

TICOR TITLE INSURANCE COMPANY OF CALIFORNIA

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RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
OCT 24 '86 - 1.00
KEITH POLETIS, County Recorder
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Courtesy of
TICOR TITLE INSURANCE COMPANY
NON-INSURED

DECLARATION OF ADDITIONAL COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
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DECLARATION OF ADDITIONAL
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1

THIS DECLARATION is made on the 22nd day of October, 1986, by MARLBOROUGH DEVELOPMENT CORPORATION, an Arizona corporation (the "Declarant") and by PIONEER TRUST COMPANY OF ARIZONA, an Arizona corporation, as Trustee ("Pioneer").

RECITALS:

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

Lots 221 through 373 and Tracts C, D and E of MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1, a subdivision per plat recorded in Book 289 of Maps, page 12, Records of Maricopa County, Arizona;

WHEREAS, Pioneer, as Trustee, holds legal title to that property pursuant to its Trust No. 20,764;

WHEREAS, a document entitled MOUNTAIN PARK RANCH DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS dated April 17, 1984 has heretofore been recorded on certain real property known as Mountain Park Ranch, including but not limited to the above described Lots, as document recording number 84 224539, Records of Maricopa County, Arizona, as amended by a FIRST CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN PARK RANCH, dated November 30, 1984 and recorded as document recording number 85 032893, Records of Maricopa County, Arizona (the Mountain Park Ranch Declaration as amended by the First Amendment is hereinafter referred to as the "Master Declaration");

WHEREAS, a document entitled TRACT DECLARATION MOUNTAIN PARK RANCH UNITS 11A, 11B, 12A AND 12B has heretofore been recorded on certain property within Mountain Park Ranch, including but not limited to the above described Lots, as document recording number 84 453564, Records of Maricopa County, Arizona;

WHEREAS, Declarant desires to impose additional covenants, conditions and restrictions upon said Lots in order to establish a general scheme for the development, sale, use and enjoyment of those Lots for the purpose of enhancing and protecting the value, desirability and quality of life within MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1;

Exhibit A - Typical Easement Areas

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

ARTICLE 1

DEFINITIONS

1.1. "Architectural Committee" means the committee established pursuant to Article 2 of this Declaration.

1.2. "Architectural Committee Rules" means the rules adopted by the Architectural Committee.

1.3. "Declarant" means Marlborough Development Corporation, an Arizona corporation, its successors and any person or entity to whom it may expressly assign any or all of its rights under this Declaration.

1.4. "Declaration" means this DECLARATION OF ADDITIONAL COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1, as it may from time to time be amended..

1.5. "Improvement" means buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind..

1.6. "Lot" means any parcel of real property designated as a Lot on the Plat and which is covered by this Declaration.

1.7. "Owner" means the record owner, whether one or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Lot. Owner shall include a purchaser under a contract for the conveyance of real property, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and

receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the trustor under the deed of trust shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

1.8. "Plat" means the plat of MOUNTAIN PARK RANCH UNIT 12 - PARCEL 1 which has been recorded with the County Recorder of Maricopa County, Arizona, in Book 289 of Maps, page 12, and all amendments thereto.

1.9. "Property" or "Project" means the real property described on page 1 of this Declaration together with all buildings and other Improvements located thereon, and all easements, rights and appurtenances belonging thereto.

1.10. "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of three persons or less not all so related, together with their domestic servants, who maintain a common household in a dwelling.

