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DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, ✓
CHARGES, SERVITUDES, LIENS, RESERVATIONS,
AND EASEMENTS
FOR
MC CORMICK RANCH

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - Definitions	3
ARTICLE II - Covenants Binding on Property, Owners and Association	13
Section 1: Property Bound	13
Section 2: Owners Bound	13
Section 3: Association Bound	14
Section 4: Subsidiary Association Bound	14
ARTICLE III - Annual and Special Assessments	14
Section 1: Initial Maximum Rate of Charge and Amount of Annual Assessment	14
Section 2: Formula to Maintain Maximum Annual Assessment in Event of Legislative Amendments Affecting Assessed Valuation	15
Section 3: Increase in Rate of Charge and Maximum Amount of Annual Assessment	16
Section 4: Special Assessments for Capital Improvements	17
Section 5: Notice and Quorum for Any Action Authorized Under Sections 3 and 4	17
Section 6: Procedure for Establishment of the Assessment Period	18
Section 7: Billing of the Annual Assessment	18
Section 8: Rules Regarding Billing and Collection Procedures	19
Section 9: Evidence of Payment of Annual and Special Assessments and Maintenance Charges	19
ARTICLE IV - Imposition of Lien, Exemptions; Owners' Agreement	20
Section 1: Imposition of Assessment Lien and Priority of the Lien	20
Section 2: Property Exempted from the Annual and Special Assessments and Assessment Lien	20
Section 3: Owners' Promises Regarding Annual and Special Assessments and Assessment Lien	20

ARTICLE V - Enforcement of Payment of Annual and Special Assessments and Maintenance Charges and of Assessment Lien 21

 Section 1: Association as Enforcing Body 21

 Section 2: Association's Remedies to Enforce Payment of Annual and Special Assessments and Maintenance Charges 21

 Section 3: Subordination of the Lien to First Mortgage or Deed of Trust 22

 Section 4: Costs to be Borne by Owner in Connection with Enforcement of Payment of Annual and Special Assessment and Maintenance Charges 23

ARTICLE VI - Use of Funds; Borrowing Power 23

 Section 1: Purposes for which Association's Funds may be Used 23

 Section 2: Borrowing Power 24

 Section 3: Association's Rights in Spending Funds From Year to Year 24

 Section 4: Administration of Special Use Fees 24

ARTICLE VII - Rights and Powers 25

 Section 1: Association's Rights and Powers as Set Forth in Articles and By-Laws 25

 Section 2: Association's Rights of Enforcement of Provisions of this and Other Instruments Affecting the Property 25

 Section 3: Contracts with Others for Performance of Association's Duties 26

 Section 4: Mergers, Consolidations and Federations 26

ARTICLE VIII - Membership 27

 Section 1: Membership in the Association 27

 Section 2: Voting Rights 27

 Section 3: Board of Directors 29

ARTICLE IX - Easements and Rights of Enjoyment in Association Lands 31

 Section 1: Owners' and Residents' Easements and Rights of Enjoyment in Association Lands 31

 Section 2: Rules Regulating Use of Association Lands 31

Section 3: Fees Chargeable to Certain Classes
of Users of Association Lands 31

Section 4: Suspension of Rights of Enjoyment
in Connection with Enforcement of
the Covenants 32

ARTICLE X - Architectural Control Committee 32

ARTICLE XI - Maintenance 33

Section 1: Association Lands 33

Section 2: Assessment of Costs of Maintenance
and Repair of Association Lands 33

Section 3: Improper Maintenance of Other
Portions of the Property 34

ARTICLE XII - Transfer of Association Land
and Changes in Use 34

Section 1: Transfer of Association Land and
Procedure Therefor 34

Section 2: Change of Use of Association Land
and Procedure Therefor 36

ARTICLE XIII - Term; Amendments; Termination 36

Section 1: Term; Method of Termination 36

Section 2: Amendments 37

Section 3: Election Procedures for Amendments
and Termination 37

Section 4: Right of Amendment if Requested
by Governmental Agency or Federally
Chartered Lending Institutions 39

Section 5: Rights of Declarant's Representatives
to Resign from Association's Board
of Directors and Owners' Rights to
Terminate the Covenants 40

ARTICLE XIV - Subjecting Additional Lands to
the Declaration 41

Section 1: Requirements for Subjecting New
Lands to the Declaration 41

Section 2: Procedure for Adding New Lands 42

Section 3: Maximum Area of the Property 42

ARTICLE XV - Miscellaneous 43

Section 1: Interpretation of the Covenants 43

Section 2: Severability 43

Section 3: Rule Against Perpetuities 43

Section 4: Change of Circumstances 43

Section 5: Rules and Regulations 44

Section 6: Declarant's Disclaimer of
Representations 44

Section 7: References to the Covenants
in Deeds 44

Section 8: Successors and Assigns of
Declarant 45

Section 9: Gender and Number 45

Section 10: Captions and Titles 45

DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS,
 CHARGES, SERVIDITUDES, LIENS, RESERVATIONS
 AND EASEMENTS

THIS DECLARATION of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements (hereinafter termed the "Declaration") is made this 28th day of February, 1971, by KAISER AETNA, a partnership (hereinafter sometimes termed "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant owns approximately four thousand two hundred thirty-six (4,236) acres of land in and around the existing town of Scottsdale, in Maricopa County, Arizona, and may acquire additional lands in the same area; and

WHEREAS, Declarant desires to develop, in stages, the aforesaid lands now owned or hereafter acquired by it into a series of new and uniquely planned residential, office, resort, equestrian and other communities to be within an area bounded by Shea Boulevard on the north, 112th Street (East Section line of Section 28, Township 3 North, Range 5 East, Gila and Salt River Base and Meridian) on the east, Indian Bend Road on the south, and Scottsdale Road on the west, collectively known as "McCormick Ranch"; and

WHEREAS, at full development it is intended, without obligation, that such communities will collectively have one or more shopping centers, office parks, golf courses, lakes, libraries, churches, schools, parks, recreational areas, open spaces, walkways, riding paths, drives and other civic, residential, cultural, commercial, educational, medical and institutional areas, buildings and facilities; and

WHEREAS, as part of the first stage of development of the aforesaid lands now owned or hereafter acquired, Declarant intends, without obligation, to develop one or more communities upon land which, as of the date of recordation of this Declaration, is owned by Declarant and shall comprise the "Property"; and it is intended, without obligation, that other lands gradually will be added to the Property within the maximum area described above; and

WHEREAS, Declarant desires to form a non-profit corporation for the civic purposes of benefiting the Property, the Owners and the Residents (as said terms are defined hereinbelow), which non-profit corporation (hereinafter termed the "Association") will (1) acquire, construct, operate, manage and maintain a variety of common facilities, services and programs upon the Property; (2) establish, levy, collect and disburse the assessments and other charges imposed hereunder; and (3) as the agent and representative of the Owners and Residents of the Property, administer and enforce all provisions hereof and enforce use and other restrictions imposed on various parts of the Property; and

WHEREAS, Declarant is preparing the necessary documents for the incorporation and organization of the Association and may, without obligation, seek approval thereof by the Federal Housing Administration (hereinafter termed "FHA") and by any other governmental agencies or financial institutions whose approval Declarant deems necessary or desirable; and

WHEREAS, until such time as the Association is incorporated, Declarant desires to and hereby does reserve to itself, to its successors and to its assigns thereof the right to exercise the powers and duties granted in this Declaration to the Association; and

WHEREAS, in order to enable the Association to accomplish the purposes outlined above, all of the Property is hereby subjected to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements (hereinafter collectively termed "Covenants") hereinafter set forth; and in order to cause the Covenants to run with the Property and to be binding upon the Property and the Owners thereof from and after the date of recordation of this Declaration, Declarant hereby makes all conveyances of the Property, whether or not so provided therein, subject to the Covenants herein set forth; and by accepting deeds to the Property, the Owners, for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the Covenants (including but not limited to the obligation to pay assessments) hereinafter set forth.

NOW, THEREFORE, KAISER AETNA, a partnership, hereby declares, covenants and agrees as follows:

ARTICLE I.

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

- A. "Additional Properties" shall mean properties added in accordance with Article XIV hereof.
- B. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot.
- C. "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.
- D. "Assessable Property" shall mean the entire Property, except such part or parts thereof as may from time to

time constitute Exempt Property.

E. "Assessment Period" shall mean the term set forth in Article III, Section 6.

F. "Assessment Lien" shall mean the lien created and imposed by Article IV.

G. "Association" shall mean the Arizona non-profit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration. Prior to the incorporation of the Association, Declarant may without obligation, seek approval of this Declaration and the incorporating documents from FHA and any other governmental agencies or financial institutions whose approval Declarant deems necessary or desirable. Declarant, which hereby reserves the exclusive right to cause such Association to be incorporated, intends to name the Association "McCormick Ranch Property Owners' Association, Inc." if that name is available for use when the Association is incorporated.

H. "Association Land" shall mean such part or parts of the Property, together with the buildings, structures and improvements thereon, as may be owned at any time hereafter by the Association, for as long as the Association is the Owner thereof.

I. "Board" shall mean the Board of Directors of the Association.

J. "By-Laws" shall mean the By-Laws of the Association as the same may from time to time be amended or supplemented.

K. "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and assessments set forth herein.

L. "Declarant" shall mean Kaiser Aetna, a partnership, and the successors and assigns of Declarant's rights and powers hereunder.

M. "Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements, as amended or supplemented from time to time.

N. "Deed" shall mean a deed or other instrument conveying the fee simple title in a "Lot".

O. "Dwelling Unit" shall mean any portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single family.

P. "Exempt Property" shall mean the following parts of the Property:

- (1) All land and Permanent Improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Maricopa County, or any political subdivision thereof, for as long as any such entity or political subdivision is the Owner thereof or for so long as said dedication remains effective;
- (2) All land and Permanent Improvements (except such as is devoted to dwelling use) owned by a charitable or non-profit organization exempted (at the time of assessment by the Association) from payment of real property taxes by the laws of the State of Arizona, for as long as such entity is the Owner thereof;
- (3) All Association Land, for as long as the Association is the Owner thereof.

Q. "Full Cash Value" shall mean:

- (1) In each year, the full cash value of land and Permanent Improvements as it appears on the assessment rolls of Maricopa County for real estate tax purposes, as determined in such manner as may from time to time be provided by applicable law.
- (2) If Maricopa County ever ceases to have an assessment roll for real estate tax purposes, then in each year thereafter the full cash value of land and Permanent Improvements

as it appears on the assessment rolls of the State of Arizona, or absent that, then as it appears on the assessment rolls of any other political subdivision of the State of Arizona reflecting valuations of land and improvements within the Property for real estate tax purposes, as determined in such manner as may from time to time be provided by applicable law.

- (3) If Maricopa County, the State of Arizona and political subdivisions of the State ever cease to impose real estate taxes on all or a particular type of real property (such as residential property or commercial property) or Permanent Improvements within the Property, then in each year thereafter the "Full Cash Value" for any such real property or Permanent Improvements shall mean the full cash value established from time to time (but not less than once every three years) by such an independent real estate appraisal firm experienced in the business of appraising city properties as may be selected by the Board. Any such firm shall establish its valuations by using, to the greatest extent possible, the methods last used by the Maricopa County, State or other political subdivision taxing authorities.

R. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article XI, Sections 2 or 3.

S. "Lot" shall mean each portion of the Property which is assessed as a unit by the appropriate officials (presently the County Assessor of Maricopa County, Arizona) for the purpose of establishing real estate taxes to be imposed by the State of Arizona or any political subdivision thereof (including but not limited to Maricopa County), or which is assessed as a unit in accordance with Paragraph Q(3) of this Article. For the purposes of assessing a portion of the Property as a unit under Paragraph Q(3) of this Article, each unit to be assessed shall be established in accordance with the methods last used by public taxing authorities under Paragraph Q(1) or Q(2) of this Article.

T. "Member" shall mean all Owners.

U. "Owner" shall mean the record holder of legal title to the fee simple interest in any Lot, including contract sellers, but excluding others who hold such title merely as security. In the case of Lots the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the Trustor.

V. "Permanent Improvements" shall mean all buildings, structures and other matters and things which, at the time of the assessment of each Annual Assessment, are taxable by the State of Arizona or a political subdivision (including but not limited to Maricopa County) as real property under applicable law.

W. "Property" shall mean:

(1) At the time of recordation of this Declaration, the following land:

Parcel No. 1: That portion of Section 2, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Section 2; thence along the Westerly line of the Northwest quarter of said Section 2, South 01 degrees 44 minutes 00 seconds East, 475.00 feet; thence leaving said Westerly line North 89 degrees 37 minutes 25 seconds East, 1077.23 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 1200.00 feet; thence Southeasterly along said curve through a central angle of 49 degrees 42 minutes 48 seconds an arc distance of 1041.19 feet; thence tangent to said curve South 40 degrees 39 minutes 47 seconds East, 1027.07 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 1200.00 feet; thence Southeasterly along said curve through a central angle of 2 degrees 00 minutes 14 seconds an arc distance of 41.97 feet to the TRUE POINT OF BEGINNING of this description, said point to be known hereinafter as point "A", a radial at said point bears North 47 degrees 19 minutes 59 seconds East; thence North 41 degrees 55 minutes 00 seconds East, 226.29 feet; thence North 27 degrees 31 minutes 00 seconds East, 428.00 feet; thence North 44 degrees 40 minutes 00 seconds East, 618.00 feet; thence North 81 degrees 19 minutes 00 seconds East, 476.00 feet; thence

South 73 degrees 37 minutes 00 seconds East, 557.00 feet; thence South 16 degrees 52 minutes 00 seconds East, 1337.00 feet; thence South 50 degrees 16 minutes 00 seconds West, 508.00 feet; thence South 5 degrees 51 minutes 00 seconds West, 216.00 feet; thence South 73 degrees 45 minutes 00 seconds West, 290.00 feet; thence South 1 degree 43 minutes 00 seconds East, 334.00 feet; thence South 56 degrees 41 minutes 00 seconds West, 251.00 feet; thence South 3 degrees 59 minutes 00 seconds West, 274.00 feet; thence South 37 degrees 22 minutes 19 seconds West, 238.24 feet; thence South 87 degrees 48 minutes 00 seconds West, 910.00 feet; thence North 25 degrees 21 minutes 00 seconds West, 761.00 feet; thence North, 302.00 feet; thence North 33 degrees 41 minutes 00 seconds East, 230.85 feet; thence North 3 degrees 08 minutes 00 seconds East, 482.87 feet; thence North 25 degrees 47 minutes 00 seconds West, 252.00 feet; thence North 41 degrees 55 minutes 00 seconds East, 102.71 feet to the TRUE POINT OF BEGINNING.

Parcel No. 2: Portions of the East one half of Section 2 and the West one half of Section 1, both of Township 2 North, Range 4 East, of the Gila and Salt River Base and Meridian, County of Maricopa, State of Arizona, described as a whole as follows:

BEGINNING at the Southeast corner of said Section 2; thence along the Southerly line of the Southeast one quarter of said Section 2 North 89 degrees 25 minutes 37 seconds West, 1284.17 feet; thence leaving said Southerly line North 39 degrees 19 minutes 00 seconds West, 924.01 feet; thence North 21 degrees 39 minutes 00 seconds East, 68.00 feet; thence North 54 degrees 06 minutes 00 seconds East, 259.00 feet; thence North 87 degrees 25 minutes 00 seconds East 289.00 feet; thence North 67 degrees 26 minutes 00 seconds East, 83.00 feet; thence North 32 degrees 30 minutes 00 seconds East, 1513.00 feet; thence South 86 degrees 18 minutes 00 seconds East, 171.00 feet; thence North 11 degrees 29 minutes 00 seconds East, 387.00 feet; thence North 46 degrees 24 minutes 00 seconds East, 330.48 feet to a point in a non-tangent curve concave Southwesterly and having a radius of 1200.00 feet, a radial to said point bears South 38 degrees 04 minutes 23 seconds West; thence Southeasterly along said curve through a central angle of 4 degrees 43 minutes 15 seconds an arc distance of 98.87 feet; thence tangent to said curve South 47 degrees 12 minutes 22 seconds East, 756.97 feet to the beginning of a non-tangent curve concave Southeasterly and having a radius of 2500.00 feet, to which said last mentioned course is normal; thence Southwesterly along said curve through a central angle of 43 degrees 12 minutes 33 seconds an arc distance of 1885.36 feet; thence tangent to said curve South 0 degrees 24 minutes 55 seconds East, 564.95 feet to the POINT OF BEGINNING.

Parcel No. 3: That portion of Section 1, Township 2 North, Range 4 East, together with a portion of the

Southeast one quarter of Section 36, Township 3 North, Range 4 East, both of the Gila and Salt River Base and Meridian, County of Maricopa, State of Arizona, described as a whole as follows:

BEGINNING at the Southwest corner of said Section 1; thence North 0 degrees 24 minutes 55 seconds West, 564.95 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 2500.00 feet; thence Northeasterly along said curve through a central angle of 43 degrees 12 minutes 33 seconds an arc distance of 1885.36 feet to a point hereinafter referred to as Point "A"; thence tangent to said curve North 42 degrees 47 minutes 38 seconds East, 2538.20 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 2500.00 feet; thence Northeasterly along said curve through a central angle of 41 degrees 36 minutes 04 seconds an arc distance of 1815.19 feet to a point hereinafter referred to as Point "B"; thence radial to said curve South 88 degrees 48 minutes 26 seconds East, 99.22 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 1500.00 feet; thence Southeasterly along said curve through a central angle of 17 degrees 40 minutes 06 seconds an arc distance of 462.56 feet; thence tangent to said curve South 71 degrees 08 minutes 20 seconds East, 1131.79 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 1500.00 feet; thence Southeasterly along said curve through a central angle of 18 degrees 38 minutes 47 seconds an arc distance of 488.16 feet; thence tangent to said curve South 89 degrees 47 minutes 07 seconds East, a distance of 100.80 feet to the Northeast corner of said Section 1; thence along the Easterly line of the Northeast one quarter of said Section 1, South 0 degrees 12 minutes 53 seconds West, 2644.78 feet to the Southeast corner of the Northeast one quarter of said Section 1; thence along the Southerly line of the Northeast one quarter of said Section 1, North 89 degrees 53 minutes 52 seconds West, 2631.68 feet to the Northeast corner of the Southwest one quarter of said Section 1; thence along the Easterly line of said Southwest one quarter, South 0 degrees 01 minutes 21 seconds East, 2644.81 feet to the Southeast corner of said Southwest one quarter; thence along the Southerly line of said Southwest one quarter, North 89 degrees 28 minutes 59 seconds West, 2614.20 feet to the POINT OF BEGINNING.

Exception No. 1 to Parcel No. 3: The South 33.00 feet of said Southwest one quarter and the East 33.00 feet of said Northeast one quarter, as shown on map recorded in Book 4 of Maps, Page 9, in the office of the County Recorder of said County.

Exception No. 2 to Parcel No. 3: COMMENCING at a point hereinbefore referred to as Point "A"; thence South 47 degrees 12 minutes 22 seconds East, 305.00 feet to the TRUE POINT OF BEGINNING

of this description; thence South 42 degrees 47 minutes 38 seconds West, 115.00 feet to the beginning of a tangent curve concave Easterly and having a radius of 300.00 feet; thence Southerly along said curve through a central angle of 55 degrees 13 minutes 09 seconds an arc distance of 289.13 feet; thence tangent to said curve South 12 degrees 25 minutes 31 seconds East, 189.32 feet; thence North 77 degrees 34 minutes 29 seconds East, 30.00 feet; thence North 86 degrees 41 minutes 41 seconds East, 358.40 feet; thence North 42 degrees 47 minutes 38 seconds East, 974.82 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 90.00 feet; thence Northeasterly along said curve through a central angle of 53 degrees 24 minutes 53 seconds an arc distance of 83.90 feet; thence tangent to said curve North 10 degrees 37 minutes 15 seconds West, 108.83 feet; thence South 79 degrees 22 minutes 45 seconds West, 526.00 feet; thence North 10 degrees 37 minutes 15 seconds West, 263.72 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 250.00 feet; thence Northeasterly along said curve through a central angle of 20 degrees 44 minutes 22 seconds an arc distance of 90.49 feet; thence radial to said curve North 79 degrees 52 minutes 53 seconds West, 94.52 feet; thence North 47 degrees 12 minutes 22 seconds West, 65.00 feet to a point in that certain course hereinbefore mentioned as having a bearing of North 42 degrees 47 minutes 38 seconds East, and a distance of 2538.20 feet; thence along said last mentioned certain course South 42 degrees 47 minutes 38 seconds West, 480.00 feet; thence South 47 degrees 12 minutes 22 seconds East, 305.00 feet to a line parallel with and distant 305.00 feet Southeasterly, measured at right angles to that certain course hereinbefore mentioned as having a bearing of North 42 degrees 47 minutes 38 seconds East and a distance of 2538.20 feet; thence along said parallel line South 42 degrees 47 minutes 38 seconds West, 195.00 feet to the TRUE POINT OF BEGINNING.

Exception No. 3 to Parcel No. 3: BEGINNING at a point hereinbefore mentioned as being Point "B"; thence South 88 degrees 48 minutes 26 seconds East, 99.22 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 1500.00 feet; thence Southeasterly along said curve through a central angle of 17 degrees 40 minutes 06 seconds an arc distance of 462.56 feet; thence tangent to said curve South 71 degrees 08 minutes 20 seconds East, 1131.79 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 1500.00 feet; thence Southeasterly along said curve through a central angle of 18 degrees 38 minutes 47 seconds an arc distance of 488.16 feet; thence tangent to said curve South 89 degrees 47 minutes 07 seconds East, 100.80 feet to the Northeast corner of said Section 1; thence along the

Easterly line of the Northeast one quarter of said Section 1 South 0 degrees 12 minutes 53 seconds West, 835.00 feet; thence leaving said Easterly line North 89 degrees 47 minutes 07 seconds West, 100.80 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 2335.00 feet; thence Northwesterly along said curve through a central angle of 18 degrees 38 minutes 47 seconds an arc distance of 759.90 feet; thence tangent to said curve North 71 degrees 08 minutes 20 seconds West, 1498.78 feet; thence North 71 degrees 41 minutes 21 seconds West, 65.00 feet to a point in that certain curve hereinbefore mentioned as being concave Northwesterly and having a radius of 2500.00 feet, to which said last mentioned course is normal; thence Northeasterly along said certain curve through a central angle of 17 degrees 07 minutes 05 seconds an arc distance of 746.92 feet to the POINT OF BEGINNING.

