINT OF BEGINNING.

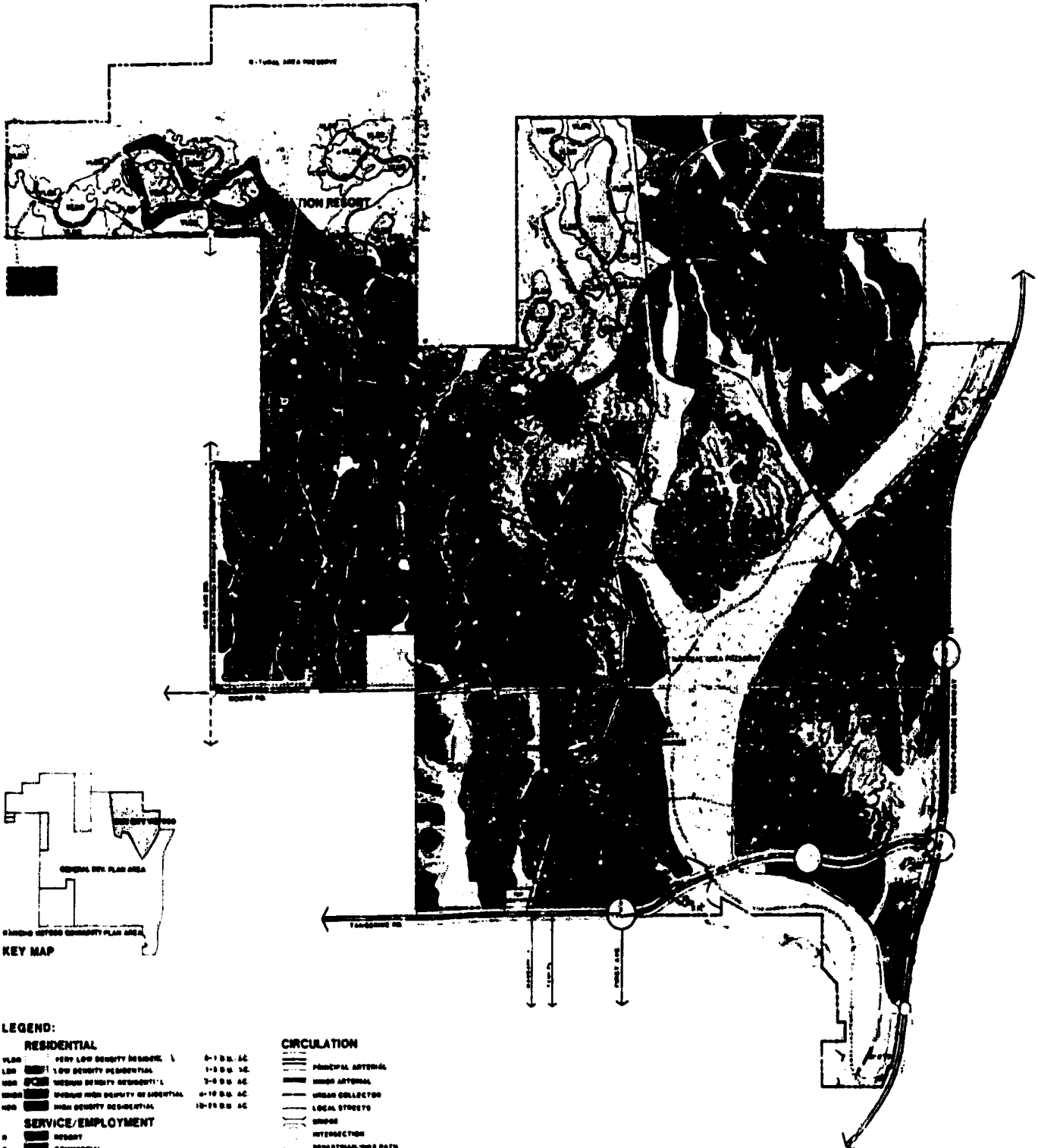
Prepared by:

THE WLB GROUP


Kenneth E. Zismann, R.L.S.



8021 1010



LEGEND:

- | RESIDENTIAL | | CIRCULATION |
|--------------------|--|---------------------|
| PLAN | VERY LOW DENSITY RESIDENTIAL 0-1 D.U. AC | |
| LDN | LOW DENSITY RESIDENTIAL 1-9 D.U. AC | PRINCIPAL ARTERIAL |
| MDN | MEDIUM DENSITY RESIDENTIAL 1-10 D.U. AC | MAJOR ARTERIAL |
| HDN | HIGH DENSITY RESIDENTIAL 10-20 D.U. AC | URBAN COLLECTOR |
| SERVICE/EMPLOYMENT | | LOCAL STREETS |
| R | RESORT | BIPODE |
| C | COMMERCIAL | INTERSECTION |
| E | CULTURAL/INSTITUTIONAL | PEDESTRIAN USE PATH |
| B | BUSINESS OFFICE/RESEARCH | EQUESTRIAN TRAIL |
| U | UTILITIES | |
| CH | CHURCH | |
| OPEN SPACE | | |
| OS | DEVELOPED | |
| OS | UNDEVELOPED | |

**LAND USE PLAN
GENERAL DEVELOPMENT PLAN**

Rancho Vistoso
Master Planned Community

Pima County, Arizona

<p>DEVELOPED BY: AMERICAN CONTINENTAL CORPORATION 2775 EAST CAMELBACK RD PHOENIX, ARIZONA 85016 (602) 957-2000</p>	<p>ENGINEERING: E. WLB 4400 S. BROADWAY TUCSON, ARIZONA 85710 (602) 881-7778</p>	<p>PLANNING: GAGE DAVIS ASSOCIATES PLANNING AND LANDSCAPE ARCHITECTURE ARCHITECTURE AND URBAN DESIGN 210 SOUTH STREET TUCSON, ARIZONA 85701 (602) 400-1130</p>
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DATE: DECEMBER 10, 1988
SCALE: 1" = 500'

EXHIBIT "D"

COMMERCIAL OFFICE USES

1. Bank
2. Messenger office
3. Newspaper office
4. Office: Business, professional or semi-professional

EXHIBIT "E"

GENERAL COMMERCIAL USE

1. Addressographing
2. Adjuster, insurance
3. Administrative, engineering, scientific research and development, design facility, and fabrication as may be necessary in connection therewith
4. Advertising sign or structure
5. Ambulance service
6. Amusement or recreational enterprise (within a completely enclosed structure), including:
 - a. Bowling alley
 - b. Gymnasium
 - c. Mechanical or electronic games arcade
 - d. Penny arcade or shooting gallery
 - e. Skating rink
 - f. Sports arena
7. Amusement or recreational enterprise (outdoor), including:
 - a. Archery range
 - b. Baseball batting cage
 - c. Miniature golf or practice driving or putting range
 - d. Swimming pool
 - e. Tennis court
8. Antique store
9. Apparel store
10. Appliance store
11. Art or drawing supply store
12. Art needlework
13. Art store or gallery
14. Auditorium or assembly hall

15. Auto parking lot (within or without a building), so long as the same is incidental or accessory to another permitted use
16. Automobile accessories, parts and supplies (retail sales)
17. Automobile lubrication and oil change operation in conjunction with a department store
18. Automobile tires, batteries and accessories installation in conjunction with a department store
19. Baby shop
20. Bakery
21. Bank
22. Barber
23. Bathroom accessories (retail sales)
24. Beauty shop
25. Beverage bottling plant
26. Bicycle shop
27. Blueprinting
28. Burglar alarm service
29. Cafe or lunchroom
30. Candy shop
31. Canvas goods (retail sales)
32. Catering service
33. Child care center
34. Cleaning, dyeing, laundry agency
35. Clothing (retail sales)
36. Club: Athletic, private, social, sport or recreational, except sports stadium or field
37. Cocktail lounge