1.11. "Single Family Residential Use" means the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

1.12. "Visible From Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE 2

ARCHITECTURAL CONTROL

2.1. Architectural Approval. Except for improvements installed or constructed by the Declarant, no building, fence, wall, solar collectors or other structures of any kind shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration in any structure be made until the plans and specifications showing the nature, kind, color, shape, height, materials, location and other material attributes of the same shall have been submitted to and approved in writing as to harmony of external design and location in

relation to surrounding structures, landscaping and topography by the Architectural Committee established pursuant to the provisions of this Article. The Committee's approval or disapproval shall be in writing. Any Owner requesting the approval of the Architectural Committee shall also submit any additional information requested by the Committee. In the event the Architectural Committee fails to approve or disapprove within sixty (60) days after plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. In any event, after the expiration of one (1) year from the completion of construction of any structure, improvements or alterations, the said structure, improvements or alterations shall, in favor of purchasers or encumbrancers in good faith and for value, be deemed to be in compliance with the provisions of this Article, unless actual notice of non-compliance executed by the Architectural Committee shall appear of record in the office of the County Recorder of Maricopa County, or legal proceedings shall have been instituted to enforce compliance. The approval by the Architectural Committee of any addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar addition, alteration, repair, change or other work subsequently submitted for approval. Upon receipt of approval from the Architectural Committee for any addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Committee. In addition to the approval of the Architectural Committee created pursuant to this Declaration, an Owner shall be required to obtain the approvals required pursuant to the Master Declaration.

2.2. Membership. The Architectural Committee shall be composed of such members as the Declarant in its sole discretion may from time to time appoint, until the earlier to occur of the following:

(a) the Declarant elects to relinquish its right to appoint members (by recording an amendment to this Declaration which relinquishes said right and is executed by the Declarant alone) or

(b) Declarant no longer owns a Lot covered by this Declaration.

At that time the Declarant shall have the option, but not the obligation, to either

(a) give notice to all Owners that it no longer controls the Architectural Committee or

(b) make a reasonable effort to find three of the then Owners who are willing to be Committee members and appoint those three Owners to be members of the Architectural Committee.

In the event the Declarant has thus appointed Owners to act as the Architectural Committee, the Declarant shall record a statement in the records of Maricopa County, Arizona, setting forth the names and official address or addresses of the Architectural Committee. At any time after the Declarant is no longer an Owner or has relinquished the right to appoint Committee members, the Owners shall have the right and power by a written majority vote to appoint three new members to the Architectural Committee. A statement signed by a majority of the then Owners and setting forth the names and official address or addresses of the Architectural Committee members elected shall be recorded in the records of Maricopa County, Arizona. Failure to record statements concerning new appointments to the Architectural Committee as provided in this section shall not impair the effectiveness of such appointments; provided, however, that unless an Owner has actual knowledge of any unrecorded Committee appointments, he shall be entitled to deal with the most recent Architectural Committee members of record. In the event of the death or resignation of any Committee member after the Declarant does not own any Lot covered by this Declaration, unless a majority of Owners has elected a replacement member, the remaining members shall have full authority to designate a successor. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this Article. As long as the Declarant is entitled to appoint members of the Committee, matters shall be submitted to the Architectural Committee at the business address for Marlborough Development Corporation, or any successor Declarant.

2.3. Liability. Neither the Architectural Committee nor any member thereof shall be liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of

(a) the approval or disapproval of any plans, drawings or specifications, whether or not defective;

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

(c) the development of any property covered by this Declaration;

(d) the execution of any estoppel certificate, whether or not the facts therein are correct; or

(e) the enforcement of this Declaration;

provided, however, that with respect to the liability of a Committee member, such member has acted in good faith on the basis of such information as may be possessed by him.

2.4. Committee's Cure of Owner's Default. If any Lot Owner breaches any of the covenants, restrictions or provisions of this Declaration, and fails to cure the same within thirty (30) days after notice thereof is given by the Architectural Committee, then the Architectural Committee may, at its option, cure said breach. Any amounts spent by the Architectural Committee to cure such breach, together with costs, reasonable attorneys' fees and interest thereon, computed at the rate of eighteen percent (18%) per annum (but not more than the highest legal rate) from the date that said sums are paid, shall be due from the breaching Lot Owner forthwith upon demand by the Architectural Committee. The total sum of the foregoing amounts shall be charged against the Lot and the improvements thereon, shall be a continuing lien thereon, and shall be the personal obligation of the breaching Owner. The Architectural Committee may bring an action at law against the breaching Owner to collect said sums or may foreclose the lien against the Lot and the improvements thereon in the same manner as provided for foreclosing a mortgage lien, or at the option of the Architectural Committee, in such other manner as is available at law or in equity. Said lien shall be subordinate to the lien of any first mortgage or first deed of trust secured upon such Lot. The sale or transfer of such Lot shall not extinguish the lien as to any amounts which became due prior to such sale or transfer. However, the sale or transfer of any Lot pursuant to a foreclosure of an institutional first mortgage or any proceeding or deed in lieu thereof, shall extinguish the lien for a charge which became due prior to such sale or transfer, but shall not release the breaching Lot Owner from personal liability for such charge. No sale or transfer (whether by foreclosure or otherwise) shall relieve a Lot from liability from any lien occurring subsequently to such sale or transfer.