- (2) From and after the addition of each parcel of land subjected to this Declaration pursuant to Article XIV hereof, each such new parcel of land and the Permanent Improvements thereon; and
- (3) From and after the building, installation or erection of each new Permanent Improvement on the land described in subparagraph (1) or added pursuant to subparagraph (2) above, each such new Permanent Improvement.

X. "Rate of Charge" shall mean the charge per \$100 of Full Cash Value provided for in Article III, Section 1.

Y. "Rental Apartments" shall mean Dwelling Units within Permanent Improvements consisting of twenty (20) or more commercially integrated Dwelling Units under single ownership upon one or more contiguous lots, each of which is designed and utilized, otherwise than as a hotel or on some other transient basis, for rental or leased residential purposes to non-owners on a non-cooperative basis. This term is intended to include rented or leased apartments in the typically regarded sense as of the date hereof; and it is not intended to include unusual or atypical arrangements or any arrangements whereby the apartment occupant is, directly or indirectly, an owner or beneficiary of ownership in his apartment or whereby he occupies his apartment pursuant to some form of reciprocal use agreement,

irrespective of whether any such arrangements may otherwise fall within the aforesaid definition. Rental or occupancy for any period less than thirty (30) days, or any rental if the occupants are provided customary hotel services such as, by way of example only, room service for food and beverages, maid service, furnishing of laundry and linen and bellboy service, shall be deemed to constitute hotel or transient use.

Z. "Resident" shall mean:

- (1) Each buyer under a contract of sale covering any part of the Assessable Property, regardless of whether the contract is recorded, and each tenant actually residing or conducting a business on any part of the Assessable Property; and
- (2) Members of the immediate family of each Owner and of each buyer and tenant referred to in subparagraph (1) actually living in the same household with such Owner or such buyer or tenant. Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special non-resident fees for use of the Association Land if the Association shall so direct), the term "Resident" also shall include the employees, guests or invitees of any such Owner, buyer or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

AA. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article III, Section 4.

BB. "Special Use Fees" shall mean special fees which an Owner or any other person is obligated by his Deed or by Contract to pay to the Association, over, above and in addition to any such assessments, charges and fees as are levied, assessed, imposed or payable hereunder.

CC. "Subsidiary Association" shall mean any Arizona non-profit corporation which is organized and exists pursuant to or for the purpose of administering and enforcing the provisions of any Subsidiary Declaration.

DD. "Subsidiary Declaration" shall mean any declaration of covenants, conditions, assessments, charges, servitudes, liens, reservations, easements or restrictions applicable to any portion of the Property which is recorded after the effective date hereof or which is otherwise subject hereto.

EE. "Supplemental Declaration" shall mean a supplement to this Declaration recorded as provided in Article XIV, Section 1.

FF. "Voting Owners" shall mean those Owners who, pursuant to Article VIII, Section 2, have voting rights.

ARTICLE II

COVENANTS BINDING ON PROPERTY, OWNERS AND ASSOCIATION

Section 1: Property Bound. From and after the date of recordation of this Declaration, the Property shall be subject to the Covenants and said Covenants shall run with, be for the benefit of, bind and burden the Property.

Section 2: Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and for the benefit of each Owner and his heirs, executors, administrators, trustees, personal representatives, successors and assigns, whether or not so provided or otherwise mentioned in the Deed. Each Owner, for himself, his heirs, executors, administrators, trustees, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the assessments provided for hereunder, and to be bound by all of the Covenants herein set forth. Each Owner shall be and remain personally liable, regardless of whether he has transferred title to his Lot, for the amount of assessments (together with interest thereon, costs of collection and attorney's fees, if any) which fell due while he was an Owner. No Owner shall escape personal liability for

the assessments herein provided by non-use of Association Land or by transfer or abandonment of his Lot. The Owner's personal obligation shall not pass to a successor Owner unless expressly assumed by the successor Owner; but any such assumption of personal liability by a successor Owner shall not relieve the prior Owner of his personal liability for the amount of assessments which fell due while the prior Owner was an Owner.

Section 3: Association Bound. Upon issuance of a Certificate of Incorporation by the Arizona Corporation Commission to the Association, the Covenants shall be binding upon and shall benefit the Association.

Section 4: Subsidiary Association Bound. Upon issuance of a Certificate of Incorporation by the Arizona Corporation Commission to any Subsidiary Association, the Covenants shall be binding upon and shall benefit the Subsidiary Association.

ARTICLE III

ANNUAL AND SPECIAL ASSESSMENTS

Section 1: Initial Maximum Rate of Charge and Amount of Annual Assessment. In order to provide funds for the purposes and uses specified in Article VI hereof, the Board in each year, commencing with the year in which the Association is incorporated, shall assess against the Assessable Property a charge equal to a specified number of cents (which, initially, shall be not in excess of \$0.10 for Rental Apartments and \$0.20 for all other Permanent Improvements and for all land) for each One Hundred Dollars (\$100.00) of the then current Full Cash Value of the Assessable Property, as determined and made the basis for assessment by the applicable Maricopa County, State or other political subdivision (see

Article I, Paragraph Q) for said taxing authority's most recently completed real property tax year. Rental Apartments shall be assessed at one-half (1/2) the Rate of Charge applicable to other Permanent Improvements and to land. The maximum amount of assessment by the Association for Rental Apartments, initially, shall not exceed \$60.00 per Dwelling Unit. The maximum amount of assessment by the Association for other Permanent Improvements, initially, shall not exceed \$120.00 per Dwelling Unit, or undeveloped Lot. The aforesaid Rate of Charge and maximum amount of assessment shall be subject to adjustment as provided in Section 2 and increase as specified in Section 3 of this Article. All land which is a part of the Assessable Property shall be assessed at the Rate of Charge prescribed by the Board for Permanent Improvements other than Rental Apartments, but without any limitation as to maximum amount of assessment. In making each such Annual Assessment, the Board shall separately assess each Lot based on its Full Cash Value, and each Lot shall be charged with and subject to a lien for the amount of the separate assessment which shall be deemed the "Annual Assessment" against such Lot.

Section 2: Formula to Maintain Maximum Annual Assessment in Event of Legislative Amendments Affecting Assessed Valuation. The formula prescribed in Section 1 of this Article for establishing the maximum Annual Assessment against each Lot is predicated on the valuation of taxable property at market value in accordance with the provisions of Arizona Revised Statutes, Section 42-227 as presently enacted. If at any time or times hereafter the applicable law increases or decreases the percentage figure of Full Cash Value at which real property (or any particular type of, or improvements

on, real property) is to be valued, then the \$0.20 maximum charge per \$100 of Full Cash Value referred to in Section 1 of this Article shall be adjusted in inverse proportion. For example, if the law is changed to require the valuation of all or a particular type of the Property to be increased to twice (2/1) the Full Cash Value (twice the current valuation), then the maximum charge with respect to such property automatically shall be decreased by half (1/2) (i.e., \$0.20 to \$0.10, or \$0.10 to \$0.05, per \$100 of Full Cash Value). Or, if the law is changed to require the valuation of all or a particular type of the Property to be decreased to half (1/2) of the Full Cash Value (1/2 of the current valuation), then the maximum charge with respect to such property automatically shall be increased from \$0.10 to \$0.20, or from \$0.20 to \$0.40, per \$100 of Full Cash Value.

Section 3: Increase in Rate of Charge and Maximum Amount of Annual Assessment. The \$0.20 maximum Rate of Charge and the maximum amount of assessment, respectively, referred to in Section 1 (or as adjusted under Section 2) of this Article may be increased by the Board from year to year (a) in direct proportion to the increase (if any) in the Consumer Price Index, United States Department of Labor, Bureau of Labor Statistics, All Items, United States Average (1967 base year equals 100), or (b) by an amount not to exceed three percent (3%) above the maximum assessment for the previous year, whichever is greater. The amount of the increase in each year authorized pursuant to the former alternative shall be computed by multiplying the Rate of Charge and maximum amount of assessment, respectively, (as adjusted under Section 2 of this Article) by the percentage which is equal to (a) the increase, if any, in the Index number for the most recent month for which such Index was published over (b) the Index

number of 122.6 for the month of October, 1971. Increases in excess of the foregoing may be authorized, subject to prior approval of the Board of Directors, by affirmative vote of two-thirds (2/3) of the votes cast by the Voting Owners, casting their votes in person or by proxy, at a meeting duly called for such purpose.

Section 4: Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Association Land, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes cast by Voting Owners in person or by proxy at a meeting duly called for such purpose. In connection with any such Special Assessment, Rental Apartments shall be assessed at one-half (1/2) the Rate of Charge applicable to other Permanent Improvements and to land. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all Voting Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be

called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Procedure for Establishment of the Assessment Period. As soon as practical after the incorporation of the Association, the Board shall record an instrument with the County Recorder of Maricopa County, Arizona, specifying either a calendar or fiscal year (hereinafter called the "Assessment Period") for which the Annual Assessment is to be levied. The Board in its sole discretion from time to time thereafter may change the Assessment Period by recording an instrument specifying the new Assessment Period.

Section 7: Billing of the Annual Assessment. As soon as practical in each Assessment Year, the Association shall send a written bill to the Owner of each Lot stating:

- (a) The Full Cash Value of each Lot owned by such Owner, itemized separately as to Rental Apartments, as reflected by the appropriate public records (presently being the assessment rolls in the Maricopa County Assessor's Office);
- (b) The number of cents per One Hundred Dollars (\$100.00) of Full Cash Value assessed by the Association with respect to Rental Apartments and other Assessable Property, respectively, to compute the Annual Assessment for the Assessment Period in question, and the beginning and ending date of the Assessment Period;
- (c) The amount of the Annual Assessment assessed against each such Lot, stated in terms of the total sum due and owing as the Annual Assessment, and the amounts payable if paid in installments;
- (d) The dates the installments are due and owing (the first installment due date shall be at least thirty (30) and not more than ninety (90) days from the date of mailing of the bill);

- (e) That unless the Owner shall pay the Annual Assessment on or before the first installment due date, or pay the installments on or before their respective due dates, the Annual Assessment or the installments not so paid when due shall be deemed delinquent and shall bear interest from such due date at the rate of six percent (6%) per annum until paid, and the Owner shall be liable for all costs, including attorney's fees, which may be incurred by the Association in collecting the same.