38. College or governmental structure
39. Commercial stable
40. Community service agency
41. Confectionery store
42. Convention facilities, such as conference and banquet rooms
43. Crockery sales (retail)
44. Custom dressmaking, millinery, hemstitching or pleating
45. Custom weaving or mending
46. Dealers in coins, stamps or similar collector's items
47. Delicatessen
48. Dental laboratory
49. Department store
50. Drapery shop
51. Driving school
52. Drug store
53. Dry goods or notions store
54. Duplicating, mimeographing, multigraphing
55. Engraving, photo-engraving
56. Equestrian facilities
57. Fitness and exercise centers
58. Floor covering store (retail sales)
59. Florist shop
60. Frozen food locker
61. Fruit or vegetable store
62. Furniture store
63. Game courts such as tennis and racquetball

64. Gasoline service station (incidental repairing only)
65. Gift, curio, hobby or novelty shop
66. Glass shop, custom
67. Grocery market
68. Gymnasium
69. Handyman shop
70. Hardware store
71. Health food store
72. Hotel, motel, lodge or inn (collectively referred to as hotel) and customary accessory facilities including, but not limited to, cocktail lounge, restaurant, gift shop, barber shop, beauty shop and newsstands (collectively referred to as accessory uses), provided such accessory uses are a part of the hotel
73. House furnishing store
74. Ice cream store
75. Interior decorator
76. Jewelry and watch repair
77. Jewelry store
78. Laundry and dry cleaning units
79. Laundry, cleaning or dyeing works
80. Lawnmowing sales and repair
81. Leather goods store
82. Library or museum
83. Light manufacturing or assembling incidental to retail sales from the premises
84. Liquor store
85. Locksmith
86. Lumber, retail sales

87. Major resort
88. Meat, fish or poultry market
89. Medical laboratory
90. Merchandise broker's display: Wholesale
91. Mini-storage facility
92. Motorcycle or motor scooter sales, repair or storage
93. Music, phonograph, radio or television store
94. Office supplies (retail sales)
95. Optical goods (manufacturing and sales)
96. Orthopedic appliances
97. Oxygen equipment (rental or distribution)
98. Pet grooming
99. Pet shop
100. Photograph studio
101. Photographic supply store
102. Piano (retail sales and repair)
103. Picture frame shop
104. Plant nursery
105. Playground or athletic field
106. Plumbing (retail custom)
107. Printing or publishing
108. Private preschool or elementary school
109. Record recording studio or sound score production
110. Reducing salon
111. Refreshment stand
112. Refrigeration installation or service

113. Repair of light sheet-metal products, miscellaneous small parts, novelties, toys and merchandise
114. Restaurants
115. Safe depository
116. School: Dramatic, gymnastic, handicraft, insurance, painting, real estate, sculpture or stenographic
117. Self-service carwash
118. Self-service laundry or coin-operated dry cleaning establishment
119. Shoe repair store
120. Sign painting shop
121. Sporting goods, hunting and fishing equipment store
122. Stationery store
123. Tailor shop
124. Taxicab stand
125. Taxidermist
126. Tire Store
127. Tool or cutlery sharpening
128. Toy or hobby shop
129. Travel bureau
130. Upholstery shop
131. Veterinary hospital
132. Wallpaper sales, paper hanging
133. Water, telephone or telegraph distribution installation or electrical receiving or distribution station (within or without a building)

EXHIBIT "F"

INDUSTRIAL PARK USE

1. Administrative, clerical, sales or professional offices
2. Apparel (clothing and other products manufactured from textiles)
3. Assembly of electrical appliances: Radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders and the like
4. Banking or financial facilities
5. Beverage bottling plant
6. Blacksmith and welding shop or machine shop (excluding punch presses over twenty tons rated capacity, and drop hammers), foundry casting lightweight nonferrous metals not causing noxious fumes or odors
7. Carpet and rug cleaning
8. Child care center
9. Distribution plant
10. Hotel, motel, lodge or inn (collectively referred to as hotel) and customary accessory facilities, but not limited to, cocktail lounge, restaurant, gift shop, barber shop, beauty shop and newsstands (collectively referred to as accessory uses), provided such accessory uses are a part of the hotel
11. Ice and cold storage plant
12. Ink mixing and packaging and inked ribbons
13. Laboratories: Photo, medical, dental, research, experimental and testing
14. Laundry, cleaning or dyeing works
15. Manufacture of:
 - a. Cameras and other photographic equipment and supplies
 - b. Dentures and drugs
 - c. Jewelry

- d. Leather products: Including shoes and machine belting (excluding tanning)
 - e. Luggage
 - f. Musical instruments
 - g. Orthopedic and medical supplies
 - h. Small paper products
 - i. Plastic products: But not including the processing of the raw material
 - j. Precision instruments (such as optical, medical and drafting)
 - k. Silverware, plate and sterling
 - l. Sporting and athletic equipment
 - m. Toys
16. Manufacture and assembly of electrical and electronic products
17. Manufacture and packaging of beverage products
18. Manufacture and service of data systems
19. Manufacture, compounding, processing, packaging or treatment of: Bakery goods, candy, cosmetics, dairy products, drugs and pharmaceutical products, perfumes, soap (cold process only), and food products, except fish or meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils
20. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: Bone, broom corn, cellphane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair or bristles, horn, leather, paper, plastics or plastic products, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, (paraffin, tallow, etc.), wood (excluding sawmill or planing mill), yarns, paint (not employing a boiling process)
21. Manufacture and maintenance of: Electric and neon signs, billboards, commercial advertising structures and displays, light sheet metal products, including heating or cooling, and ventilating ducts and equipment, cornices, eaves and the like
22. Manufacture of: Glass, pottery or other similar ceramic products (using only previously prepared sand or pulverized clay, and kilns fired only by electricity or gas), concrete or cement products, musical instruments, toys, novelties, rubber or metal stamps
23. Motion picture production and television broadcast studios

24. Printing, newspaper publishing and binding: Including engraving and photo-engraving
25. Recreational facilities
26. Restaurant facilities
27. Soap and detergent (packaging only)
28. Storage building or warehouse
29. Veterinary or cat or dog hospital or kennels
30. Warehousing (not including dead vehicle storage)
31. Wholesale business and storage

EXHIBIT "G"

HOSPITAL AND HEALTH CARE USE

Hospital and Health Care Use shall mean use of a Parcel or a Lot for a "hospital" or "health care institution" and uses necessary and incidental thereto. As used herein, "hospital" or "health care institution" shall be an institution for the diagnosis, care, treatment or rehabilitation of two or more unrelated persons suffering from illness, injury or deformity, or for the rendering of obstetrical, surgical or other professional medical care including care rendered in the event of an emergency, on a non-profit or not-for-profit basis, and including the operation of outpatient clinics, medical testing facilities and offices of physicians, staff and other hospital administrators (the "Primary Use"). The services proved by a "hospital" or "health care institution" shall include the services incidental to the Primary Use, including, but not limited to administrative and other support services; nursing services; surgical services; dietary services; emergency services; disaster preparedness; environmental services; medical record services; laboratory services; pharmaceutical services; rehabilitation services; radiology services; respiratory care services; special care unit; obstetrical services; pediatric services; ambulance service; medical offices; parking lots and/or parking garages; child care facility; dental laboratory; fitness center; medical laboratory; optical goods manufacturing and sales; orthopedic appliances sale or rental; rental or other distribution of oxygen or other medical equipment; and social services as such services are defined in the Arizona Administrative Rules and Regulations promulgated by the Arizona Secretary of State.

WGI-25.3

LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND BEING THE SAMARITAN PARCEL, BEING THE WEST 1/4 OF SECTION 24, T. 11 S., R. 14 E., S. 4 S. R. 2. W., P. 22A CO., ARIZONA, AS SHOWN ON THE LOCATION MAP ATTACHED HERETO, BEING THE SAME TRACT OF LAND AS DESCRIBED IN THE CERTIFICATE OF SURVEY DATED AND FILED IN THE PUBLIC RECORDS OF THE COUNTY OF MARICOPA, ARIZONA, ON AND TO-WIT: THE 24th DAY OF APRIL, 1988, IN THE 11th PAGE OF BOOK 21, PAGE 1023 OF THE PUBLIC RECORDS OF SAID COUNTY, ARIZONA.