ARTICLE 3

PERMITTED USES AND RESTRICTIONS

In addition to the use restrictions provided in the Master Declaration, the Lots shall be subject to the following restrictions:

3.1. Residential Use. All Lots shall be used, improved and devoted exclusively to Single Family Residential Use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot.

3.2. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be Visible From Neighboring Property. It shall be the responsibility of an Owner to remove immediately any droppings from pets. No dog, cat or other pet shall be permitted to run at large, and each dog, cat or other pet shall be confined entirely to an Owner's Lot except that a dog, cat or other pet shall be permitted to leave an Owner's Lot if such dog, cat or other pet is at all times kept on a leash not to exceed six (6) feet in length and is under the direct control of the Owner.

3.3. Antennas. No antenna, satellite television dish antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but without limitation, Citizen's Band or Ham Radio signals shall be erected, used or maintained outdoors on any Lot without the prior written approval of the Architectural Committee.

3.4. Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No structure, landscaping or other Improvement shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities or which may change the direction or flow of drainage channels in such easement areas or which may obstruct or retard the flow of water through drainage channels in such easement areas. Such public utility easement areas, and all improvements thereon, shall be maintained by the Owner of the Lot on which the easement area is located unless such easement area is to be maintained by the utility company or a county, municipality or other public authority.

3.5. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time for a residence on any Lot, either temporary or permanent. Temporary buildings or structures used during the construction of a residence or other structure on a Lot shall be removed immediately after the completion of construction.

3.6. Trucks, Trailers, Campers and Boats. No motor vehicle classified by manufacturer rating as exceeding 3/4-ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street so as to be Visible From Neighboring Property or any street except for pickup trucks of less than 3/4-ton capacity with camper shells not exceeding 7 feet in height measured from ground level and mini-motor homes not exceeding 7 feet in height and 18 feet in length which are parked as provided in Section 3.8 below and are used on a regular and recurring basis for basic transportation.

3.7. Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot or street, and no inoperable vehicle may be stored or parked on any Lot or street, so as to be Visible From Neighboring Property or to be visible from any street; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Committee.

3.8. Parking. All vehicles of Owners and of their lessees, employees, guests and invitees shall be kept in garages, carports or residential driveways of the Owners wherever and whenever such facilities are sufficient to accommodate the number of vehicles on a Lot; provided, however, this Section shall not be construed to permit the parking in the above-described areas of any vehicle whose parking is otherwise prohibited by this Declaration or the parking of any inoperable vehicle.

3.9. Nuisances. No nuisance shall be permitted to exist or operate upon any Lot. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except fire detection and security devices used exclusively for such purposes, shall be located, used or placed on any property.

3.10. Repair of Buildings. No building, landscaping or other Improvement upon any Lot shall be permitted to fall into disrepair, and each such building, landscaping or other Improvement shall at all times be kept in good condition and repair by the Owner thereof.

3.11. Trash Containers and Collection. No garbage, rubbish or trash shall be placed or kept on any Lot except in covered containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time

reasonably necessary to effect such collection. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No incinerators shall be kept or maintained on any Lot.

3.12. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot unless they are erected, placed or maintained in such a manner as to not be Visible From Neighboring Property.

3.13. Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of eight (8) feet.