Section 8: Rules Regarding Billing and Collection Procedures. The Association shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the assessments provided herein and for the billing and collection of the Annual and Special Assessment and the Maintenance Charges imposed pursuant to Article XI, Sections 2 and 3, provided that said procedures are not inconsistent with the provisions hereof.

Section 9: Evidence of Payment of Annual and Special Assessments and Maintenance Charges. Upon receipt of a written demand by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating (a) that all Annual and Special Assessments and Maintenance Charges (including interest, costs and attorney's fees, if any, as provided in Section 7 above) have been paid with respect to any specified Lot as of the date of such certificate, or (b) if all Annual and Special Assessments and Maintenance Charges have not been paid, the amount of such Annual and Special Assessments and Maintenance Charges (including interest, costs and attorney's fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charge must be paid at the time the request for any such certificate is made.

Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot in question.

ARTICLE IV

IMPOSITION OF LIEN; EXEMPTIONS; OWNERS' AGREEMENT

Section 1: Imposition of Assessment Lien and Priority of the Lien. Each Lot shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration for the amount of the Annual and Special Assessments assessed and levied against each such Lot and for Maintenance Charges. The lien (hereinafter called the Assessment Lien) against each such Lot shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each such Lot, except that such Assessment Lien shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior.

Section 2: Property Exempted from the Annual and Special Assessments and Assessment Lien. Exempt Property shall be exempted from the assessment of the Annual and Special Assessments and, except as provided in Article XI, Section 3, from Maintenance Charges and the Assessment Lien; provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the assessment of the Annual and Special Assessments and, if exempt therefrom, Maintenance Charges (prorated as of the date it became Assessable Property) and the Assessment Lien.

Section 3: Owners' Promises Regarding Annual and Special Assessments and Assessment Lien. Each Owner, for him-

self, his heirs, executors, administrators, trustees, personal representatives, successors and assigns, covenants and agrees: (a) that he will pay to the Association when due the Annual and Special Assessments assessed by the Association in each year against his Lot together with any Maintenance Charges imposed pursuant to Article XI, Sections 2 and 3; (b) that he acquires his Lot subject to the Annual and Special Assessments and Maintenance Charges and Assessment Lien; and (c) that by accepting a Deed to his Lot, he shall be, and remain, personally liable for any and all Annual and Special Assessments and Maintenance Charges assessed against his Lot while he is (or was) the Owner thereof, regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether he signed the Deed.

ARTICLE V

ENFORCEMENT OF PAYMENT OF ANNUAL AND SPECIAL ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

Section 1: Association as Enforcing Body. The Association, as the agent and representative of the Owners, shall have the exclusive right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration for an unreasonable period of time, after written request to do so, then any Owner may enforce them on behalf of the Association by any appropriate action, whether in law or in equity.

Section 2: Association's Remedies to Enforce Payment of Annual and Special Assessments and Maintenance Charges. If the Owner of any Lot fails to pay the Annual or Special Assessments or installments when due, or to pay Maintenance Charges assessed pursuant to Article XI, Sections 2 and 3, the Association may enforce the payment of the Annual or

Special Assessments, Maintenance Charges and/or the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy):

- (a) Bring an action at law and recover judgment against the Owner personally obligated to pay the Annual or Special Assessments or the Maintenance Charges;
- (b) Foreclose the Assessment Lien against the Lot in accordance with the then prevailing Arizona law relating to the Foreclosure of realty mortgages (including the right to recover any deficiency), and the Lot may be redeemed after foreclosure sale as provided by law.

Section 3: Subordination of the Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or deed of trust of which the beneficiary is an institutional lender which is chartered (or licensed) by the United States or any state within the United States. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of such a mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Annual and Special Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens for taxes or other public

charges which by applicable law are expressly made superior), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Annual and Special Assessments, Maintenance Charges and the Lien thereof accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Section 4: Costs to be Borne by Owner in Connection with Enforcement of Payment of Annual and Special Assessment and Maintenance Charges. In any action taken pursuant to Section 2 of this Article, the Owner shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual and Special Assessments and Maintenance Charges together with interest and the Association's costs and attorney's fees.

ARTICLE VI

USE OF FUNDS; BORROWING POWER

Section 1: Purposes for which Association's Funds may be Used. The Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Property, the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Property, which may be necessary, desirable or beneficial to the general common interests of the Property, the Owners and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such

common benefit: landscaping, recreation, communications, education, transportation, health, utilities, public services, culture and safety. The Association also may expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Arizona or such municipality's charter, including by way of illustration all purposes (enumerated or implied) for which the City of Phoenix may expend its funds pursuant to the charter of the City of Phoenix.

Section 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 is necessary or appropriate.

Section 3: Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. Nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Annual Assessment in the succeeding year, but may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purpose.

Section 4: Administration of Special Use Fees. The Association is authorized to bill for, sue for, collect, administer and disperse all Special Use Fees and the payment thereof shall be secured by the Assessment Lien, provided, however, that all Special Use Fees collected shall if imposed in connection with a particular improvement be separately accounted for as to each separate improvement pertaining to which they are collected and shall be expended on the particular improvement to which they pertain.

ARTICLE VII

RIGHTS AND POWERS

Section 1: Association's Rights and Powers as Set Forth in Articles and By-laws. In 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 its Articles and By-Laws. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and By-Laws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration. After incorporation of the Association, a copy of the Articles and By-Laws of the Association shall be available for inspection at the office of the Association during reasonable business hours. Copies of said Articles and By-Laws may be purchased for such reasonable fees as may be prescribed by the Association.

Section 2: Association's Rights of Enforcement of Provisions of this and Other Instruments Affecting the Property.

The Association, as the agent and representative of the Owners, shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument affecting all or any part or parts of the Property. Any such instrument shall have been executed pursuant to, or subject to, the provisions of this Declaration, or otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association, by Declarant, or by

any Subsidiary Association.

Section 3: Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Kaiser Aetna, its subsidiaries and affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors of the Association is employed by or otherwise connected with Kaiser Aetna, its subsidiaries and affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable; and any such director may be counted in determining the existence of a quorum at that meeting of the Board of the Association which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction with like force and effect as if he were not so interested.

Section 4: Mergers, Consolidations and Federations. The Association shall have the right and power to participate in mergers, consolidations and federations with any other non-profit corporations or associations regardless of whether the objects, purposes, rights and powers of such non-profit corporations or associations are lesser than, the same as, or greater than those of the Association. Any proposed merger, consolidation or federation shall not be effective or voted upon by the Owners without prior approval of the Board of the Association. Any such mergers, consolidations or federation shall be consummated only upon an affirmative vote of two-thirds of the votes cast by the Voting Owners at an election held for such purpose in the manner provided in Article XIII,

Section 3. Upon any such merger or consolidation, all of the properties, rights and obligations of the other non-profit corporation or association shall be transferred to and assumed by the Association as the survivor, or alternatively, all the properties, rights and obligations of the Association shall be transferred to and assumed by the surviving or newly created non-profit corporation or association.

ARTICLE VIII

MEMBERSHIP

Section 1: Membership in the Association. Immediately upon the issuance of a Certificate of Incorporation to the Association, each and every Owner, by virtue of being an "Owner", automatically shall be a Member of the Association, and shall thereafter remain such for as long as such ownership continues. Such membership shall be appurtenant to and pass with the title of any Lot and may not be in any manner alienated or encumbered except as an appurtenance thereto as part and parcel thereof, provided, however, that no such change of ownership shall be effective for voting purposes, unless and until the Association is given actual notice and is provided satisfactory proof thereof. When more than one person holds an interest in any Lot, all such persons shall be Members.

Section 2: Voting Rights. Voting rights, which shall be exercisable only at such time and in such manner as shall be provided in the Articles, shall be vested in all members who are Owners of Assessable Property. The Voting Owners, initially, shall comprise two classes:

Class A. The Class A Voting Owners shall, initially, include all such Owners except Declarant; and each such Voting Owner shall be entitled to one vote for each Dwelling Unit (except Rental Apartment

Dwelling Units, for which each Voting Owner shall be entitled to one-tenth (1/10) vote each) and undeveloped Lot owned, provided, however, that there shall not be more than one Voting Owner on account of ownership in any single Dwelling Unit, Rental Apartment, or Lot. If the Voting Owner consists of more than one person, such persons shall decide who among themselves shall cast the vote.

Class B. The only Class B Voting Owner shall be the Declarant, who shall be entitled to three (3) votes for every full unit of density authorized by the City of Scottsdale with respect to portions of the Assessable Property owned by Declarant. The authorized number of such votes as of any given date shall be calculated by: (a) ascertaining the total units of density last authorized by the City of Scottsdale, by its approval of the Master Plan or otherwise, for the entire Property; (b) deducting therefrom the total number of Dwelling Units upon portions of the Property which are not owned by or in trust for Declarant; and (c) multiplying the balance (which represents Declarant's total residuary units of authorized density) by three. Alternatively, any Voting Owner shall have the independent right at any time, at such Owner's own cost and expense, to request a determination by the City of Scottsdale as to the total units of density authorized with respect to that portion of the Property then owned by Declarant; and the City's determination in such regard shall be and remain

binding on all Owners unless and until revised. Declarant's Class B voting rights shall cease and be converted to Class A voting rights on the happening of either of the following events, whichever first occurs:

- (a) When the number of Dwelling Units constructed upon portions of the Property not owned by Declarant exceeds the number of Class B votes to which Declarant is entitled; or
- (b) On December 31, 1991.

From that date forward, unless and until the Class B Membership is reinstated, Declarant shall be entitled, as in the case of other Voting Owners, to only one vote for each Dwelling Unit (except Rental Apartment Dwelling Units, for which he shall be entitled to one-tenth (1/10) vote each) and undeveloped Lot owned. Nothing contained herein shall preclude the Declarant from adding property pursuant to the provisions of Article XIV for the purpose of maintaining or reinstating the Class B Membership, and all property added pursuant to such Article shall be included in the determination of the existence and voting rights of the Class B Membership. The Class B Membership may be reinstated by the addition of such property.

The aforesaid Class A and B voting rights are, effectively, limited as herein elsewhere set forth until the last stages of development of the Property by Declarant.

Section 3: Board of Directors. The Articles of the Association basically will provide that the Board, which shall have the exclusive right of determining and transacting

the affairs of the Association, initially will consist of five (5) directors, each of whom, and each of whose replacement, shall be an employee, representative or designee of Declarant, and who shall be elected and subject to removal by Declarant only. The directors of the Association may also serve as directors of one or more Subsidiary Associations. The Articles will provide that, thereafter, upon the completion of construction, sale and initial occupation of each two thousand (2000) dwelling units within the Property, the Owners shall be entitled to have one director added to the initial five-man Board, until the total number of directors on the Board equals nine (9). At that time (when 8,000 dwelling units have been constructed, sold and initially occupied within the Property), the total number of directors on the Board shall remain static at nine. The Articles further shall provide that upon the first to occur of either of the following events:

- (a) a total of eleven thousand (11,000) dwelling units are constructed, sold and initially occupied within the Property; or
- (b) December 31, 1991;

the Owners thereafter shall be entitled to elect the entire Board (including the 5 directors, or their respective successors, theretofore elected by Declarant) of the Association as provided in the Association's Articles. The rationale of the foregoing plan is to permit Declarant to have control of the Board (and thus control all acts by the Association) for a reasonable time to accomplish its over-all plan of development of the Property, and yet make it possible for the Owners to have increasing rights of representation in preparation for assuming full control of the Board and of the affairs of the Association.