8021 1023



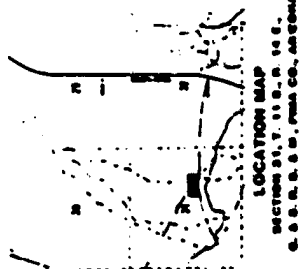
WLB
ENGINEERING

1000 N. CENTRAL AVENUE
SUITE 100
PHOENIX, ARIZONA 85004
TEL: 948-288-8888

SAMARITAN PARCEL

EXHIBIT "H"/MASTER DECLARATION OF CC&R'S

THIS SURVEY



LOCATION MAP
SECTION 24, T. 11 S., R. 14 E.,
S. 4 S. R. 2. W., P. 22A CO., ARIZONA

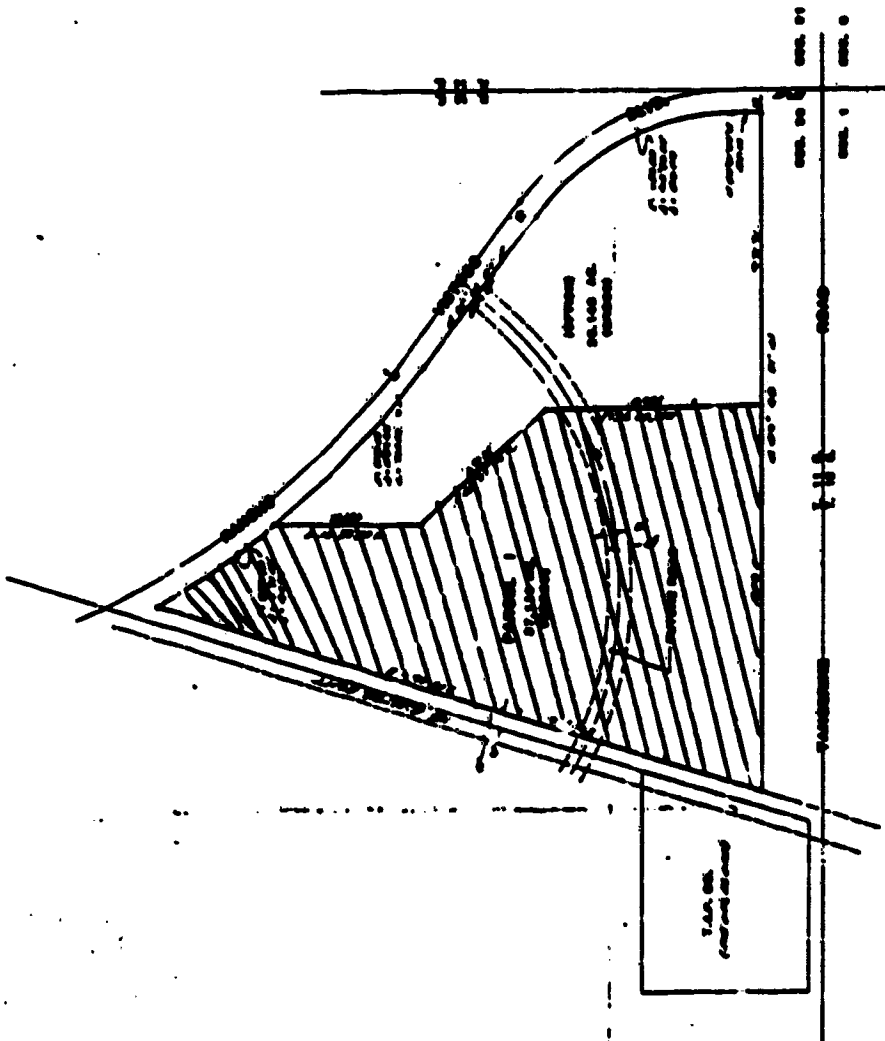
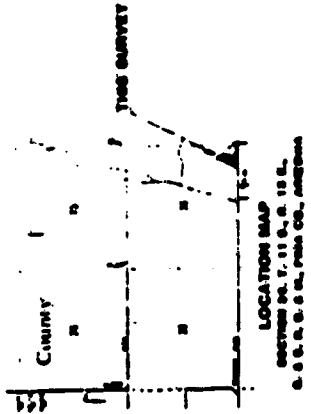
GENERAL NOTES

- 1. THIS SURVEY WAS CONDUCTED BY THE SURVEYOR AND HIS ASSISTANTS ON THE DATE(S) INDICATED ABOVE.
- 2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF UNLESS OTHERWISE NOTED.
- 3. ALL ANGLES ARE IN DEGREES, MINUTES AND SECONDS UNLESS OTHERWISE NOTED.
- 4. ALL COURSES ARE BEARING AND DISTANCE UNLESS OTHERWISE NOTED.
- 5. ALL CORNERS ARE MARKED WITH IRON PIPES UNLESS OTHERWISE NOTED.
- 6. ALL MONUMENTS ARE SET BY THE SURVEYOR AND HIS ASSISTANTS.
- 7. ALL MONUMENTS ARE SET IN ACCORDANCE WITH THE SURVEYING CODE OF THE STATE OF ARIZONA.

CERTIFICATION OF SURVEY

I, THE SURVEYOR, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD OF THIS SURVEY AS THE SAME APPEARS IN MY BOOKS AND RECORDS. I HAVE PERSONALLY EXAMINED THE ORIGINAL RECORDS AND THE FIELD NOTES AND FOUND THEM TO BE TRUE AND CORRECT. I HAVE ALSO EXAMINED THE ORIGINAL FIELD NOTES AND FOUND THEM TO BE TRUE AND CORRECT. I HAVE ALSO EXAMINED THE ORIGINAL FIELD NOTES AND FOUND THEM TO BE TRUE AND CORRECT.

[Signature]
DATE: 10/23/88



8021 1024



NO.	DESCRIPTION	AMOUNT	DATE
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EXCHANGE PARCEL
EXHIBIT "I"/MASTER DECLARATION OF CC&R'S

WLB

DO NOT DETACH CERTIFICATE FROM DOCUMENT

PIMA COUNTY RECORDER
RICHARD KENNEDY, RECORDER
PIMA COUNTY, ARIZONA
CERTIFICATE OF RECORDING

07/13/88
15:17:00

NO. OF PAGES: 014
SEQUENCE: 88091488 DOCKET: 08327 PAGE: 2058
RECORDING TYPE: AMENDED RESTRICTION
GRANTOR: RANCHO VISTOSO
GRANTEE: RESTRICTION

TFATI
FIRST AMERICAN TITLE

1880 E RIVER RD
TUCSON AZ 85718
602-795-1207

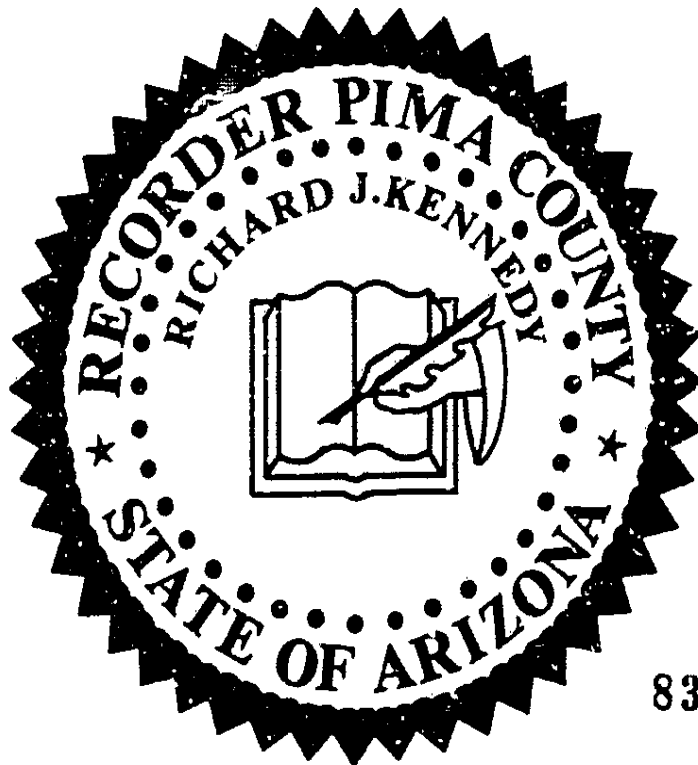
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0 AFFIDAVIT	AT	2.00 EACH		.00	
0 COPIES	AT	1.00 EACH		.00	
0 POSTAGE	AT	1.00 EACH		.00	
0 SEARCHES	AT	10.00 EACH		.00	

TOTAL 16.00

CEO
DEPUTY RECORDER

AMOUNT PAID \$ 16.00
2005 REC6 AMOUNT DUE \$.00

THE ABOVE SPACE FOR RECORDERS USE ONLY
TO BE RECORDED AS PART OF DOCUMENT



8327 2058

FIRST AMENDMENT TO RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR RANCHO VISTOSO,
PIMA COUNTY, ARIZONA made as
of this 11th day of July,
1988, by WOLFSWINKEL GROUP,
INC., an Arizona corporation
("Declarant").