3.14. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a residence, appurtenant structures, or other Improvements constructed by the Declarant or approved by the Architectural Committee.

3.15. Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all (or an undivided interest in all) of any such Lot shall be conveyed or transferred by any Owner other than the Declarant.

3.16. Signs. No signs whatsoever (including, but without limitation, commercial, political, "for sale," "for rent" and similar signs) shall be erected or maintained on any Lot except:

(a) Not more than two residential identification signs each with a face area of seventy-two square inches or less;

(b) Such signs as may be required by legal proceedings; and

(c) One "for sale" or "for rent" sign with a total face area of five square feet or less.

3.17. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures, improvements or signs necessary or convenient to the construction, development, identification, or sale of Lots or

other property within the Project. The Declarant is hereby expressly permitted to use the Lots for model home and parking purposes as is necessary or convenient to the sale of Lots and homes within the Project.

3.18. Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind and no derrick or other equipment designed or intended for any such activity shall be erected, placed, constructed or maintained on any Lot.

3.19. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any property which could induce, breed or harbor infectious plant diseases or noxious insects.

3.20. Common Walls. Common walls shall be walls constructed on the boundary line between two Lots or walls constructed on an easement line as described in subsection 4.2(e). The rights and duties of Owners of Lots with respect to common walls shall be as follows:

(a) The Owners of contiguous Lots who have a common wall shall both equally have the right to use such wall provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner;

(b) In the event that any common wall is damaged or destroyed through the act of an Owner, it shall be the obligation of such Owner to promptly rebuild and repair the common wall without cost to the other Owner or Owners;

(c) In the event any such common wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good a condition as formerly at their joint and equal expense;

(d) Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes any common wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title;

(f) In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the adjoining Owners;

(g) In the event any common wall encroaches upon a Lot or the Common Area, a valid easement for such encroachment and for the maintenance of the common wall shall and does exist in favor of the Owners of the Lots which share such common wall.

3.21. Outdoor Burning. There shall be no outdoor burning of trash or other debris; provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills.

3.22. Fuel Tanks. No fuel tanks of any kind shall be erected, placed or maintained on the Property except for propane or similar fuel tanks permitted under the ordinances of the City of Phoenix, Arizona.

3.23. Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows of any residence or other structure without the prior written approval of the Architectural Committee.

3.24. HVAC and Solar Panels. Except as initially installed by the Declarant, no heating, air conditioning, evaporative cooling or solar energy collecting unit or panels shall be placed, constructed or maintained upon any Lot without the prior written approval of the Architectural Committee.

3.25. Garages and Driveways. The interior of all garages situated on any Lot shall be maintained in a neat, clean and slightly condition. Garages shall be used only for the parking of vehicles and the storage of normal household supplies and materials and shall not be used or converted for living quarters or recreational activities without the prior written approval of the Architectural Committee. All driveways shall be of concrete construction. Garage doors shall be left open only as needed for ingress and egress.

3.26. Landscaping on Lots. In the event the front and side yards of any Lot are not landscaped prior to the sale of such Lot to a homeowner, within 6 months from the close of the sale of such Lot, the Owner shall have fully landscaped said Lot in accordance with a landscape plan approved by the Architectural Committee. Said landscaping shall be in harmony with other landscaped areas in the subdivision. Each Owner shall maintain his Lot free of weeds and in a neat and attractive condition.

ARTICLE 4

EASEMENTS

4.1. Committee's Right of Entry. During reasonable hours, any member of the Architectural Committee, or any authorized representative of the Committee shall have the right to enter upon and inspect any Lot, excluding the interior of any residence located thereon, to determine whether the provisions of this Declaration and the Architectural Committee Rules are being complied with by the Owner of said Lot.