ARTICLE IX

EASEMENTS AND RIGHTS OF ENJOYMENT

IN ASSOCIATION LANDS

Section 1: Owners' and Residents' Easements and Rights of Enjoyment in Association Lands. Subject to the controls and limitations set forth in this Declaration, every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Association Lands, and such easement shall be appurtenant to and shall pass with the title to every Lot upon transfer. All residents shall have a non-transferable privilege to use and enjoy all Association Lands for as long as they remain Residents.

Section 2: Rules Regulating Use of Association Lands. All rights, easements and privileges granted and conferred under Section 1 of this Article shall be subject to the exclusive right of the Association to adopt from time to time reasonable rules and regulations pertaining to the use of Association Lands. Said rules and regulations shall be such that they, in the absolute discretion of the Board, enhance the preservation of the Association Lands or the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Owners and Residents.

Section 3: Fees Chargeable to Certain Classes of Users of Association Lands. All rights, easements and privileges granted and conferred under Section 1 of this Article further shall be subject to the exclusive right of the Association to charge Owners, Residents and others initiation, admission and other fees in connection with the use of any or all of the Association Lands. In establishing or adjusting the amounts of such fees from time to time, the Board in its absolute discretion may establish reasonable classifications as or

among Owners, Residents and other persons. Such fees must be uniform within each such class but need not be uniform from class to class.

Section 4: Suspension of Rights of Enjoyment in Connection with Enforcement of the Covenants. The Association shall have the right to suspend the aforesaid rights of enjoyment of any Owner (and the privilege of each Resident or other person claiming through such Owner) for (a) any period during which the Annual and Special Assessments or Maintenance Charges assessed to such Owner under Article III hereof remains delinquent and unpaid, or (b) any reasonable period up to but not in excess of 90 days in connection with the enforcement of any of the Association's rules or regulations relating to Association Lands.

ARTICLE X

ARCHITECTURAL CONTROL COMMITTEE

No building, fence, wall, sign, exterior light or other structure or apparatus, either permanent or temporary, shall be commenced, erected, placed or maintained upon The Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, 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 and topography, and in relation to the Master Plan for the development of The Property on file with the City of Scottsdale, as the same may be hereafter amended or supplemented, by the Board of the Association, or

by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE XI

MAINTENANCE

Section 1: Association Lands. The Association, or its duly delegated representative, shall maintain and otherwise manage all Association Land, including, but not limited to, the landscaping, walkways, riding paths, parking areas, drives, streets and recreational facilities, roofs, interiors and exteriors of the buildings and structures located upon said properties. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property, so that said project will reflect a high pride of ownership. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board of Directors or by its duly delegated representative.

Section 2: Assessment of Costs of Maintenance and Repair of Association Lands. In the event that the need for maintenance or repair of Association Land is caused through the willful or negligent act of any Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Owner's Lot is subject and shall be secured by the Assessment Lien.

Section 3: Improper Maintenance of Other Portions of the Property. In the event any portion of the Property, other than Association Lands, is so maintained as to present a public or private nuisance or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property which are substantially affected thereby or related thereto, the Board may by Resolution make a finding to this effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within thirty (30) days, the Board will cause such action to be taken at said Owner's cost. If at the expiration of said 30-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the assessment to which the offending Owner's Lot is subject and shall be secured by the Assessment Lien. Property owned by charitable or non-profit organizations shall not be exempt from such assessment, irrespective of whether such organization is exempt from payment of real property taxes by the laws of the State of Arizona. In the event, however, that such organization is a Subsidiary Association having assessment powers, then and in that event the cost of such corrective action shall be prorated among the Owners who are subject to assessment by such Subsidiary Association and, as prorated, shall be added to and become a part of the assessment to which such Owners' Lots are subject hereunder and shall be secured by the Assessment Lien.

ARTICLE XII

TRANSFER OF ASSOCIATION LAND AND CHANGES IN USE

Section 1: Transfer of Association Land and

Procedure Therefor. Notwithstanding the rights, easements and privileges granted and conferred under Article IX, the Board shall have the power and right to sell, assign, dedicate, give, convey or otherwise transfer to any person, firm, corporation, entity or public body, all or any part or parts of the Association Land free and clear of all such rights, easements and privileges; provided, however, that in the event any such sale, assignment, gift, conveyance or transfer (hereinafter collectively called "transfer") is made to some person, firm, corporation or entity other than a public body for public use, then such transfer may be made only after a finding by the Board that the part or parts of the Association Land to be transferred are no longer necessary or useful for the Association's purposes and that such transfer will be in the best interests of the Owners of the Property, notice of which finding shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area except that if there shall be no such newspaper or circulation thereof has been temporarily interrupted, such notice may be published by such other appropriate means as the Board may determine. If during the two calendar weeks following the week in which the last publication of such notice occurred there shall be filed with the Association a petition signed by ten percent (10%) of the Voting Owners of the Property protesting or objecting to the transfer, then the transfer may not be made unless submitted to a general vote of the Voting Owners of the Property conducted in the same manner as is prescribed in Article XIII hereof for voting on amendment of the Declaration, and such transfer is approved by fifty-one percent (51%) of the votes cast by the Voting Owners at such election.

Section 2: Change of Use of Association Land and Procedure Therefor. Upon adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Association Land is no longer in the best interests of the Owners and Residents, the Association shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (a) shall be for the benefit of the Owners and Residents, and (b) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Association Land.

ARTICLE XIII

TERM; AMENDMENTS; TERMINATION

Section 1: Term; Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect to and including December 31, 2021. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Voting Owners casting seventy-five percent (75%) of the total votes authorized at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if seventy-five percent (75%) of the votes authorized to be cast by each class of Voting Owners shall be cast in favor of termination at an election held for such purpose. Any election pursuant to this

Section shall be held by Notice and Ballot as provided in Section 3 of this Article except that it shall not be a prerequisite to holding the election that the Board consider or recommend any proposal to terminate the Declaration effective after December 31, 1991. If the necessary votes are obtained, the Board shall cause to be recorded with the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2: Amendments. This Declaration may be amended by recording with the County Recorder of Maricopa County, Arizona, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section 1 of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, except as provided in Section 4 of this Article, and shall certify that at an election duly called and held pursuant to the provisions of Section 3 of this Article the Voting Owners casting eighty percent (80%) of the votes at the election voted affirmatively for the adoption of the amendment.

Section 3: Election Procedures for Amendments and Termination. Until December 31, 1991, no amendment or termination of this Declaration shall be valid or effective unless the proposed amendment or termination is first presented to the Board and expressly recommended for adoption by resolution of the Board. Thereafter proceedings to amend or terminate this Declaration may also be initiated by a petition signed

by seventy-five percent (75%) of the Voting Owners. If such a resolution is passed by the Board or (after December 31, 1991) such a petition shall be received, then within fifteen (15) days thereafter the Board shall retain an independent firm of certified public accountants (hereinafter called "the Firm") to handle an election by ballot in the following manner. Within forty-five (45) days after the date of passage of the Board's resolution, the Firm shall prepare and mail to each Voting Owner (at his last known address as reflected on the books and records of the Association) a Notice regarding the proposed amendment or termination and election, a form Ballot, and an envelope addressed to the Firm for enclosing and returning the Ballot. The Notice shall provide:

- (a) That on a certain date the Board of Directors of the Association passed a resolution recommending the adoption of an amendment to or termination of the Declaration, or (after December 31, 1991) that on a certain date a petition signed by seventy-five percent (75%) of the Voting Owners recommending adoption of such an amendment or termination was filed with the Board.
- (b) The full text of any provisions in the Declaration proposed to be amended.
- (c) The full text of each proposed amendment.
- (d) That the proposed amendment will be valid and effective only if eighty percent (80%) of the votes cast by the Voting Owners are voted affirmatively to adopt the amendment, or that the proposed termination will be effective only if the requisite number of voters provided in Section 1 of this Article are cast therefor. The term "Voting Owner" shall be defined in the Notice in accordance with the definition of that term set forth in Article I hereof.
- (e) That each Class A Voting Owner shall be entitled to mark on his Ballot one vote for each Dwelling Unit (other than on Rental Apartment Dwelling Units) or undeveloped lot owned by him and one-tenth (1/10) vote for each Rental Apartment Dwelling Unit owned by him.

- (f) That the votes on the Ballot shall be counted only if the Ballot is signed (in the space provided on the Ballot) by the Voting Owner, and the Voting Owner describes on the Ballot one or more undeveloped Lots and/or Dwelling Units (other than Rental Apartment Dwelling Units) and/or Rental Apartment Dwelling Units which he owns and for which he is voting. If the Voting Owner consists of more than one person, such persons shall decide who among themselves shall sign the Ballot; and if the Voting Owner is a corporation or other entity, an officer or other authorized representative of the corporation or entity shall sign the Ballot on behalf of such corporation or entity. In any case where the Voting Owner consists of more than one person or corporation or other entity, any lack of unanimity shown on the Ballot shall result in voiding the Ballot and the vote therein not being counted.
- (g) That the envelope for returning the Ballot to the Firm must be mailed and postmarked on or before a fixed date (which date shall be not less than 30 days nor more than 60 days from the date of mailing of the Notices and Ballots to the Voting Owners).

The written Ballot shall set forth the text of any proposed amendment, shall provide a means of clearly designating thereon the number of votes cast and whether the votes cast are for or against the adoption of the proposed amendment or for or against termination, and shall provide a space for the signature of the Voting Owner and a space for describing each undeveloped Lot, Dwelling Unit (other than in a Rental Apartment) and Rental Apartment Dwelling Unit for which the Voting Owner is casting votes. The results of the election shall be announced to the Board within seven (7) days (excluding Saturdays, Sundays and holidays) after the last date on which the Ballots are permitted to be mailed to the Firm.

Section 4: Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions.

Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language

as may be requested by the Federal Housing Administration (FHA) and to further amend to the extent requested by any other Federal, State or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereof. Any such amendment shall be effected by the recordation, by Declarant, of a Certificate of Amendment duly signed by the President and attested by the Secretary of Declarant, with their signatures acknowledged, specifying the Federal, State or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon the Property and all persons having an interest in the Property. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested 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 provisions. Except as provided in this Section 4 Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 2 of this Article.