R E C I T A L S

A. Declarant made that certain Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, Pima County, Arizona, dated April 10, 1987, and recorded in Docket No. 8021, Pages 925-1024 in the Office of the County Recorder for Pima County, Arizona (the "Declaration"). Declarant encumbered that certain property more fully described in said Declaration and commonly known as Rancho Vistoso in the town of Oro Valley, Pima County, Arizona (the "Property") with Covenants, Conditions, Restrictions and Easements which are more fully set out in said Declaration.

B. Article V, Paragraph 5.4.20 of the Declaration provides as follows:

Utility Lines and Connections. All utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground or concealed in, under, or on structures approved in writing in advance by the Architectural and Landscaping Review Committee. No utility meter or apparatus shall be located on any pole or attached to the outside of any building wall which is exposed to view from any street. All transformers shall be placed on or below the surface of the Lot or Parcel. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Architectural and Landscaping Review Committee;

C. Prior to the making of the Declaration, by virtue of that certain Board of Supervisors of Pima County Resolution and Order No. 1984-89 providing for the abandonment of Moore Road Extension No. 257 under Proceeding No. 2526, dated April 3, 1984, and recorded at Docket No. 7268, Page 1190 in the Office of the County Recorder for Pima County, Arizona, Trico Electric Cooperative, Inc. ("Trico") together with other Public Utility and Service providers, was granted the reservation of a 30 foot easement over and upon the north 30 feet of Section 36, Township 11 South, Range 13 East, and Sections 31 and 32, Township 11 South, Range 14 East.

D. Prior to the making of the Declaration, it was the intent of Declarant and Trico to agree to the relocation of the above described 30 foot easement, upon which Trico has located power poles and electric lines transmitting 14,000 volts of electricity. The Declaration erroneously omitted provision for this anticipated relocation of utility easement.

E. Upon recordation of that certain subdivision plat known as Rancho Vistoso Neighborhood 7, Unit I, Lots 1 through 317, Common Area A & B, being a subdivision of a portion of sections 25 and 36, Township 11 South, Range 13 East, as more fully shown by plat of record in Book 41 of Maps, Page 100 in the Office of the County Recorder for Pima County, Arizona, a portion of the Trico 30 foot easement encroached upon residential lots in Unit I, Neighborhood 7.

F. Declarant and Trico have agreed to abandon the existing 30 foot utility easement as it encroaches upon residential lots in Unit I, Neighborhood 7, and have further agreed to relocate the 30 foot utility easement outside the perimeters of those lots, so as to protect the value, desirability and attractiveness of the residential lots in Unit I, Neighborhood 7.

G. Declarant intends to grant a 60 foot utility easement to Arizona Electric Power Cooperative, Inc., an Arizona corporation ("AEPCO"), for the purpose of locating power poles not to exceed 80 feet in height and electric lines transmitting a maximum of 115,000 volts of electricity from AEPCO's substation, east of Unit I, Neighborhood 7, thence in a general westerly and northwesterly direction outside the perimeters of Unit I, Neighborhood 7, so as to protect the value, desirability and attractiveness of the residential lots in Unit I, Neighborhood 7.

H. Declarant now desires to amend the Declaration to provide for the relocation of Trico's easement, the granting of an easement to AEPCO, and any other future relocation of existing utility easements, which relocation is designed to protect the value, desirability and attractiveness of Rancho Vistoso.

A M E N D M E N T

NOW, THEREFORE, in consideration of the premises, Declarant hereby amends the Declaration as follows:

1. The following is hereby inserted after subparagraph 5.4.20:

Notwithstanding the above, the following permitted uses shall be installed and maintained above ground:

(a) The relocation of Trico Electric Cooperative, Inc.'s ("Trico") 30 foot utility easement upon and across that property more fully described in Exhibit A

1.

which is attached hereto and by this reference made a part hereof. The Trico electric lines shall be installed upon the power poles belonging to Arizona Electric Power Cooperative, Inc. and shall not transmit voltage in excess of 30,000 volts of electricity.

JW

(b) The location of Arizona Electric Power Cooperative, Inc.'s 60 foot utility easement upon and across that property more fully described in Exhibit A, for the purpose of constructing, operating and maintaining electric lines transmitting 115,000 volts of electricity or less, suspended upon steel and/or wood poles that are a maximum of 80 feet in vertical height, and all necessary and proper guys, anchors, crossarms, braces and other fixtures for use in connection therewith.

(c) Any future relocation of existing utility easements, which relocation is designed to protect the value, desirability and attractiveness of Rancho Vistoso.

2. Ratification of Declaration. Except as expressly amended hereby, the Declaration shall remain in full force and effect and, except as modified hereby, is herewith ratified and confirmed in all respects.

IN WITNESS WHEREOF, the undersigned Declarant has executed this First Amendment To Restated Declaration of Covenants, Conditions, Restrictions and Easements For Rancho Vistoso, Pima County, Arizona as of the day and year first above written.

DECLARANT

WOLFSWINKEL GROUP, INC.

By: Judy D. Winkler
Its: Vice Pres

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 11th day of July 1988, before me, the undersigned officer, personally appeared Judy B. Winkler who acknowledged himself to be the Vice President of WOLFSWINKEL GROUP, INC., an Arizona corporation, and that he, in such capacity, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself.

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

Doreen Hayes
Notary Public



My Commission Expires:

My Commission Expires March 1, 1992

CONSENT AND APPROVAL OF LENDER

The undersigned Lender, which is the Beneficiary of the following:

1. That certain Deed of Trust, Assignment of Rents, and Security Agreement, dated October 29, 1987, by Wolfswinkel Group, Inc., as Trustor, recorded at Docket 8152, Page 2130, in the Records of the Pima County Recorder, as amended by that certain Amendment to Deed of Trust, Assignment of Rents and Security Agreement, dated November 2, 1987, by Wolfswinkel Group, Inc. as Trustor, recorded at Docket 8154, Page 1827 in the Records of the Pima County Recorder;

2. That certain Uniform Commercial Code Financing Statement executed by Wolfswinkel Group, Inc., as Debtor, recorded at Docket 8152, Page 2192 in the Records of the Pima County Recorder,

(collectively referred to as the "Deed of Trust"), as a first lien on that property more fully described in said Deed of Trust, for and on behalf of itself and its successors and assigns, hereby consents to and approves the foregoing First Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, Pima County, Arizona, and agrees that its lien and all rights it may have with respect to the property described remain subject and subordinate to the Declaration as hereby amended; provided, however, that this consent and approval shall not constitute a subordination of the lien of the Deed of Trust to any lien or charge created or arising pursuant to the terms of the foregoing Declaration including, without limitation, Articles VIII and IX of the Declaration.

Dated as of the 11 day of July, 1988.

LINCOLN SAVINGS AND LOAN ASSOCIATION,
a California state chartered savings
and loan association, dba American
Continental Financial Services, Inc.

By: Randall T. Corb

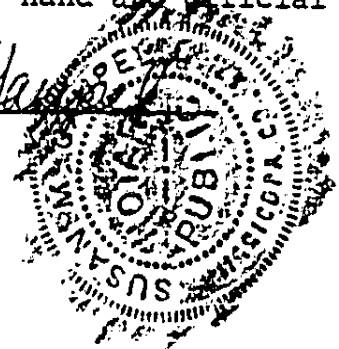
Its: Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 11 day of July, 1988, by Randall T. Conte, the Vice President of LINCOLN SAVINGS AND LOAN ASSOCIATION, a California state chartered savings and loan association, dba American Continental Financial Services, Inc.