4.2. Use and Benefit Easements.(a) Creation of Easement.

Use and benefit easements are hereby created as hereinafter provided and as generally shown on Exhibit A attached hereto and incorporated herein by this reference (each easement being hereinafter referred to as an "Easement Area"). The Easement Area shall be for the use and benefit of the Lot adjoining the Easement Area which Lot shall be referred to in this section as the "User Lot". The Lot upon which the Easement Area is situated shall be referred to in this Section as the "Easement Lot." Typical Easement Areas are illustrated on Exhibit A as examples and for definitional purposes, however, the exact dimensions and location of the Easement Areas shall differ on each Lot and shall be established by the as-built walls and dwelling hereafter constructed by the Declarant on the Lots. The "right hand side" of a Lot as used herein shall be the right portion of the Lot as identified by a person standing in that Lot's driveway and facing the garage. The "left hand side" of a Lot as used herein shall be the left portion of the Lot as identified by a person standing in that Lot's driveway and facing the garage.

(i) Entryway Easements. A part of the right hand side of Easement Lots 222, 223, 257 through 282, 309 through 320, 333 through 341, 352 through 358, and 367 through 372 shall be subject to an Entryway Easement benefiting the User Lot immediately to the right of those Easement Lots. A part of the left hand side of Easement Lots 224 through 244, 246 through 250, 252, 253, 254, 283 through 306, 321 through 330, 342 through 349, and 359 through 364 shall be subject to an easement benefiting the User Lot immediately to the left of those Easement Lots. Each Easement Area created in this subparagraph (i) shall be utilized as part of the front yard and entryway for the User Lot adjoining such Easement Area. The exact dimensions and configuration

of the Entryway Easements created herein shall be established by the as-built walls, gate, driveway and dwelling constructed by the Declarant. Each Entryway Easement Area shall extend from the as-built rear yard gate to the street facing the Easement Lot. The Entryway Easements shall include the width from the Easement Lot front dwelling privacy wall as-built to the Easement Lot boundary adjoining the User Lot and from the edge of the Easement Lot driveway as-built to said Easement Lot boundary adjoining the User Lot as shown on Exhibit A.

(ii) Side and Rear Patio Easements. A part of the right hand side of Easement Lots 225 through 245, 247 through 250, 253, 254, 255, 284 through 293, 295 through 307, 322 through 331, 343 through 350, 360 through 365, and 373 shall be subject to a Side and Rear Patio Easement benefiting the User Lot immediately to the right of those Easement Lots. A part of the left hand side of Easement Lots 221, 222, 256 through 269, 271 through 281, 308 through 319, 332 through 340, 351 through 357, 366 through 371 shall be subject to a Side and Rear Patio Easement benefiting the User Lot immediately to the left of those Easement Lots. Each Easement Area created in this subparagraph (ii) shall be utilized as part of the side and rear patio and yard areas for the User Lot adjoining such Easement Area. The exact dimensions and configuration of the Side and Rear Patio Easements created herein shall be established by the as-built walls and dwelling constructed by the Declarant. Each Side and Rear Patio Easement Area shall begin with the as-built front patio wall on the Easement Lot which joins the side patio wall or dwelling constructed on the Easement Lot, and shall run to the as-built rear patio wall on the Easement Lot. As shown on Exhibit A, the Side and Rear Patio Easements shall include the width from the Easement Lot boundary adjoining the User Lot to the rear dwelling privacy wall as-built and from said Easement Lot boundary to the side patio wall as-built.

(b) Use of Easement Areas.

(i) Except as otherwise prohibited in this Declaration, the Easement Areas may be used by the Owner and other occupants of the User Lot for patio, access, landscaping, recreation, and drainage purposes.

(ii) The Owner of the User Lot shall protect and hold harmless the Owner of the Easement Lot from any and all liens, claims or liabilities arising out of or connected with the use of the Easement Areas by the

Owner of the User Lot (and the User Owner's invitees, tenants and family), however, each Lot Owner shall be solely responsible for the taxes and assessments levied against his Lot.

(iii) No use shall be made of the Easement Areas which will become an annoyance or nuisance to the Owner of the Easement Lot, or which will interfere with the rights of the Easement Lot Owner, as set forth in Section 4.2(c) of this Declaration.

(c) Rights of Owner of Easement Lot.