Section 5: Right of Declarant's Representatives to Resign from Association's Board of Directors and Owners' Rights to Terminate the Covenants. Anything in this Declaration to the

contrary notwithstanding, Declarant's five representatives or designees on the Board of Directors of the Association shall have the right, subject to approval of Declarant, at any time while they are members of the Board, to resign from the Board, whereupon Declarant may elect their replacements or permit their positions on the Board to be filled by such persons as the Voting Owners may elect at an election held in the manner provided for the election of directors in the Articles of the Association. In the event the Company's representatives or designees on the Board elect to resign from the Board and Declarant declines to elect their replacements as aforesaid, then at any time thereafter (anything in Sections 1 or 3 of this Article to the contrary notwithstanding) the Voting Owners casting seventy-five percent (75%) of the votes cast at an election held in the manner provided in Section 3 of this Article, shall have the right to terminate or petition for amendment of this Declaration.

ARTICLE XIV

SUBJECTING ADDITIONAL LANDS TO THE DECLARATION

Section 1: Requirements for Subjecting New Lands to the Declaration. From time to time the size of the Property may be increased, in the manner provided in Section 2 of this Article and within the maximum perimeters described in Section 3 of this Article, by recording with the County Recorder of Maricopa County, Arizona, a supplement to this Declaration (hereinafter called "Supplemental Declaration"). The Supplemental Declaration shall be signed and acknowledged by or on behalf of the Board and by the Owner of record of the additional land to be included within the Property and subjected to the Covenants set forth in this Declaration. Each such Supplemental Declaration shall:

- (a) describe the land to be included as a part of the Property;
- (b) state that such land and the Permanent Improvements thereon are expressly subjected to all of the Covenants set forth in this Declaration; and
- (c) state that the Owner, for and on behalf of his heirs, executors, administrators, successors and assigns, agrees that he shall be personally liable for the Annual and Special Assessments and Maintenance Costs imposed hereunder and shall be personally bound by all Covenants set forth in this Declaration.

Section 2: Procedure for Adding New Lands. The procedure for adding additional lands within the area defined in Section 3 of this Article to the Property shall be as follows. The Owner of the land to be added shall present a petition to the Board describing his land and requesting that his land be added to the Property and subjected to the Covenants. The Board shall act upon the petition within thirty (30) days after receipt thereof. If the Board decides to add the land described in the petition to the Property, the Board shall adopt a resolution to that effect, and as soon thereafter as may be practical, the Board shall prepare the necessary Supplemental Declaration. If the Board denies the request in the petition, the Board shall so notify the Owner, and thereafter no further action by the Board shall be necessary. If the Board fails to render its decision within the said thirty (30) day period, the petition automatically shall be deemed to have been rejected and the request therein denied. A petition may be resubmitted notwithstanding prior rejection.

Section 3: Maximum Area of the Property. The maximum perimeters within which the Property may be increased without amendment of this Declaration shall be Shea Boulevard on the north, 112th Street (East Section line of Section 28, Township 3 North, Range 5 East, Gila and Salt River Base and

Meridian) on the east, Indian Bend Road on the south, and Scottsdale Road on the west, as all of the foregoing are located on the date of recordation of this Declaration.

ARTICLE XV

MISCELLANEOUS

Section 1: Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

Section 2: Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 3: Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 4: Change of Circumstances. Except as

otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 5: Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

Section 6: Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Maricopa County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the community can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (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 land is once used for a particular use, such use will continue in effect.

Section 7: References to the Covenants in Deeds. Deeds to and instruments affecting any Lot or any part of the Property may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

Section 8: Successors and Assigns of Declarant.

Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder.

Section 9: Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 10: Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

IN WITNESS WHEREOF, KAISER AETNA, a partnership, has hereunto caused its name to be signed and the same to be attested by the signatures of its duly authorized officials as of the day and year first above written.

KAISER AETNA, a partnership



By [Handwritten Signature]
[Handwritten Signature]

ATTEST:

By _____

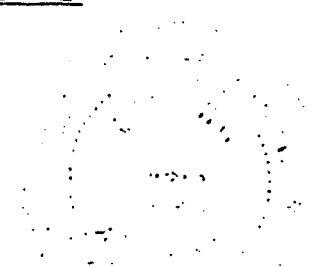
STATE OF ARIZONA)
) ss:
County of Maricopa)

On this the 28 day of December, 1971,
before me the undersigned Notary Public, personally appeared
Michael F. Boultonhouse and _____, who
acknowledged themselves to be the General Managers and
_____, respectively, of KAISER AETNA, a
partnership, and that they as such officers, being duly
authorized so to do, executed the foregoing instrument for
the purposes therein contained by signing the name of the
corporation by themselves as such officers.

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

Judith A. Russell
Notary Public

My commission expires:
My Commission Expires Oct. 19, 1974



STATE OF ARIZONA)
County of Maricopa) ss

I hereby certify that the with-
in instrument was filed and re-
corded at request of
PIONEER NATIONAL TITLE INS. CO.

DEC 29 1971-8 00 AM
in Docket 9148
on page 706-756

Witness my hand and official
seal the day and date aforesaid.

Paul N. Stanton
County Recorder

By Jean John
Deputy Recorder

7⁰⁰

(12749) 676

69800

CERTIFICATE OF AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES,
SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS
FOR MC CORMICK RANCH

MOD RSTR

The undersigned President and Secretary of the McCormick Ranch Property Owners' Association, an Arizona non-profit corporation, hereby certify as follows:

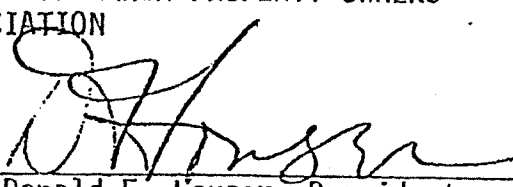
1. Attached hereto and incorporated herein by this reference, is the First Amendment to Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for McCormick Ranch (hereinafter "Declaration").

2. Said First Amendment to Declaration was duly adopted at an election duly called and held pursuant to the provisions of Section 3, Article XIII, of the Declaration, at which time the voting owners, casting eighty percent (80%) of the votes at the election, voted affirmatively for the adoption of the Amendment.

DATED this 1st day of March, 1978.

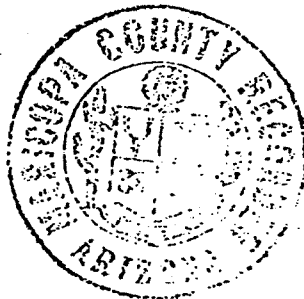
McCORMICK RANCH PROPERTY OWNERS'
ASSOCIATION

By


Donald F. Louser, President

ATTEST


T. Neal Burton, Secretary



MI 12748PE 577

STATE OF ARIZONA)
 : ss.
County of Maricopa)

On this, the 1st day of March, 1978, before me, the undersigned Notary Public, personally appeared DONALD F. LOUSER and T. NEAL BURTON, who acknowledged themselves to be the President and Secretary, respectively, of McCORMICK RANCH PROPERTY OWNERS' ASSOCIATION, an Arizona non-profit corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as such officers.

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

Norma Klevan
Notary Public

My Commission expires:

My Commission Expires Jan. 14, 1980

FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES,
LIENS, RESERVATIONS AND EASEMENTS FOR MCCORMICK RANCH

ARTICLE III

Section 10: Establishment - Fixed Annual Assessments

Notwithstanding any other section of Article III but without amending either the method of assessment or the stated maximum annual assessment, there is hereby established, for a period of fifteen (15) consecutive assessment periods, fixed annual assessments for all the assessable property in the amounts hereinafter provided. During the fifteen (15) assessment periods described herein, the fixed annual assessments established hereby shall be assessed for all the assessable property in lieu of any other annual assessment. Said fixed annual assessments shall be effective commencing November 1, 1977 and shall be prorated for the current assessment period which is the calendar year 1977, and shall continue through the assessment period which is the calendar year 1991. The fixed annual assessments shall, unless increased as provided in Section 13 hereof, be:

- a) The fixed annual assessment for each dwelling unit other than rental apartments shall be \$120.
- b) The fixed annual assessment for each rental apartment dwelling unit shall be \$ 60.
- c) The fixed annual assessment for each lot zoned for the construction of a single dwelling unit and constituting neither (a) nor (b) but consisting of a subdivision lot improved as a finished lot shall be \$ 24.
- d) The fixed annual assessment for each lot, constituting neither (a) nor (b) but consisting of an unsubdivided lot unimproved as a finished lot, shall be an amount equal to (i) \$12.00 multiplied by the number of dwelling units buildable thereon pursuant to the applicable zoning regulations of the City of Scottsdale in the case of assessable property zoned for other than rental apartments, and (ii) \$6.00 multiplied by the number of rental apartment dwelling units buildable thereon pursuant to the applicable zoning regulations of the City of Scottsdale in the case of assessable property zoned for rental apartments.
- e) However, if in and for any assessment period, the sum of the fixed annual assessments, together with the sum of all special use fees collected or to be collected by the association is in excess of the funds reasonably required for the purposes of the association for said assessment period as determined by the Board, there shall be a prorata refund, for said assessment period only, in the amount of each fixed annual assessment.

Section 11: Changes in Assessable Property

If during any assessment period, the condition of any assessable property changes from any of the designations in Section 10 above to any one of the other designations therein, the fixed annual assessment for said assessable property shall be appropriately adjusted on a prorata basis for the remainder of the assessment period.

Any change in the condition of the assessable property will be determined to have occurred in the absolute discretion of the Board of Directors of the association; provided, however, before any such change is effected the Board of Directors of the Association will cause thirty (30) days notice thereof to be given to the owner of said assessable property.

Section 12: Duration

The fixed annual assessments provided for herein may be continued for an additional period of fifteen (15) successive assessment periods by action of the Board taken at any time during the fifteenth (15th) assessment period which is the calendar year 1991, after a finding by the Board that such action is in the best interests of the association and the owners, notice of which action and finding shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the area except that if there shall be no such newspaper or circulation thereof has been temporarily interrupted, such notice may be published by such other appropriate means as the Board may determine. If during the two (2) calendar weeks following the week in which the last publication of such notice occurred there shall be filed with the association a petition signed by ten per cent (10%) of the voting owners of the property protesting or objecting to the action, then the action shall not be effective unless submitted to a general vote of the voting owners of the property conducted in the same manner as is prescribed in Article XIII hereof for voting on amendment of the Declaration, and such action is approved by fifty-one per cent (51%) of the votes cast by the voting owners at such election.

Section 13: Increases in Fixed Annual Assessments

The fixed annual assessments established hereby may be increased by the Board from assessment period to assessment period (a) in direct proportion to the increase (if any) in the Consumer Price Index, United States Department of Labor, Bureau of Labor Statistics, all items, United States average (1967 base year equals 100), or (b) by an amount not to exceed three per cent (3%) above the fixed annual assessment for the previous assessment period, whichever is greater. The amount of the increase in each assessment period authorized pursuant to the former alternative shall be computed by multiplying the fixed annual assessment for the previous assessment period by the percentage which is equal to (a) the increase, if any, in the index number for the most recent month for which such index was published over (b) the index number for the month of October, 1977. Increases in excess of the foregoing may be authorized, subject to prior approval of the Board of Directors, by affirmative vote of two-thirds (2/3) of the votes cast by the voting owners, casting their votes in person or by proxy, at a meeting duly called for such purpose.

STATE OF ARIZONA }
County of Maricopa } ss

I hereby certify that the within instrument was filed and recorded at request of

JENNINGS, STROUSS & SALMON
MAR 3 - 1978 4 15

in Docket 12749
on page 676-679

Witness my hand and official seal the day and year aforesaid.

Tom Freestone

By R. B. [Signature]
County Recorder
Deputy Recorder

300

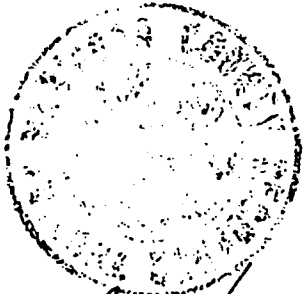
CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVIDITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR MCCORMICK RANCH

The undersigned President and Secretary of the McCormick Ranch Property Owners' Association, an Arizona nonprofit corporation, hereby certify as follows:

1. Attached hereto and incorporated herein by this reference is the Second Amendment to Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for McCormick Ranch which was recorded in the office of the County Recorder of Maricopa County, Arizona on December 29, 1971 in Docket 9148 at page 706 and with reference to which a first amendment was recorded in said office on March 3, 1978 in Docket 12749 at page 676 (hereinafter termed the "Declaration"); and

2. Said second amendment to Declaration was duly adopted at an election duly called and held pursuant to the provisions of Section 3, Article XIII, of the Declaration, at which time the voting owners, casting eighty percent (80%) of the votes at the election, voted affirmatively for the adoption of the amendment.

DATED this 20 day of NOVEMBER, 1979.



MCCORMICK RANCH PROPERTY OWNERS ASSOCIATION

By [Signature]
Donald F. Louser, Pres.

Attest:

By [Signature]
T. Neal Burton, Secretary

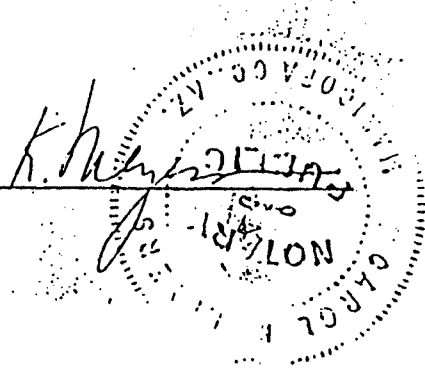
When recorded mail to the Secretary of McCormick Ranch Property Owners' Association.

7001 N. Scottsdale Rd
Scottsdale, Arizona
85253

STATE OF ARIZONA)
) ss:
County of Maricopa)

This instrument was acknowledged before me this
20th day of November, 1979 by Donald F. Louser as
President and T. Neal Burton as Secretary of McCormick Ranch
Property Owners' Association, an Arizona nonprofit corporation,
on behalf of the corporation.

Carol K. Nelson
Notary Public



My commission expires:
My Commission Expires Oct. 11, 1982

SECOND AMENDMENT TO DECLARATION OF COVENANTS,
 CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES,
 LIENS, RESERVATIONS AND EASEMENTS FOR McCORMICK RANCH *

A. Article VIII, Section 3 of the Declaration
 is amended to read:

Section 3: Board of Directors. The Articles of the Association basically will provide that the Board, which shall have the exclusive right of determining and transacting the affairs of the Association, initially will consist of five (5) directors, each of whom, and each of whose replacement, shall be an employee, representative or designee of Declarant, and who shall be elected and subject to removal by Declarant only. The directors of the Association may also serve as directors of one or more Subsidiary Association. The Articles will provide that, thereafter, upon the completion of construction, sale and initial occupation of each two thousand (2000) dwelling units within the Property, the Owners shall be entitled to have one director added to the initial five-man Board, and upon the completion of construction, sale and initial occupancy of each additional one thousand (1000) dwelling units, the Owners shall be entitled to have one additional director added until the total number of directors on the Board equals nine (9). At that time (when ~~8,000~~ 5000 dwelling units have been constructed, sold and initially occupied within the Property), the total number of directors on the Board shall remain static at nine. Upon the completion of construction, sale and initial occupancy of six thousand (6000) dwelling units, the number of directors elected by the Declarant shall be reduced to four (4) and the owners thereupon shall be entitled to elect the remaining five (5) directors. Upon the completion of construction, sale and initial occupation of 7000 dwelling units, or on December 31, 1985, whichever shall first occur, the number of directors elected by the Declarant shall be reduced to three (3) and the Owners shall be entitled to elect the remaining six (6)

* Language to be deleted is lined out; language to be added is underlined.

directors. The Articles further shall provide that upon the first to occur of either of the following events:

- (a) A total of ~~eleven~~ eight thousand (~~11,000~~ 8000) dwelling units are constructed, sold and initially occupied within the Property; or
- (b) December 31, ~~1991~~ 1986;

the Owners thereafter shall be entitled to elect the entire Board (including the 5 directors, or their respective successors, theretofore elected by Declarant) of the Association as provided in the Association's Articles. The rationale of the foregoing plan is to permit Declarant to have control of the Board (and thus control all acts by the Association) for a reasonable time to accomplish its over-all plan of development of the Property, and yet make it possible for the Owners to have increasing rights of representation in preparation for assuming full control of the Board and of the affairs of the Association.

Vacancies for the position of a director elected by the Owners may be filled, for the unexpired term, by the Board of Directors. Vacancies for the position of a director elected by the Declarant may be filled by the Declarant.

All directors elected by the Owners, as distinguished from those elected by the Declarant, must be members of the Association.

B. Article VIII, Section 2 of the Declaration is amended to read:

Section 2: Voting Rights. Voting rights, which shall be exercisable only at such time and in such manner as shall be provided in the Articles, shall be vested in all members who are Owners of Assessable Property. The Voting Owners, initially, shall comprise two classes:

Class A. The Class A Voting Owners shall, initially, include all such Owners except Declarant; and each such Voting Owner shall be entitled to one vote for each Dwelling Unit (except Rental Apartment Dwelling Units, for which each Voting Owner shall be entitled to one-tenth (1/10) vote each) and undeveloped lots owned, provided, however, that there shall not be more than one Voting Owner on account of ownership in any single Dwelling Unit, Rental Apartment, or Lot. If the Voting Owner consists of more than one person, such persons shall decide who among themselves shall cast the vote.

Class B. The only Class B Voting Owner shall be the Declarant, who shall be entitled to three (3) votes for every full unit of density authorized by the City of Scottsdale with respect to portions of the Assessable Property owned by Declarant. The authorized number of such votes as of any given date shall be calculated by: (a) ascertaining the total units of density last authorized by the City of Scottsdale, by its approval of the Master Plan or otherwise, for the entire Property; (b) deducting therefrom the total number of Dwelling Units upon portions of the Property which are not owned by or in trust for Declarant; and (c) multiplying the balance (which represents Declarant's

total residuary units of authorized density) by three. Alternatively, any Voting Owner shall have the independent right at any time, at such Owner's own cost and expense, to request a determination by the City of Scottsdale as to the total units of density authorized with respect to that portion of the Property then owned by Declarant; and the City's determination in such regard shall be and remain binding on all Owners unless and until revised. Declarant's Class B voting rights shall cease and be converted to Class A voting rights on the happening of either of the following events, whichever first occurs:

- (a) When the number of Dwelling Units constructed upon portions of the Property not owned by Declarant exceeds the number of Class B votes to which Declarant is entitled; or
- (b) On December 31, ~~1991~~ 1986.

From that date forward, unless and until the Class B Membership is reinstated, Declarant shall be entitled, as in the case of other Voting Owners, to only one vote, for each Dwelling Unit (except Rental Apartment Dwelling Units, for which he shall be entitled to one-tenth (1/10) vote each) and undeveloped lot owned. Nothing contained herein shall preclude the Declarant from adding property pursuant to the provisions of Article XIV for the purpose of maintaining or reinstating the Class B Membership, and all property added pursuant to such Article shall be included in the determination of the existence and voting rights of the Class B Membership. The Class B Membership may be reinstated by the addition of such property.

The aforesaid Class A and B voting rights are, effectively, limited as herein elsewhere set forth until the last stages of development of the Property by Declarant.

C. Article III, Section 7, subparagraph (c) of the Declaration is amended to read:

That unless the Owner shall pay the Annual Assessment on or before the first installment due date, or pay the installments on or before their respective due dates, the Annual Assessment or the installments not so paid when due shall be deemed delinquent and shall bear interest from such due date until paid at the rate of six percent (6%) per annum until paid maximum rate allowed, from time to time, by the laws of the State of Arizona; and the Owner shall be liable for all costs, including attorney's fees, which may be incurred by the Association in collecting the same;

D. Article VIII of the Declaration is amended by adding a new section which reads as follows:

Section 6. Record Date. In order that the Association may determine the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to exercise any rights or for the purpose of any other lawful action, the board of Directors may fix, in advance, a record date, which shall not be more than sixty nor less than ten days before the date of such meeting, nor more than sixty days nor less than ten days prior to any such other action.

E.. Article VIII of the Declaration is amended by adding a new section which reads as follows:

Section 5. Voting by Proxy. At the meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association.

F. Article VIII of the Declaration is amended by adding a new section which reads as follows:

Section 4. Suspension of Voting Rights and Rights to Hold Office. Any member who fails to pay the annual or special assessments or installments when due or to pay maintenance charges assessed pursuant to Article XI, Sections 2 or 3, shall have all voting rights suspended and shall not be allowed to serve as an officer and/or director of the Association and shall not be eligible to be elected to or to hold any office within the Association.

STATE OF ARIZONA }
County of Maricopa } ss

I hereby certify that the within instrument was filed and recorded at request of

STEWART TITLE & TRUST

NOV 29 1979-800

14056

in Docket

on page

1401-1410

Witness my hand and official seal the day and year aforesaid.

Bill Henry

County Recorder

By

[Signature]
Deputy Recorder

550

20150767121,10/26/2015 12:26,08610-6-1-1--,N
Electronic Recording.

When recorded, return to:

Ekmark & Ekmark, L.L.C.
6720 N. Scottsdale Road, Suite 261
Scottsdale, Arizona 85253

CERTIFICATE OF AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES,
SERVITUDES, LIENS, RESERVATIONS, AND EASEMENTS FOR MCCORMICK RANCH
MCCORMICK RANCH PROPERTY OWNERS' ASSOCIATION

McCormick Ranch Property Owners' Association ("Association") is governed by the Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements for McCormick Ranch, recorded at Docket 9148, Page 706, of the Official Records of Maricopa County, Arizona Recorder, and all amendments thereto ("Declaration").

The Association, by and through its members, hereby amends Article III of the Declaration in its entirety as set forth on the attached Exhibit "A".

The President of the Association hereby certifies that the attached amendment has been adopted by the required percentage of the members.

DATED this 15th day of October, 2015.

McCormick Ranch Property Owners' Association

By: David M Wood
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 15th day of October, 2015, before me personally appeared David M. Wood, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledged that he/she signed the above/attached document.

Valerie Venable
Notary Public

Notary Seal:

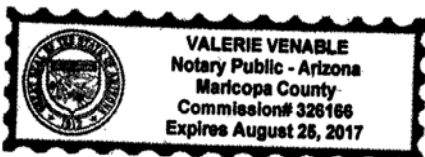


EXHIBIT "A"
AMENDMENT

ARTICLE III

ANNUAL AND SPECIAL ASSESSMENTS

Section 1: Annual Assessment for Commercial Properties. In order to provide funds for the purposes and uses specified in Article VI hereof, the Board in each year shall assess against each commercial (non-residential) property as follows:

(a) Commercial Assessable Property shall be assessed a charge equal to a specified number of cents (which, at the time of the recording of this amendment to the Declaration, is Thirty-Three and One-Third Cents (\$0.3333)) for each One Hundred Dollars (\$100.00) of the then current Full Cash Value of the Assessable Property, as determined and made the basis for assessment by the applicable Maricopa County, State or other political subdivision (see Article I, Paragraph Q) for said taxing authority's most recently completed real property tax year.

(b) Commercial property that is not Assessable Property but that is required by some other recorded instrument to pay a fee to the Association (i.e., Special Use Fee at the Rental Apartment rate) shall be assessed a charge equal to a specified number of cents (which, at the time of the recording of this amendment to the Declaration, is Sixteen and Two-Thirds Cents (\$0.1667)) for each One Hundred Dollars (\$100.00) of the then current Full Cash Value of the property, as determined and made the basis for assessment by the applicable Maricopa County, State or other political subdivision (see Article I, Paragraph Q) for said taxing authority's most recently completed real property tax year. Such property shall be assessed at one-half (1/2) the Rate of Charge applicable to commercial property that is Assessable Property, except that the Board may determine a higher Rate of Charge for such properties that do not retain their own drainage and instead drain on to the Association Land (which, at the time of the recording of this amendment to the Declaration, is Twenty-Five Cents (\$0.25)) for each One Hundred Dollars (\$100.00) of the then current Full Cash Value of the property in the area known as the "Pima Buffer Zone".

The aforesaid Rate of Charge and maximum amount of assessment shall be subject to adjustment as provided in Section 2 and increase as specified in Section 3 of this Article. In making each such Annual Assessment, the Board shall separately assess each Lot based on its Full Cash Value, and each Lot shall be charged with and subject to a lien for the amount of the separate assessment which shall be deemed the "Annual Assessment" against such Lot.

Section 2: Formula to Maintain Maximum Annual Assessment in Event of Legislative Amendments Affecting Assessed Valuation. The formula prescribed in Section 1 of this Article for establishing the maximum Annual Assessment against each Lot is predicated on the valuation of taxable property at market value in accordance with the provisions of Arizona Revised Statutes, Section 42-227 as enacted as of December 31, 1971. If at any time or times hereafter the applicable law increases or decreases the percentage figure of Full Cash Value at which real property (or any particular type of, or improvements on, real property) is to be valued, then the

maximum charge per \$100 of Full Cash Value referred to in Section 1 of this Article shall be adjusted in inverse proportion. For example, if the law is changed to require the valuation of all or a particular type of the Property to be increased to twice (2/1) the Full Cash Value (twice the current valuation), then the maximum charge with respect to such property automatically shall be decreased by half (1/2) (i.e., \$0.1667 to \$0.0833, or \$0.25 to \$0.125, per \$100 of Full Cash Value). Or, if the law is changed to require the valuation of all or a particular type of the Property to be decreased to half (1/2) of the Full Cash Value (1/2 of the current valuation), then the maximum charge with respect to such property automatically shall be doubled (i.e., \$0.3333 to \$0.6667, or \$0.25 to \$0.50), per \$100 of Full Cash Value.

Section 3: Increase in Rate of Charge and Maximum Amount of Annual Assessment. The maximum Rate of Charge and the maximum amount of assessment, respectively, referred to in Section 1 (or as adjusted under Section 2) of this Article may be increased by the Board from year to year (a) in direct proportion to the increase (if any) in the Consumer Price Index, United States Department of Labor, Bureau of Labor Statistics, All Items, United States Average (1967 base year equals 100), or (b) by an amount not to exceed three percent (3%) above the maximum assessment for the previous year, whichever is greater. The amount of the increase in each year authorized pursuant to the former alternative shall be computed by multiplying the Rate of Charge and maximum amount of assessment, respectively, (as adjusted under Section 2 of this Article) by the percentage which is equal to (a) the increase, if any, in the Index number for the most recent month for which such Index was published over (b) the Index number of 122.6 for the month of October, 1971. Increases in excess of the foregoing may be authorized, subject to prior approval of the Board of Directors, by affirmative vote of two-thirds (2/3) of the votes cast by the Voting Owners, casting their votes in person and/or by absentee ballot, at a meeting duly called for such purpose.

Notwithstanding the foregoing, the Association shall not impose an Annual Assessment in any fiscal year that is more than twenty percent (20%) greater than the immediately preceding fiscal year's Annual Assessment without the approval of the majority of the voting owners, or as otherwise provided by Arizona law.

Section 4: Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy a Special Assessment for the purpose of defraying, in whole or in part, any proper Association expense, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the votes cast by Voting Owners in person or by absentee ballot at a meeting duly called for such purpose. In connection with any such Special Assessment, Rental Apartments shall be assessed at one-half (1/2) the Rate of Charge applicable to other Permanent Improvements and to land. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3, 4, and 12. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all Voting Owners not less than twenty (20) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members, in person and/or by absentee ballot, entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting

may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Establishment of the Assessment Period. The Board shall specify either a calendar or fiscal year (hereinafter called the "Assessment Period") for which the Annual Assessment is to be levied. The Board in its sole discretion from time to time thereafter may change the Assessment Period by providing each property subject to Assessment with written notice of the new Assessment Period.

Section 7: Billing of the Annual Assessment. As soon as practical in each Assessment Year, the Association shall send a written bill to the Owner of each Lot stating, as applicable:

- (a) The Full Cash Value of each commercial (non-residential) Lot owned by such Owner, as reflected by the appropriate public records (presently being the assessment rolls in the Maricopa County Assessor's Office);
- (b) The number of cents per One Hundred Dollars (\$100.00) of Full Cash Value assessed by the Association with respect to the commercial (non-residential) property, to compute the Annual Assessment for the Assessment Period in question, and the beginning and ending date of the Assessment Period;
- (c) The amount of the Annual Assessment assessed against each such Lot, stated in terms of the total sum due and owing as the Annual Assessment, and the amounts payable if paid in installments;
- (d) The dates the installments are due and owing (the first installment due date shall be at least thirty (30) and not more than ninety (90) days from the date of mailing of the bill);
- (e) That unless the Owner shall pay the Annual Assessment on or before the first installment due date, or pay the installments on or before their respective due dates, the Annual Assessment or the installments not so paid when due shall be deemed delinquent and shall bear interest from such due date at the rate of twelve percent (12%) per annum until paid, and the Owner shall be liable for all costs, including attorney's fees, which may be incurred by the Association in collecting the same.

Section 8: Rules Regarding Billing and Collection Procedures. The Association shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the assessments provided herein and for the billing and collection of the Annual and Special Assessment and the Maintenance Charges imposed pursuant to Article XI, Sections 2 and 3, provided that said procedures are not inconsistent with the provisions hereof.

Section 9: Evidence of Payment of Annual and Special Assessments and Maintenance Charges. Upon receipt of a written demand by a person acquiring an interest in any Lot and to a lienholder, escrow agent, Owner or person designated by an Owner, the Association, within the time period required by law, shall issue to such person a written certificate stating (a) that all

Annual and Special Assessments and Maintenance Charges (including interest, costs and attorney's fees, if any, as provided in Section 7 above) have been paid with respect to any specified Lot as of the date of such certificate, or (b) if all Annual and Special Assessments and Maintenance Charges have not been paid, the amount of such Annual and Special Assessments and Maintenance Charges (including interest, costs and attorney's fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charge must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot in question.

Section 10: Fixed Annual Assessments for Residential Properties

In order to provide funds for the purposes and uses specified in Article VI hereof, the Board in each year, shall assess a fixed annual assessment against each residential Assessable Property as follows. At the time of the recording of this amendment to the Declaration, the fixed Annual Assessments for residential properties shall, unless increased as provided in Section 12 hereof, be:

- (a) The fixed Annual Assessment for each dwelling unit other than rental apartments shall be \$200.
- (b) The fixed Annual Assessment for each rental apartment dwelling unit shall be \$100.
- (c) The fixed Annual Assessment for each lot zoned for the construction of a single dwelling unit and constituting neither (a) nor (b) but consisting of a subdivision lot improved as a finished lot shall be \$40.
- (d) The fixed Annual Assessment for each lot, constituting neither (a) nor (b) but consisting of an unsubdivided lot unimproved as a finished lot, shall be an amount equal to (i) \$20.00 multiplied by the number of dwelling units buildable thereon pursuant to the applicable zoning regulations of the City of Scottsdale in the case of assessable property zoned for other than rental apartments, and (ii) \$10.00 multiplied by the number of rental apartment dwelling units buildable thereon pursuant to the applicable zoning regulations of the City of Scottsdale in the case of assessable property zoned for rental apartments.

In making each such fixed Annual Assessment, the Board shall assess and each Lot shall be charged with and subject to a lien for the amount of the separate assessment which shall be deemed the "Annual Assessment" against such Lot.

Section 11: Changes in Assessable Property

If during any assessment period, the condition of any Assessable Property changes from any of the designations in Section 10 above to any one of the other designations therein, the fixed

Annual Assessment for said assessable property shall be appropriately adjusted on a prorata basis for the remainder of the assessment period.

Any change in the condition of the assessable property will be determined to have occurred in the absolute discretion of the Board of Directors of the association; provided, however, before any such change is effected the Board of Directors of the Association will cause thirty (30) days' notice thereof to be given to the owner of said assessable property.

Section 12: Increases in Fixed Annual Assessments

The fixed Annual Assessment established hereby may be increased by the Board from assessment period to assessment period (a) in direct proportion to the increase (if any) in the Consumer Price Index, United States Department of Labor, Bureau of Labor Statistics, all items, United States average (1967 base year equals 100), or (b) by an amount not to exceed three per cent (3%) above the fixed Annual Assessment for the previous assessment period, whichever is greater. The amount of the increase in each assessment period authorized pursuant to the former alternative shall be computed by multiplying the fixed Annual Assessment for the previous assessment period by the percentage which is equal to (a) the increase, if any, in the index number for the most recent month for which such index was published over (b) the index number for the month of October, 1977. Increases in excess of the foregoing may be authorized, subject to prior approval of the Board of Directors, by affirmative vote of two-thirds (2/3) of the votes cast by the voting owners, casting their votes in person or by absentee ballot, at a meeting duly called for such purpose.

Notwithstanding the foregoing, the Association shall not impose a fixed annual assessment in any fiscal year that is more than twenty percent (20%) greater than the immediately preceding fiscal year's fixed annual assessment without the approval of the majority of the voting owners, or as otherwise provided by Arizona law.