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

Susan M. Hansen
Notary Public



My Commission Expires:

Jan. 22, 1989

EXHIBIT "A"

RANCHO VISTOSO
ELECTRIC EASEMENT

PARCEL 1

That portion of Section 25, Township 11 South, Range 13 East, G. & S.R.B. & M., Pima County, Arizona, described as follows:

COMMENCING at the Southeast corner of the said Section 25;

THENCE S 89°50'40" W, along the South line of the said Section 25, a distance of 897.93 feet to the POINT OF BEGINNING on the East right-of-way line of that Easement recorded in Book 75, Miscellaneous Records, Page 364, Pima County Recorder's Office;

THENCE S 89°50'40" W, 982.12 feet to a point on the arc of a non-tangent curve, concave to the West, a radial line of said curve through said point having a bearing of N 85°48'33" E, said point being on the East right-of-way line of Rancho Vistoso Boulevard recorded in Book 8176 at Page 1966;

THENCE Northerly, along the said right-of-way line, along the arc of said curve, to the left, having a radius of 3,075.00 feet and a central angle of 001°07'18" for an arc distance of 60.19 feet to a line 60.00 feet north of and parallel with the South line of the said Section 25;

THENCE N 89°50'40" E, along the said parallel line, a distance of 1,004.10 feet to the East right-of-way line of the said Easement;

THENCE S 15°47'58" W, along the said right-of-way line, a distance of 62.40 feet to the POINT OF BEGINNING.

Containing 1.36 acres, more or less.

PARCEL 2

That portion of Section 25, Township 11 South, Range 13 East, G. & S.R.B. & M., Pima County, Arizona, described as follows:

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COMMENCING at the South One-Quarter (S 1/4) corner of the said Section 25;

THENCE N 89°50'40" E, along the South line of the said Section 25, a distance of 162.38 feet to the POINT OF BEGINNING;

THENCE N 89°50'40" E, 442.91 feet to a point on the arc of a non-tangent curve, concave to the West, a radial line of said curve through said point having a bearing of N 85°36'06" E, said point being on the West right-of-way line of Rancho Vistoso Boulevard as recorded in Docket 8176 at Page 1966, Pima County Recorder's Office;

THENCE Northerly, along the said right-of-way line, along the arc of said curve, to the left, having a radius of 2,925.00 feet and a central angle of 001°10'45" for an arc distance of 60.22 feet to a line 60.00 feet north of and parallel with the South line of the said Section 25;

THENCE S 89°50'40" W, along the said parallel line, a distance of 437.67 feet;

THENCE S 00°00'09" E, 60.00 feet to the POINT OF BEGINNING.

Containing 0.607 acres, more or less.

PARCEL 3

That portion of Section 25, Township 11 South, Range 13 East, G. & S.R.B. & M., Pima County, Arizona, described as follows:

COMMENCING at the Southwest corner of Section 25;

THENCE N 89°48'43" E, along the South line of the said Section 25, a distance of 2,160.73 feet to the POINT OF BEGINNING;

THENCE N 89°48'48" E, 54.43 feet to a point of curvature of a tangent curve concave to the North;

THENCE Easterly along the arc of said curve, to the left, having a radius of 570.00 feet and a central angle of 026°31'31" for an arc distance of 263.88 feet to a line 60.00 feet North of and parallel with the South line of the said Section 25;

THENCE S 89°48'48" W, along the said parallel line a distance of 272.34 feet;

THENCE N 30°16'50" W, 115.27 feet to a point on the arc of a non-tangent curve concave to the West, a radial line of said curve through said point having a bearing of N 74°33'16" E;

THENCE Southerly along the arc of said curve, to the right, having a radius of 600.00 feet and a central angle of 015°25'59" for an arc distance of 161.62 feet to the POINT OF BEGINNING.

Containing 0.354 acres, more or less.

PARCEL 4

That portion of Section 25, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Southwest corner of Section 25;

THENCE N 89°48'48" E, along the South line of the said Section 25, a distance of 2,160.73 feet to a point on the arc of a non-tangent curve concave to the Southwest, a radial line of said curve through said point having a bearing of N 89°59'15" E;

THENCE Northwesterly along the arc of said curve, to the left, having a radius of 600.00 feet and a central angle of 045°06'12" for an arc distance of 472.32 feet to the POINT OF BEGINNING;

THENCE Northwesterly along the arc of said curve, to the left, having a radius of 600.00 feet and a central angle of 009°30'52" for an arc distance of 99.64 feet to a point of tangency;

THENCE N 54°37'49" W, 77.90 feet to a point of curvature of a tangent curve concave to the East;

THENCE Northerly along the arc of said curve, to the right, having a radius of 25.00 feet and a central angle of $087^{\circ}24'34''$ for an arc distance of 38.14 feet to a point of reverse curvature of a tangent curve concave to the Northwest;

THENCE Northeasterly along the arc of said curve, to the left, having a radius of 1,413.13 feet and a central angle of $001^{\circ}44'16''$ for an arc distance of 42.86 feet to a non-tangent line;

THENCE $S 54^{\circ}37'49'' E$, 39.13 feet;

THENCE $S 30^{\circ}16'50'' E$, 181.67 feet to the POINT OF BEGINNING.

Containing 0.171 acres, more or less.

PARCEL 5

That portion of Section 25, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Southwest corner of Section 25;

THENCE $N 00^{\circ}02'11'' W$, along the West line of the said Section 25, a distance of 75.00 feet to a line 75.00 feet North of and parallel with the South line of the said Section 25;

THENCE $N 89^{\circ}48'48'' E$, along the said parallel line a distance of 654.01 feet to a point of curvature of a tangent curve concave to the North;

THENCE Easterly along the arc of said curve, to the left, having a radius of 1,263.13 feet and a central angle of $016^{\circ}44'15''$ for an arc distance of 368.99 feet to the POINT OF BEGINNING;

THENCE Northeasterly along the arc of said curve, to the left, having a radius of 1,263.13 feet and a central angle of $023^{\circ}39'50''$ for an arc distance of 521.69 feet to a non-tangent line;

THENCE $S 60^{\circ}54'59'' W$, 220.86 feet;

THENCE $S 61^{\circ}29'15'' W$, 297.13 feet to the POINT OF BEGINNING.

Containing 0.206 acres, more or less.

PARCEL 6

That portion of Section 36, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Northwest corner of Section 36;

THENCE S $00^{\circ}01'55''$ E, along the West line of the said Section 36, a distance of 75.00 feet to the POINT OF BEGINNING on a line 75.00 feet South of and parallel with the North line of the said Section 36;

THENCE N $89^{\circ}48'48''$ E, along the said parallel line a distance of 654.41 feet to a point of curvature of a tangent curve concave to the North;

THENCE Easterly along the arc of said curve, to the left, having a radius of 1,413.13 feet and a central angle of $004^{\circ}58'28''$ for an arc distance of 122.69 feet to a non-tangent line;

THENCE S $61^{\circ}29'15''$ W, 74.44 feet to a line 105.00 feet South of and parallel with the North line of the said Section 36;

THENCE S $89^{\circ}48'48''$ W, along the said parallel line a distance of 711.50 feet to the West line of the said Section 36;

THENCE N $00^{\circ}01'56''$ W, along the West line, a distance of 30.00 feet to the POINT OF BEGINNING.

Containing 0.514 acres, more or less.

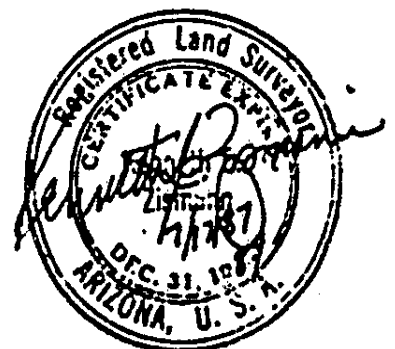
Prepared by:

THE MLB GROUP, INC.

Kenneth E. Zismann
Kenneth E. Zismann, R.L.S.