(i) The Owner of the Easement Lot and his employees, agents, family, heirs and assigns shall have the right, at all reasonable times, to enter the Easement Area in order to repair, maintain, and/or restore his common wall; provided, however, that such entry shall be allowed only during daylight hours and with the prior knowledge of the Owner of the User Lot.

(ii) The Owner of the Easement Lot shall have the right of drainage over, across, and upon the Easement Area for water resulting from the normal use of the Easement Lot, including but not limited to, drainage from the roof of the dwelling unit on the Easement Lot.

(iii) The Owner of the Easement Lot shall have the right to maintain eaves or projections or other architectural features over the Easement Area as such eaves or features are part of the originally constructed dwelling unit located upon the Easement Lot.

(iv) The Owner of the Easement Lot and any of his guests, family, invitees, employees, agents, heirs and assigns shall have the right at any and all times to use the Entryway Easement area for entrance into the rear yard of the Easement Lot. The Owner of the User Lot shall in no way interfere with reasonable access to the rear yard of the Easement Lot.

(d) Maintenance of Easement Area. Each Easement Area, and all landscaping and improvements situated thereon, shall be the responsibility of the User Lot Owner and shall be maintained continuously in good condition and repair by said Owner; provided, however, that the Owner of the Easement Lot shall repair any damage to the Easement Area which is occasioned by the use of the Easement Area pursuant to subsections 4.2(c)(i) and (iv). The Owner of an Easement Lot shall be entitled to prune any landscaping which unreasonably interferes with his use of the Easement Area as permitted by

subsection 4.2(c). As to each Easement Area, the Owner of the User Lot shall assume all responsibility for compliance with this Declaration and shall assume any burdens which may apply to the Easement Area.

(e) Common Walls. Any wall (including but not limited to the rear patio wall, the side patio wall, the rear dwelling privacy wall, the front patio wall and the front dwelling privacy wall) which separates an Easement Area from the remainder of the Easement Lot upon which the Easement Area is situated shall be a common wall between the Easement Lot and the User Lot, and the rights of the Owner of the Easement Lot and the User Lot with respect to such common wall shall be as set forth in this Section and in Section 3.20 of this Declaration.

4.3. Access Easement for Pool Construction. If necessary for the purposes of back yard landscaping, pool construction, or the construction of other back yard recreational facilities, a Lot Owner shall have an access easement over a portion of the adjoining Lot's (if any) entryway area. The access easement shall be limited to a five foot strip of the adjoining Lot's side or front yard immediately adjacent to the Lot boundary nearest to the constructing Lot Owner's gate. The access easement shall be temporary and all back yard landscaping and construction must be completed within 90 days of the commencement of said landscaping or construction. The adjoining Lot Owner shall be given at least 15 days notice prior to the initial use of this temporary access easement. Following the completion of construction or landscaping, any Owner using the access easement provided for herein, shall promptly repair any damage occasioned by his use and shall restore the access easement area to its former condition.

4.4. Declarant's Easement. An easement is hereby reserved by the Declarant over the Lots and Tracts for the purpose of constructing, maintaining, and/or repairing all dwelling units and other Improvements.

ARTICLE 5

MAINTENANCE OF LOTS

Each Owner shall maintain his residence and Lot in good repair and an attractive condition. The yards and landscaping on all improved Lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved Lots. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his Lot. In the event a Lot Owner fails to maintain his Lot and residence in a neat and proper manner, the Architectural Committee may have said Lot and

residence repaired and cleaned up and may charge the Owner for said work in accordance with the provisions of Article 2. An Owner shall do no work that will impair any easement nor shall any Owner do an act or allow any condition to exist which will adversely affect any other Lots and residences or other Owners. Any repainting or redecorating the exterior surfaces of a residence which alters the original appearance of the residence will require the prior approval of the Architectural Committee.

ARTICLE 6

GENERAL PROVISIONS

6.1. Enforcement. The Architectural Committee, or any Owner, shall have the right (without obligation) to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Architectural Committee or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

6.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be terminated at any time by the written approval of Owners representing not less than fifty-one percent (51%) of the Lots; provided, however, that Section 4.2 of this Declaration concerning Use and Benefit Easements may not be terminated or amended except as provided in Subsection 6.4(e) below.

6.4. Amendment.

(a) Except for amendments which may be executed by the Declarant alone pursuant to Section 2.2 or Subsection 6.4(b), and except as provided in Sections 6.3 and 6.4(e) with regard to the Use and Benefit Easements, the Declaration may be amended by the written approval of the Owners of not less than fifty-one percent (51%) of the Lots.

(b) The Declarant may amend this Declaration, without obtaining the approval or consent of any Owner in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home

Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project, or this Declaration is required by law or is requested by the Declarant.

(c) So long as the Declarant owns any Lot, any amendment which would delete or modify any right granted to the Declarant by this Declaration must be approved in writing by the Declarant.

(d) Any amendment approved pursuant to Subsection (a) above shall be signed by the approving Lot Owners and shall be recorded with the County Recorder of Maricopa County, Arizona. Any amendment made by the Declarant pursuant to Section 2.2 or Subsection 6.4(b) shall be executed by the Declarant and shall be recorded with the County Recorder of Maricopa County, Arizona.

(e) Notwithstanding the foregoing, the Use and Benefit Easements described in Section 4.2 of this Declaration may only be amended with respect to adjoining User and Easement Lots by the Owners of those Lots. Any such amendment to said Section 4.2 shall apply only to those adjacent Lots the Owners of which have executed that amendment; thus, an Easement Area may be amended or altered only with the written consent of the affected User Lot Owner and Easement Lot Owner. Any such amendment shall only be effective when recorded with the County Recorder of Maricopa County, Arizona.

6.5. Violations and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Declarant or any Owner.

6.6. Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

6.7. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

6.8. Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Architectural Committee or the Declarant at 300 West Clarendon, Suite 140, Phoenix, Arizona 85013; if to an Owner, to the address of his Lot

or to any other address last furnished by the Owner to the Architectural Committee; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the Architectural Committee. Each Owner of a Lot shall file the correct mailing address of such Owner with the Architectural Committee, and shall promptly notify the Architectural Committee in writing of any subsequent change of address.

6.9. Binding Effect. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

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

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

6.12. Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration, shall be joint and several.

6.13. Attorneys' Fees. In the event the Architectural Committee employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

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6.14. Common Area. Tracts C, D and E have been transferred to and will be maintained by The M.P.R. Homeowners Association, an Arizona nonprofit corporation (the "Master Association") established pursuant to the Master Declaration.

6.15. Master Declaration. All of the provisions of this Declaration shall be subject to the provisions of the Master Declaration, and the Articles of Incorporation, Bylaws and all Rules and Regulations of the Master Association. In addition to the restrictions contained in this Declaration, the use of the Lots and the rights of all Owners are limited by the Master Declaration, the Articles and Bylaws of the Master Association, and the rules and guidelines promulgated by that Association and the Master Architectural Committee.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

MARLBOROUGH DEVELOPMENT CORPORATION,
an Arizona corporation

PIONEER TRUST COMPANY OF ARIZONA,
an Arizona corporation, as Trustee
of its Trust No. 20,764

By: [Signature]
Its: PRESIDENT

By: [Signature]
Its: TRUST OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 22nd day of October, 1986, by Larry S. Benson, as President of MARLBOROUGH DEVELOPMENT CORPORATION, an Arizona corporation.

[Signature]
Notary Public

My Commission Expires: May 22, 1987



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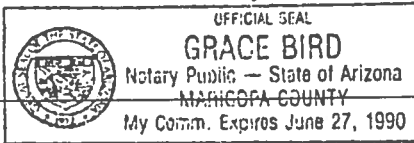
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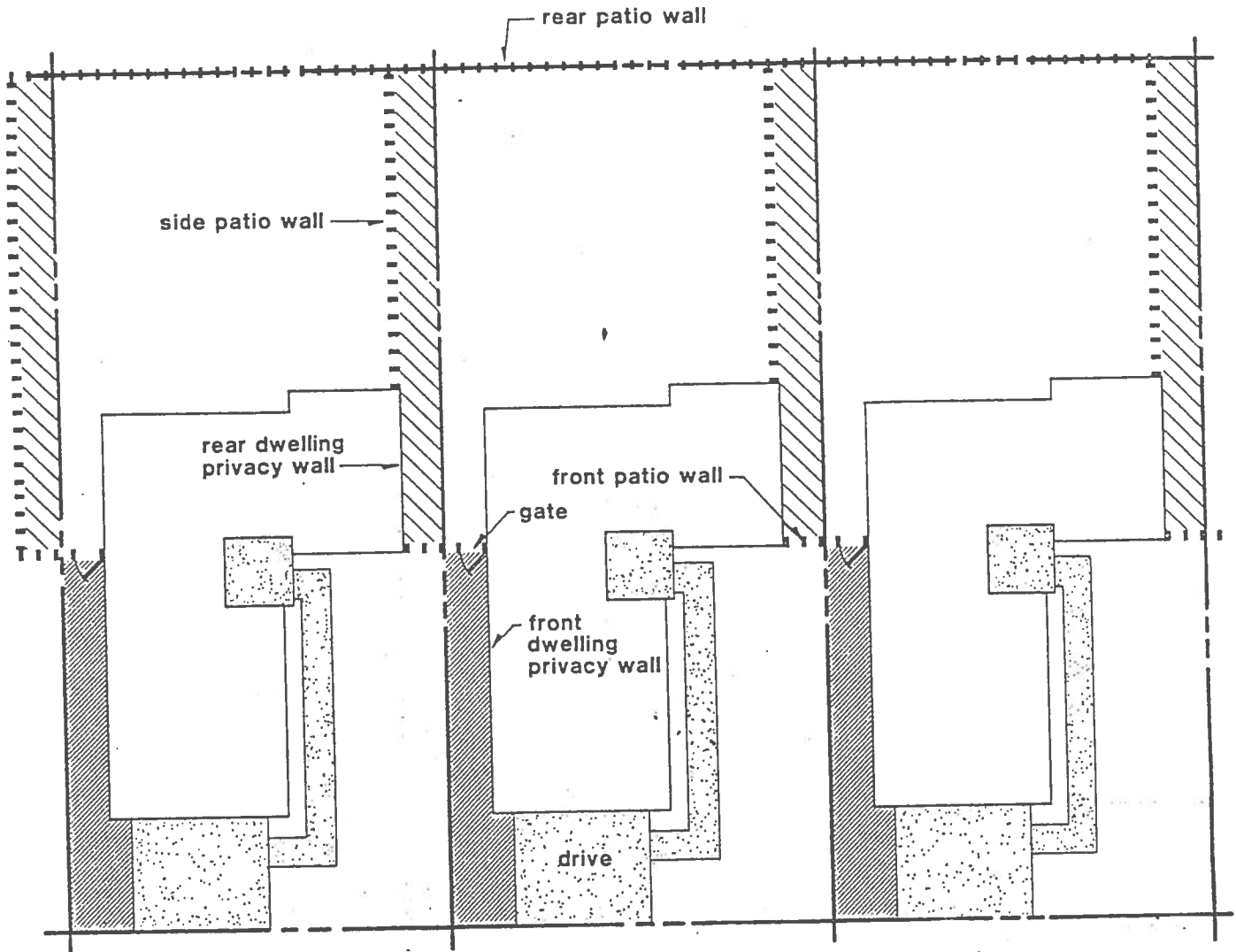
STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 24th
day of October, 1986, by Charles A. Johnson,
as Trust Officer of PIONEER TRUST COMPANY OF ARIZONA, an
Arizona corporation, as Trustee.





Grace Bird
Notary Public

My Commission Expires:





LEGEND

-  Side & Rear Patio Easements
-  Entryway Easements
-  property line
-  fencing

TYPICAL EASEMENT AREAS

EXHIBIT A