KEZ:hg

8327 2069



RANCHO VISTOSO
ELECTRIC EASEMENT
PARCEL 7

That portion of Section 36, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Northeast corner of the said Section 36;

THENCE S 89°50'40" W, along the North line of the said Section 36, a distance of 697.93 feet to the POINT OF BEGINNING;

THENCE S 89°50'40" W, along the said North line, a distance of 133.71 feet;

THENCE S 41°26'19" W, 147.29 feet to the East right-of-way line of that Easement recorded in Book 75, Miscellaneous Records, Page 541, Pima County Recorder's Office, Pima County, Arizona;

THENCE S 15°47'58" W, along the said right-of-way line, a distance of 231.11 feet;

THENCE N 41°26'19" E, 444.41 feet to the POINT OF BEGINNING.

Containing 0.679 Acres more or less.

PARCEL 8

That portion of Section 25, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Northeast corner of the said Section 25;

THENCE S 89°50'40" W, along the South line of the said Section 25, a distance of 897.93 feet to the East right-of-way line of that Easement recorded in Book 75, Miscellaneous Records, Page 364, Pima County Recorder's Office, Pima County, Arizona;

THENCE N 15°47'58" E, along the said right-of-way line, a distance of 525.64 feet to the POINT OF BEGINNING;

THENCE N 15°47'58" E, along the said right-of-way line, a distance of 160.54 feet;

THENCE S 22°43'44" E, 318.66 feet;

THENCE N 81°14'04" W, 117.28 feet;

THENCE N 22°43'44" W, 131.80 feet to the POINT OF BEGINNING.

Containing 0.617 Acres, more or less.

Prepared by:

THE W&B GROUP, INC.

Kenneth E. Zismann

Kenneth E. Zismann, R.L.S.

8327 2071



MIKE BOYD, RECORDER
PIHA COUNTY, ARIZONA
CERTIFICATE OF RECORDING

09/25/89
10:23:00

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GANNAGE & BURNHAM
SHERI L JAMISON
2 W CENTRAL 18TH FLR
PHOENIX AZ 85004

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NO. OF PAGES: 009
SEQUENCE: 89119387
DOCKET: 08629 PAGE: 0576

RECORDING TYPE: AMENDED RESTRICTION
GRANTOR: RANCHO VISTOSO
GRANTEE: RESTRICTION

TOTAL 11.00

CEG
DEPUTY RECORDER

AMOUNT PAID \$ 11.00
2005 REC4 AMOUNT DUE \$.00

ENVELOPE

THE ABOVE SPACE FOR RECORDERS USE ONLY
TO BE RECORDED AS PART OF DOCUMENT

DO NOT DETACH CERTIFICATE FROM DOCUMENT

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When Recorded Return To:

Jerry A. Fries
Gammage & Burnham
Two North Central Avenue
18th Floor
Phoenix, Arizona 85004

SECOND AMENDMENT TO RESTATED
DECLARATION OF COVENANTS, CONDI-
TIONS, RESTRICTICNS AND EASEMENTS
FOR RANCHO VISTOSO, PIMA COUNTY,
ARIZONA made this 19th day of
September, 1989 ("Second Amend-
ment"), by WGI, INC., an Arizona
corporation ("Declarant").

R E C I T A L S:

A. Declarant is the owner of certain real property located within the Town of Oro Valley, Pima County, Arizona located primarily north of Tangerine Road, west of the Tucson-Florence Highway (Oracle Road) and east of King Air Road to be known and developed under the name "Rancho Vistoso" (the "Property").

B. Declarant previously executed and caused to be recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso dated September 16, 1986, and recorded on September 17, 1986 in Docket 7871, Pages 1688-1786, and re-recorded on November 20, 1986 in Docket 7915, Pages 1281-1379, in the office of the Pima County, Arizona Recorder, which declaration was subsequently restated and replaced by that certain Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso dated April 10, 1987, and recorded on April 24, 1987 in Docket 8021, Page 925 in the office of the Pima County, Arizona Recorder (the "Restated Declaration"), which Restated Declaration was subsequently amended by that certain First Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso dated July 11, 1988 and recorded on July 13, 1988 in Docket 8327, Page 2059 in the office of the Pima County, Arizona Recorder (the "First Amendment"). The Restated Declaration and the First Amendment are hereinafter referred to as the "Declaration".

C. Declarant wishes to further amend the Declaration to correct certain errors and to adjust Declarant's voting rights and other provisions relating thereto.

D. Pursuant to Section 13.2 of the Declaration, a meeting and election were duly conducted during which this Second

Amendment was approved and adopted by the requisite number of Members.

A M E N D M E N T

NOW, THEREFORE, in consideration of the premises, Declarant hereby amends the Declaration as follows:

1. Section 1.29.2 is hereby amended to read as follows:

A Parcel with a Land Use Classification of School Use or Church Use and which is designated as Exempt Property in a Recorded Tract Declaration or other appropriate Recorded instrument.

2. The following provision is hereby added as Section 1.29.5:

1.29.5. all unmanned utility substations which provide utility services to all or any portion of the Covered Property and which are designated as Exempt Property in a Recorded Tract Declaration or other appropriate Recorded instrument.

3. The last sentence of Section 1.47 is hereby deleted in its entirety.

4. The last sentence of Section 3.6 is hereby amended to read as follows:

The easement reserved hereby shall expire and terminate upon completion of construction and sales activities upon the Covered Property, but in no event later than 20 years after the date this Declaration is recorded.

5. In order to correct a typographical error, Section 7.1.5 is hereby amended to read as follows:

In the case of the Owner of a Non-Residential Parcel, six (6) votes for each Net Acre owned (in the case of fractional Net Acres rounding to the nearest whole number of votes, e.g., 1.7 Net Acres = 10 votes), provided, however, that if a commercial condominium is established, Declarant or the Board, as applicable, may allocate votes in a manner deemed appropriate so that the allo-

cated votes do not exceed six (6) per Net Acre.

5. Section 7.3.2 is hereby deleted in its entirety and amended to read as follows:

The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each "lot" owned by Declarant. For purposes of this Section only, and in order to effectively pursue the development of Ranch Vistoso as contemplated in the Master Development Plan, Declarant shall at all times be deemed to be the Owner of that number of "lots" which equals the difference between: (i) the sum of (a) the overall density permitted on the then current Master Development Plan, exclusive of any property therein which is not Covered Property, and (b) the number which is the product of six (6) times the number of Net Acres designated for commercial use on the then current Master Development Plan, exclusive of any property therein which is not Covered Property; and (ii) the sum of (a) the number of Lots and Apartment Units owned by Class A Members not paying a partial Assessment pursuant to Section 8.3, and (b) the number which is the product of six (6) times the number of Net Acres in Non-Residential Parcels owned by Class A Members not paying a partial Assessment pursuant to Section 8.3. As of the effective date of the Declaration, the Class B Member shall be deemed to own 15,850 "lots". Subject to the provisions of Section 14.2 below, the Class B Membership shall automatically cease and be converted to a Class A Membership upon the happening of the first of the following events:

- (x) the date which is 120 days after the date upon which the total votes of the Class A Members entitled to vote equals the total votes of the Class B Member; or,
- (y) the date which is twenty (20) years after the date this Declaration is recorded.
- (z) the date on which Declarant relinquishes its Class B Membership by

notifying the Class A Members in writing.

7. The following provision is hereby added as Section 7.7:

7.7 Adjustment in Votes of Class B Member.
In the event the general plan contemplated by the Master Development Plan is not pursued to completion by Declarant, and an affirmative statement of abandonment of any or all parts thereof is Recorded, then the number of "lots" deemed owned by Declarant for voting purposes pursuant to Section 7.3.2 shall be reduced by the number of possible Lots and Parcels attributable to the area so abandoned, as determined by the Master Development Plan in effect immediately prior to such abandonment.

8. The last sentence of Section 8.1.2 is hereby amended to read as follows:

Notwithstanding any other provision of this Declaration to the contrary, as to any portion of the Covered Property owned by Declarant, Declarant shall be subject to Assessments only on those portions on which a Tract Declaration, subdivision plat or condominium declaration is recorded, in which case Declarant shall be obligated to pay only twenty-five percent (25%) of the Assessments which would otherwise be payable with respect to each Lot or Parcel therein contained, until either an occupied dwelling unit or commercial building shall be situated on such Lot or Parcel, provided that during any period when Declarant is paying no Assessments or reduced Assessments pursuant to this sentence, Declarant shall contribute to the Association such funds as may be required from time to time to meet any budget deficit which results from Declarant having paid no Assessments or reduced Assessments.

9. The first sentence of Section 14.1 is hereby amended to read as follows:

Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty (20) years after the date this Declaration is Recorded, annex to the Covered Property the Additional Property or any portion or portions thereof, provided that the FHA or VA, as the case may be and to

the extent they or each of them may be involved with the Covered Property, has determined that the annexation is in accordance with the Master Development Plan (and subject to the written consent of the owner of the portion or portions to be annexed, if other than Declarant).

10. All capitalized terms used in this Amendment shall have the meaning set forth for such terms in the Declaration unless otherwise defined herein.

11. Except as specifically amended herein, all terms and provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Second Amendment to Declaration as of the date first above written.

WGI, INC., an Arizona corporation

By Richard Maes
Its Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 19 day of September, 1989, by Richard Maes, a Vice President of WGI, INC., an Arizona corporation, on behalf of the corporation.

William M. Rogers
Notary Public

My Commission Expires:

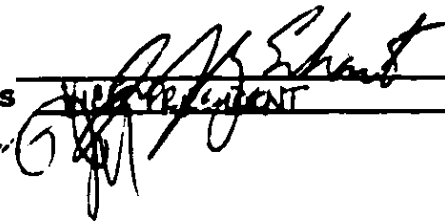
CONSENT AND APPROVAL OF LENDER

The undersigned lender is the beneficiary of that certain Deed of Trust and Assignment of Rents, made by Wolfswinkel Group, Inc., an Arizona corporation ("WGI"), as Trustor, recorded on October 30, 1987 in Docket 8152, Page 2130, of the official records of Pima County, Arizona, as amended on November 2, 1987, by an amendment recorded on November 8, 1987 in Docket 8154, Page 1827, of the official records of Pima County, Arizona, and as amended on May 4, 1988 by an amendment recorded on September 19, 1988 in Docket 8374, Page 1553 of the official records of Pima County, Arizona, (collectively referred to as the "First Deed of Trust"). The undersigned lender is also the beneficiary of that certain Deed of Trust and Assignment of Rents dated March 9, 1989, made by WGI as trustor, recorded on March 10, 1989 in Docket 8491, Page 1996, in the records of the Pima County Recorder, as amended by that certain First Amendment to Deed of Trust dated March 17, 1989, recorded on March 21, 1989 in Docket 8498, Page 199, in the records of the Pima County Recorder (collectively referred to as the "Second Deed of Trust"). The First Deed of Trust and the Second Deed of Trust are collectively referred to herein as the "Deeds of Trust." The First Deed of Trust constitutes a first lien, and the Second Deed of Trust constitutes a second lien, on the property described in the Deeds of Trust (the "Property"). The undersigned lender, for and on behalf of itself and its successors and assigns, hereby consents to and approves the foregoing Second Amendment to the Declaration (the "Second Amendment"), and agrees that its liens and all rights which it may have with respect to the Property are subject and subordinate to the Declaration as amended by the Second Amendment, provided, however, that this consent and approval shall not constitute a subordination of the liens of the Deeds of Trust to any lien or charge created or arising pursuant to the terms of the foregoing Second Amendment.

DATED as of this 29 day of AUGUST, 1989.

LINCOLN SAVINGS AND LOAN ASSOCIATION, a California state chartered savings and loan association

By _____
Its _____


J. J. Schmitt

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Consent and Approval of Lender was acknowledged before me this 24 day of AUGUST, 1989, by JEFFREY ERHART, the VICE PRESIDENT of Lincoln Savings and Loan Association, a California state chartered savings and loan association.

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

William G. Gagan
Notary Public

My Commission Expires:

1-31-92

CONSENT AND APPROVAL OF VETERANS ADMINISTRATION

The undersigned representative of the Veterans Administration hereby consents to and approves of the foregoing Second Amendrent to the Declaration as required pursuant to Section 16.11 of the Declaration.

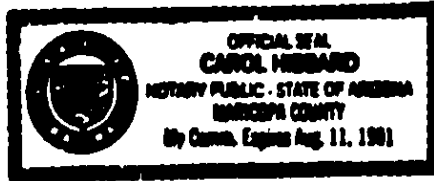
Veterans Administration

By: [Signature]
Its: [Signature]

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Consent and Approval was acknowledged before me this 7th day of August, 1989, by Jim McGettigan, a(n) Staff Appraiser with the Veterans Administration.

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



[Signature]
CAROL HIBBARD
Notary Public

My Commission Expires:
August 11, 1991

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: JEB
DEPUTY RECORDER
2012 RD10



DOCKET: 10037
PAGE: 1540
NO. OF PAGES: 6
SEQUENCE: 95064773
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1880 E RIVER RD
TUCSON AZ 85718

113373 CA

**THIRD AMENDMENT TO RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR RANCHO VISTOSO
(CERTIFICATE OF AMENDMENT)**

THIS THIRD AMENDMENT TO RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RANCHO VISTOSO (CERTIFICATE OF AMENDMENT) (this "Third Amendment") is made this 21st day of March, 1995, by Vistoso Community Association, an Arizona nonprofit corporation (the "Association").

RECITALS:

A. The Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated September 16, 1986, was recorded September 17, 1986 at Docket 7871, page 1688, and re-recorded November 20, 1986 at Docket 7915, page 1281, in the Office of the Pima County Recorder (the "PCR"), which declaration was subsequently restated and replaced by that certain Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated April 10, 1987 and recorded April 24, 1987 at Docket 8021, page 925, in the PCR (the "Restated Declaration"), which Restated Declaration was subsequently amended by that certain First Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated July 11, 1988 and recorded July 13, 1988 at Docket 8327, page 2059, in the PCR (the "First Amendment") and amended by that certain Second Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated September 19, 1989 and recorded September 25, 1989 at Docket 8629, page 577, in the PCR (the "Second Amendment"). The Restated Declaration, as amended by the First Amendment and the Second Amendment, is hereinafter referred to collectively as the "Declaration".

B. Vistoso Partners, L.L.C., an Arizona limited liability company ("Declarant") is the holder of the Declarant's rights under the Declaration pursuant to that certain Bankruptcy Trustee's Assignment of Declarant's and Other Rights, dated February 24, 1994 and recorded February 25, 1994, at Docket 9737, page 1160, in the PCR.

C. The Association desires authority to grant to each Owner of a Dominant Lot (as defined below) an exclusive use and benefit easement for the

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applicable abutting Easement Area (as defined below), under the terms and conditions of this Third Amendment.

D. The Association wishes to permit Declarant to de-annex from the Covered Property any portion or portions thereof, under the terms and conditions of this Third Amendment.

E. Pursuant to Section 13.2 of the Declaration, the Association hereby certifies that a meeting and election were duly called and Owners casting at least 75% of the votes then entitled to be cast at the election voted affirmatively for the adoption of this Third Amendment.

AMENDMENT:

NOW, THEREFORE, the Association hereby amends the Declaration as follows:

1. A new Section 3.7 is hereby added to the Declaration as follows:

Exclusive Use and Benefit Easements. On certain Common Areas, dividing walls may be constructed within the Common Area at varying distances from the adjacent Lot line. Portions of the Common Areas may be located on the Lot side of any such dividing wall (each, an "Easement Area"). Each Easement Area will adjoin and be contiguous to a Lot (each, a "Dominant Lot"). The Association may, in its sole discretion, at any time and from time to time, grant to the Owner of a Dominant Lot and Record a perpetual exclusive use and benefit easement over the Easement Area abutting that Dominant Lot for the use, benefit and enjoyment of that Owner (each, an "Easement"). Each Easement is effective upon Recording and without the consent of the Owner of the Dominant Lot. Each Easement runs with the land and is appurtenant to the abutting Dominant Lot and may not be sold, transferred or otherwise conveyed apart therefrom. The Easements are limited to the extent that no structure or improvement of any nature may be placed, maintained or permitted to remain in any Easement Area. The Association will have no possession or control of the Easement Areas, except that the Association will have the right of ingress and egress for the sole purpose of any maintenance and repair obligations the Association may have with respect to the dividing wall. Each Easement Area must be possessed, controlled, maintained and insured by the Owner of the abutting Dominant Lot and not by the Association. Any separate insurance maintained by the Association is excess and non-contributory. Each Owner of a Dominant Lot shall indemnify, protect, defend and hold harmless the Association for, from and against any and all losses, costs, claims, actions, damages, expenses and liabilities of any kind whatsoever arising from or in connection with the Easement Area abutting that Owner's Dominant Lot.

2. A new Section 14.4 is hereby added to the Declaration as follows:

De-Annexation of Covered Property. Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty (20) years after the date this Declaration is Recorded, de-annex from the Covered Property any portion or portions thereof (subject to the written consent of the owner of the portion or portions to be de-annexed, if other than Declarant). To effect such de-annexation, Declarant shall execute and Record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Covered Property to be de-annexed. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation of the applicable portion or portions of the Covered Property described therein, and such property and the Owners and Occupants thereof shall no longer be subject to this Declaration or the jurisdiction of the Association. Notwithstanding the preceding sentence, except as otherwise provided in the applicable Declaration of De-Annexation, de-annexation of any portion or portions of the Covered Property will not be effective until the Owner of the property to be de-annexed has paid all unpaid Assessments applicable to such property, prorated to the date of de-annexation.

3. A new sentence is hereby added to the end of Section 16.11 of the Declaration as follows: "With respect to any action required by this Declaration to be approved by the FHA or the VA, the proposed action may be submitted to the FHA or the VA for approval, and if the agency whose approval is requested does not approve or disapprove the proposed action by written notice to the Association, the Declarant or other Person requesting approval within fifteen (15) days after delivery to that agency of the request for approval, the proposed action in question will be deemed approved by that agency."

4. All terms used in this Third Amendment, unless otherwise defined herein, have the meaning ascribed to them in the Declaration.

5. Except as specifically provided herein, all terms, conditions, covenants and rights contained in the Declaration remain in full force and effect.

IN WITNESS WHEREOF, the Association has executed this Third Amendment as of the date first written above.

VISTOSO COMMUNITY ASSOCIATION,
an Arizona nonprofit corporation

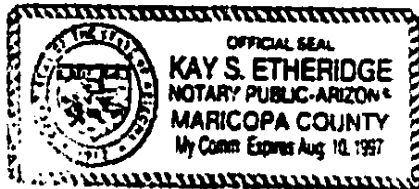
By Richard Mear
Its President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 21 day
of April, 1995, by Richard Mow
the President of Vistoso Community Association, an
Arizona nonprofit corporation, on behalf of the corporation.

Kay S. Etheridge
Notary Public

My commission expires



CONSENT TO THIRD AMENDMENT

The Veterans Administration hereby consents to and approves the foregoing Third Amendment.

VETERANS ADMINISTRATION

By Bill G. Merler
Its SINCE AMASERU

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 15th day of March, 1996, by BILL G. MERLER on behalf of the VETERANS ADMINISTRATION.

Kelly Sorensen
Notary Public

My commission expires:
11-11-96

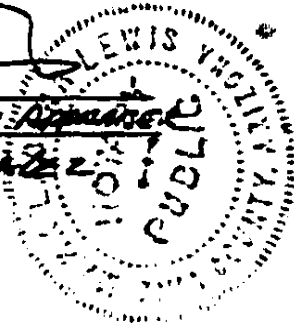


CONSENT TO THIRD AMENDMENT

The Federal Housing Administration hereby consents to and approves the foregoing Third Amendment.

FEDERAL HOUSING
ADMINISTRATION

By [Signature]
Its Staff Representative
Gerson Gonzalez



STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 2nd day of May, 1995, by GERSON GONZALEZ on behalf of the FEDERAL HOUSING ADMINISTRATION.

[Signature]
Notary Public

My commission expires:

MY COMMISSION EXPIRES 2/28/96

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: KSO
DEPUTY RECORDER
9383 ROOC



DOCKET: 11565
PAGE: 1377
NO. OF PAGES: 2
SEQUENCE: 20011100460
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W
VISTOSO COMMUNITY ASSOCIATION
180 W MAGEE STE 134
TUCSON AZ 85704

MAIL

AMOUNT PAID \$ 25.00

c/o Lewis Management Resources, Inc.
180 W. Magee, Suite 134
Tucson, AZ 85704

**FOURTH AMENDMENT TO RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RANCHO VISTOSO
CERTIFICATE OF AMENDMENT**

THIS FOURTH AMENDMENT TO RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RANCHO VISTOSO (CERTIFICATE OF AMENDMENT (this "Fourth Amendment") is made this 26th day of March, 2001, by Vistoso Community Association, an Arizona non-profit corporation (the "Association").

RECITALS:

A. The Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated September 16, 1986, was recorded September 17, 1986 at Docket 7871, page 1688, and re-recorded November 20, 1986 at Docket 7915, page 1281, in the Office of the Pima County Recorder (the "PCR"), which declaration was subsequently restated and replaced by that certain Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated April 10, 1987 and recorded April 24, 1987 at Docket 8021, page 925, in the PCR (the "Restated Declaration"), which Restated Declaration was subsequently amended by that certain First Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated July 11, 1988 and recorded July 13, 1988 at Docket 8327, page 2059, in the PCR (the "First Amendment") and amended by that certain Second Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, dated September 19, 1989 and recorded September 25, 1989 at Docket 8629, page 577, in the PCR (the "Second Amendment") and amended by that certain Third Amendment to Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso dated March 21, 1995 and recorded on May 5, 1995 at Docket 10037, page 1540, in the PCR (the "Third Amendment"). The Restated Declaration, as amended by the First Amendment, the Second Amendment and the Third Amendment, is hereinafter referred to collectively as the "Declaration".

B. Vistoso Partners, LLC, an Arizona limited liability company ("Declarant") is the holder of the Declarant's rights under the Declaration pursuant to that certain Bankruptcy Trustee's Assignment of Declarant's and Other Rights, dated February 24, 1994 and recorded February 25, 1994, at Docket 9739, page 1160, in the PCR.

C. Pursuant to Section 13.2 of the Declaration, the Association hereby certifies that a meeting and election were duly called and Owners casting at least 75% of the votes then entitled to be cast at the election voted affirmatively for the adoption of this Fourth Amendment:

AMENDMENT:

NOW, THEREFORE, the Association hereby amends the Declaration as follows:

CC&Rs Article 5.2.5 - SIGNS (Amended to address political signs)

ADD a new item to Article 5.2.5 - (d), i, ii, iii, iv, as follows:

- (d) Political signs, in support or opposition to election candidates, or in support or opposition to regulatory propositions of a local, state or Federal nature; such political signs:
 - (i) shall not exceed a face area of two (2) feet by two (2) feet and the top of such sign shall not be more than four (4) feet above grade;
 - (ii) placed on any Lot or Parcel, must be placed at least five (5) feet inside the property line and must face the street where the Lot or Parcel is accessed (by vehicles - driveway);
 - (iii) shall not be illuminated in any way;
 - (iv) can be placed thirty (30) days in advance of the election day and must be removed within ten (10) days after the date on which the election is held.

D. All terms used in this Fourth Amendment, unless otherwise defined herein, have the meaning ascribed to them in the Declaration.

E. Except as specifically provided herein, all terms, conditions, covenants and rights contained in the Declaration remain in full force and effect.

IN WITNESS WHEREOF, the Association has executed this Fourth Amendment as of the date first written above.

VISTOSO COMMUNITY ASSOCIATION

An Arizona nonprofit corporation

Richard Maes

Richard Maes

Its President

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this 24th day of May, 2001, by Richard Maes, the President of Vistoso Community Association, an Arizona nonprofit corporation, on behalf of the corporation.

Albert Lewis
Notary Public

My commission expires:

