



APR 15 1999 907m

FEE # 990411967
OFFICIAL RECORDS
COCHISE COUNTY
DATE 4/15/99 HOUR 3

REQUEST OF
FIDELITY NATIONAL TITLE
CHRISTINE RHODES-RECORDER
FEE : 26.00 PAGES : 21

When recorded, return to:
Fidelity National Title Agency, Inc.
7750 East Broadway Blvd., Suite A-200
Tucson, Arizona 85710

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
LAZY D S RANCH
COCHISE COUNTY, ARIZONA**

This Declaration is made this 14th day of April, 1999, by Fidelity National Title Agency, Inc., an Arizona corporation, as Trustee under Trust #10,710 (hereinafter referred to as "Declarant").

RECITALS

A. Declarant is the owner of real property located in Cochise County, Arizona, described on Exhibit "A" attached hereto known as Lazy D S Ranch (the "Property");

B. Declarant wishes to develop the Property as a residential community subject to the covenants, restrictions, uses, limitations and obligations hereafter stated, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

AGREEMENT

NOW, THEREFORE, the Declarant, being the owner of the certain real property known as Lazy D S Ranch, located in Cochise County, Arizona, more particularly described on Exhibit "A" attached hereto and consisting of eighteen (18) parcels ("Parcel" or "Parcels"), does hereby establish a general plan for the improvement and development of the Property and does hereby declare that the Property and each of the Parcels therein are and will be held, sold and conveyed subject to the following covenants, conditions and restrictions. Each and every one of said covenants, conditions and restrictions is and all are for the benefit of each Owner of real property in said Property or any interest therein, and shall inure to and pass with each and every Parcel of said subdivision, and shall bind the respective successors in interest of the present Owner or Owners thereof. Said covenants, conditions

990411967

and restrictions are and each thereof is imposed upon said Parcels, all of which are to be construed as restrictive covenants running with the title to said Parcels and with each and every parcel thereof.

ARTICLE I **ARCHITECTURAL AND CONSTRUCTION CONTROL**

1.1 Except for Improvements or alterations undertaken by the Declarant, no building, fence, wall or other structure or Improvement shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration thereto be made until detailed plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to compliance with the provisions of this Declaration and as to harmony of external design and location on the building site in relation to surrounding structures and topography by the Approving Agent (as defined in Section 7.1). The location on the building site of such structure, building or Improvement shall be stated on the site and approved by the Approving Agent prior to beginning construction.

1.2 For the purpose of enforcing architectural and construction control, Approving Agent shall have the exclusive right, exercisable in its sole discretion, to promulgate reasonable rules, regulations and restrictions on construction; to waive, amend or modify these restrictions; to amend such rules, regulations and restrictions from time to time; and to waive or modify any such rules, regulations or restrictions, provided that no such waiver shall be deemed a waiver of the right to enforce such rules, regulations or restrictions in the future as to others; and provided, further, that any waiver or modification shall be consistent with the general plan for the improvement and development of the Property. Any waiver granted by the Approving Agent shall be given in exchange for a hold harmless agreement executed by the Owner benefitting from the waiver and running to the benefit of the Declarant or its successors or assigns.

1.3 Prior to making any Improvements, an Owner shall be required to obtain the approval of the Approving Agent. Owner shall submit to the Approving Agent two complete sets of plans for proposed Improvements, specifications (including exterior color schemes) and plot plans which shall include location and floor elevations of dwellings, the location of all driveways and parking areas, and a building site grading plan. A landscape plan for all areas outside of the patio wall, if any, shall be submitted for approval as part of the plot plan. The landscape plan must include riprap, back-planting or other acceptable treatment for all cut and fill areas on the Lot. Approval of the plans and specifications shall be evidenced by the written endorsement of the Approving

-2-

5206-1/040999

990411967

Agent made on the plans and specifications. A copy of the endorsed plans shall be obtained by the Owner of the lot proposed to be improved prior to the beginning of construction. An Owner shall not proceed with Improvements without a copy of his approved plans in his possession. One set of plans and specifications shall be retained by the Approving Agent. No changes or deviations in or from the plans and specifications, insofar as the exterior of the proposed Improvements is concerned, shall be made without written approval of the Approving Agent. After construction is completed, no changes shall be made, including changes of exterior color, without the written permission of the Approving Agent. Approval of plans shall be in the Approving Agent's sole discretion.

1.4 At such time as Declarant may assign or transfer to the Association the rights, powers and duties of Declarant under this Article I, the Association shall have the authority to impose a fee upon each Owner at the time plans are submitted to the Approving Agent for approval. Said fee shall not exceed the amount necessary to reimburse the Association for payments made, if any, to the Approving Agent for services rendered in connection with the plan approval process.

1.5 Except for improvements or alterations undertaken by the Declarant, all plans must meet the following minimum criteria and such further criteria as the Approving Agent may reasonably promulgate:

(a) The native vegetation on the Property shall not be destroyed or removed from the Property except to the extent as may be necessary for orchards and gardens, permanent pasture for grazing, construction and maintenance of any easements created for the benefit of both public and private utilities and all owners of the Property for whose benefit these covenants also run, and for the construction and maintenance of driveways, dwellings, yards, garages and other outbuildings related to said dwellings, as well as facilities to be used in associated ranching activities.

(b) No improvement or structure whatsoever, other than first-class, detached, single-family dwellings, patio walls and customary outbuildings, garages, carports, servants' quarters, guest houses, or ranching facilities may be erected, placed or maintained on the Property and the Property shall be subject to the following additional restrictions:

(i) The single-family dwelling shall contain total minimal square footage of 2,000 square feet. If the home is to be built in phases, the first phase of the single-family dwelling is to be a minimum of 1,800 square feet contingent upon the completion of the next phase being completed within three (3) years from the completion of the first phase.

(ii) All architectural designs shall be compatible with the character of the Property, such as one of several Southwest styles (such as Territorial, Spanish Colonial, Mexican Colonial, Santa Fe, Pueblo, etc.). Approval of architectural designs and house plans by the Approving Agent is required.

(iii) All work on any Parcel shall be completed in a good and workmanlike manner.

(iv) No single-family dwelling or other Improvement shall be occupied until completion of the first phase, if built in phases. Otherwise a residence or other improvement may not be occupied until when fully completed.

(d) Exterior lighting must not shine on other residences and sound from amplifying systems must be limited so as to not create a nuisance.

(e) Each Owner must maintain his/her Parcel so as to avoid health or fire hazards.

(f) No portion of the Property shall be used in whole or in part for the storage or dumping of rubbish of any character whatsoever, nor for the storage of any property or thing, including, but not limited to, disabled vehicles, which may cause the Property to appear unclean or untidy, or which may be obnoxious to the eye; nor shall any substance, thing or material be kept upon the Property which may emit foul odors or might unreasonably disturb the peace, quiet, comfort or serenity of the occupants of the surrounding Property; normal farming and ranching activities, to the extent provided hereby, excepted. Motorbikes, motorcycles and all terrain vehicles may not be operated on any Parcel. They may be used on roads only for the purpose of transporting the vehicle to a public highway.

(g) No mobile homes, trailers, modular homes, "A" frame homes, geodesic dome homes and other "non-traditional" homes shall be permitted on any Parcel except that a mobile home or trailer may be used as a residence or otherwise during the construction of a private dwelling house on the Property for no longer than twelve (12) months from the day that the building permit is granted for construction of the private dwelling house. A temporary permit for a trailer or a mobile home may be obtained from the Approving Agent during the construction of a private dwelling house.

(h) No derrick or other structure designed for use in boring for oil or natural gas or radio or television transmission towers or radio or television receiving towers shall

-4-

5206-1/040999

990411967

be erected, placed or permitted upon any part of said Property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon product or substance be produced or extracted therefrom.

(i) All Improvements shall be maintained in accordance with the original and subsequent plans submitted by Owner and approved by Approving Agent.

1.6 No Parcel, nor any portion of the Property, shall be used for or permitted for use by helicopters or hot-air balloons.

ARTICLE II ASSOCIATION

2.1 Declarant may form, under the laws of the State of Arizona, a non-profit, homeowner's corporation, referred to herein as the Association. Declarant may convey the common area including streets and easements located within the subdivision to the Association at the time the plat of this subdivision is recorded. Declarant may at Declarant's sole option at anytime hereafter convey or otherwise transfer to the Association all or any part of the Property described in this Declaration and any Improvements situated thereon, and assign or otherwise transfer to the Association all or any number of the rights, powers and duties retained by Declarant under this Declaration. Upon such assignment or other transfer, it shall be the responsibility of the Association to exercise said rights and powers and perform said duties to further the purposes for which the Association is organized. In addition, the Association shall accept the responsibilities set forth in the Dedication of the plat of the Property.

2.2 Said Association may be formed for the general purpose of ownership of the common area, private streets and privacy gates, easements, and for providing for maintenance, preservation and architectural control of the Property of the Owners and the Association, and promoting the health, safety and welfare of the Owners, and shall be responsible for the

(a) Exercise and performance of the rights, powers and duties assigned to it by Declarant and granted to it by the Articles of Incorporation of the Association;

(b) Maintenance, repair and replacement of all common area, privacy gates, if any, private streets, including Mustang Road, and roads located within the Property;

(c) Operation, maintenance (including landscaping where appropriate), repair and replacement of all private streets, privacy gates, street signs, monuments, walls and all other Improvements, whether constructed by Declarant or the Association,

-5-

5206-1/040999

990411967

located in or on the road rights-of-way, the easements provided for in Article IV or on other portions of the Property conveyed to the Association;

(d) Acquisition of such liability insurance as the Association deems necessary to protect the Members and the Board of Directors of the Association from any liability from occurrences or happenings on or about those portions of the Property maintained by the Association (including, but not limited to, errors and omissions insurance for the Board of Directors of the Association);

(e) Payment for all utilities and all real estate taxes and assessments on property owned or operated by the Association;

(f) Hiring, firing, supervising and paying necessary employees and personnel, including but not limited to security guards, workmen, landscapers, attorneys, accountants, architects and contractors to carry out the obligations set forth herein; and

(g) Assessment and collection of the funds required to accomplish the objectives and perform the duties and obligations of the Association set forth herein.

2.3 Each Owner as defined by this Declaration shall automatically become a Member of the Association; provided, however, that the Board of Directors of the Association may establish reasonable additional requirements for maintaining such membership. Where Owner as defined by this Declaration includes more than one person or entity, such persons or entities shall be deemed one Member and each Member shall be entitled to one vote. Where reference is made herein to the number of Owners or Members entitled to membership or to vote or to take some other action, it shall mean the total number, at any particular time, of qualifying Owners or Members due to ownership of Parcels in Lazy D S Ranch, Parcels 1 through 18, inclusive.

2.4 Except as provided for in Section 2.8, the Owner of every Parcel within the Property bound by this Declaration covenants and agrees to pay to the Association within twenty (20) days from receipt of an invoice, a sum equal to the total of the following (hereinafter called "Assessment"):

(a) The pro rata shares of the actual costs and expenses to the Association of performing the responsibilities, duties and obligations set forth in Sections 4.1 and 4.2;

(b) The pro rata share of the estimated future costs and expenses to the Association of performing the responsibilities, duties and obligations set forth in Sections 3.1

-6-

5206-1/040999

990411967

and 3.2 which the Association determines shall be necessary to collect in advance and which are not covered by funds theretofore collected and reserved for such purposes;

(c) The proration of the total of such costs and expenses shall be made on the basis that each Parcel will bear an equal share of such charges; and

(d) Invoices for payment of any and all assessments may be submitted semi-annually or at any other interval as may be fixed by the Association. The assessment for Year 1999 shall not exceed \$200.00 per Parcel. Said assessment shall not be increased more than five percent (5%) per annum without the vote of a majority of the Members.

2.5 Each Parcel Owner's share of all assessments, together with interest on each unpaid installment thereof at the rate of ten percent (10%) per annum and the Association's costs and reasonable attorney's fees, shall be the personal obligation of the Owner (provided that an Owner shall have no personal liability for assessments becoming due before or after his ownership of a Parcel) and, regardless of an Owner's personal liability therefor, shall be a continuing lien on each respective Parcel until paid.

2.6 The Association shall have the right to maintain an action at law against any Owner personally liable for payment of an assessment and/or to foreclose its lien in the manner provided for foreclosure of mortgages. No Owner shall have the right to except himself or his property from liability for any assessments by abandonment or non-use of his Parcel or of any portions of the Property maintained by the Association. In an action by the Association to collect any assessments or to enforce any of the provisions of this Declaration, an Owner's dissatisfaction with the management and operation of the Property by the Association shall not constitute a defense to the Association's claim.

2.7 The lien for such assessments shall be subordinate to the lien of any mortgage or deed of trust made in good faith for value covering the same Property or a portion of the same Property against which said assessment or assessments are made, which mortgage or deed of trust is recorded prior to recordation of the claim for such assessments, but the lien of such assessments shall be binding and effective against any party who owns any such property during the period for which such an assessment is made even though the title of such party is acquired through foreclosure, forfeiture, trustee's sale or otherwise.

2.8 Anything contained in this Declaration to the contrary notwithstanding, Declarant shall have no obligation to pay to the Association its pro rata share of any costs and expenses

-7-

5206-1/040999

990411967

1
7

incurred during the years 1999 and 2000. Any Parcels owned by Declarant shall be subject to assessment commencing with the year 2001.

**ARTICLE III
EASEMENTS**

3.1 Every Member, and any person residing with such Member, shall have the right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Parcel, subject to the following provisions:

(a) The right of the Association to dedicate, convey, transfer and encumber the Common Area; and

(b) The right of the Association to regulate the use of the Common Area through the Association Rules and Regulations and to prohibit access to such portions of the Common Area, such as landscaped areas not intended for use by the Owners, lessees or residents.

3.2 There is hereby created an easement upon, across, upon and under the Common Area and the Parcels for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area or Parcels but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area or Parcels except as initially designed, approved and constructed by the Declarant or as approved by the Approving Agent.

3.3 Declarant shall have the right and an easement on and over the Common Area to construct all Improvements Declarant may deem necessary and to use the Common Area and any Parcels and other property owned by Declarant for construction or renovation related purposes.

3.4 Declarant shall have the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of discharging its obligations and exercising the rights granted to or reserved by this Declaration.

3.5 The Parcels are hereby made subject to the following easement in favor of the Association and its Directors, officers, agents, employees and independent contractors:

-8-

990411967

5206-1/040999

(a) For inspection of the Parcels in order to verify the performance of Owners of all items of maintenance and repair for which they are responsible;

(b) For inspection, maintenance, repair and replacement of the Common Area accessible only from such Parcels;

(c) For correction of emergency conditions in one or more of the Parcels;

(d) For the purpose of enabling the Association, the Approving Agent or the Architectural Committee of the Association to exercise and discharge their respective rights, powers and duties under this Declaration; and

(e) For inspection of the Parcels in order to verify that the provisions of this Declaration are being complied with by the Owners, their guests, tenants, invitees and the other occupants of the Parcel.

ARTICLE IV MAINTENANCE

4.1 The Association, or its duly delegated representative, shall manage, maintain and repair the Common Area, including Mustang Road from the point where it ceases to be county maintained and the easements provided in Article III, except the Association shall not maintain areas which any governmental entity is obligated to maintain.

4.2 The Association shall be the sole judge as to the appropriate maintenance of all Common Area and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Association or by its duly delegated representative. The Association shall be responsible for control, maintenance and payment of ad valorem taxes and liability of the Common Area.

4.3 Each Owner of a Parcel shall be responsible for maintaining, repairing or replacing his/her Parcel, and all buildings, residential units, landscaping or other Improvements situated thereon, except for any portion of the Parcel which is an Common Area. All buildings, residential units, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Parcel shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. All Parcels upon which no landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

-9-

5206-1/040999

990411967

4.4 In the event that the need for maintenance or repair of a Common Area is caused through the willful or negligent act of any Member, his/her family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Member and the Member's Parcel is subject and shall be secured by an assessment lien as provided in Section 2.5. Any charges or fees to be paid by the Owner of a Parcel pursuant to this section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such assessment and shall be secured by an assessment lien as provided in Section 2.5.

4.5 In the event any portion of any Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Parcels or other areas of the Property which are substantially affected thereby or related thereto, or in the event any portion of a Parcel is being used in a manner which violates this Declaration, or in the event the Owner of any Parcel is failing to perform any of his/her obligations under this Declaration, the Association may make a finding to such 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 fourteen (14) days, the Association may cause such action to be taken at said Owner's cost. If, at the expiration of said fourteen-day period of time, the requisite corrective action has not been taken, the Association 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 and the Owner's Parcel is subject and shall be secured by an assessment lien as provided in Section 2.5.

ARTICLE V **ENFORCEMENT AND AMENDMENT**

5.1 The covenants, conditions, and restrictions shall be covenants running with the land and the breach of any thereof or the continuance of any such breach may be enjoined or remedied by appropriate proceedings at law or in equity by the Declarant or by any Owner of any Property for whose benefit these restrictions have been established, but by no other person.

5.2 An Owner of any Parcel who permits the breach of any of these covenants, conditions and restrictions by persons over whom he or she exercises either direct or indirect control shall be given written notice, by first class mail sent to his last known address or by personal service, to remedy said breach within ten (10) days from mailing or service. If such breach is not remedied as provided, a Notice of Violation of Covenants may be recorded in

-10-

5206-1/040999

990411967

the office of the Cochise County Recorder which shall be removed subsequent to compliance, or the appropriate legal action may be taken. This Notice, if recorded, may constitute an exception to the title to the Property which may affect an Owner's ability to convey marketable title to said Property. Nothing in this section shall be construed to limit any other remedy available in law or equity for breach of these covenants.

5.3 The breach of any of the foregoing covenants, conditions and restrictions shall not affect or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any Parcel or Parcels or portions of Parcels in said Property, but said covenants, conditions and restrictions shall be binding upon and effective against any party acquiring title to any such Property, whose title thereto or whose Declarant's title is or was acquired by foreclosure, trustee's sale or otherwise.

5.4 In the event Declarant incurs attorney's fees for any reason, court costs or other expenses in enforcing Declarant's rights under this Declaration, said costs and expenses shall be paid by the Owner, trustee or Owner of an interest in any of the Property hereinabove described committing or permitting the breach giving rise to such costs and expenses, and the Declarant shall have a lien upon such Parcel or Parcels to secure payment of all such amounts.

5.5 No delay or omission on the part of the Declarant or the Owner of other Parcels in said Property in exercising any right, power or remedy herein provided shall be construed as a waiver thereof or acquiescence in any breach hereof; and no right of action shall accrue nor shall any action be brought or maintained by anyone on account of any breach hereof or for imposing restrictions herein which may be unenforceable.

5.6 Any or all of the covenants, conditions and restrictions herein are subject to waiver by the Declarant and any such waiver may apply at the option of the Declarant to less than all of the Parcels without waiver of such covenants, conditions and restrictions as to any other Parcel or Parcels.

5.7 Declarant shall have the right, from time to time to make any changes it desires in these covenants, conditions and restrictions which it deems beneficial to the Owners of the majority of the Parcels bound by them until such time as the Declarant has transferred fourteen (14) Parcels. Thereafter, seventy-five percent (75%) of the holders of record title to the Parcels subject to this Declaration shall have the right from time to time to amend these covenants, conditions and restrictions.

-11-

5206-1/040599

990411967

5.8 In the event that any one or more of the covenants, conditions and restrictions herein set forth and contained or any changes made therein shall be declared for any reason, by any court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of said covenants, conditions and restrictions not so expressly held to be void, but all the remaining covenants, conditions and restrictions not so declared to be void shall continue unimpaired and in full force and effect.

ARTICLE VI

TERMINATION OF DECLARATION

6.1 All of the covenants, conditions and restrictions contained herein shall continue and remain in full force and effect at all times as against the Owner of any portion of said Property, however his title thereto may be acquired, until the commencement of this calendar year 2020, and shall be automatically continued thereafter for successive periods of ten years each; provided, the Owners of a majority of the Parcels subject to these restrictions may, by executing and acknowledging an appropriate agreement or agreements in writing for such purpose and recording the same at any time at least one year prior to January 1, 2020, release all of the Property so restricted from said restrictions or may release any of the Property subject to these restrictions from said restrictions, said release to be effective January 2, 2020. During each successive ten-year period after January 1, 2020, a majority of the Owners shall have the same power to release said restrictions as to any Property then covered by said restrictions by executing, acknowledging and recording an appropriate agreement or agreements at least one year prior to expiration of said ten-year period, said release to be effective at expiration of said ten-year period.

ARTICLE VII

DEFINITIONS

7.1 "Approving Agent" shall mean the Declarant or a person or persons, partnership, corporation or other entity duly appointed by Declarant until such time as the Declarant resigns as Approving Agent. Thereafter, the Architectural Committee of the Association shall act as Approving Agent.

7.2 "Articles of Incorporation" shall mean the Articles of Incorporation of the Association.

7.3 "Assessment" shall mean the sum the Owner of every Parcel within the Property bound by this Declaration covenants and agrees to pay to the Association pursuant to Section 2.4.

-12-

5206-1/040999

990411967

7.4 "Association" shall mean Lazy D S Ranch Homeowners Association, a non-profit corporation of the State of Arizona which has been or shall be formed by the Declarant.

7.5 "By-laws" shall mean the By-laws of the Association duly adopted by the Board of the Association.

7.6 "Common Area" shall mean those areas designated as Common Area, including Mustang Road (private streets), designated on the map attached as Exhibit "B" hereto.

7.7 "Declarant" shall mean Fidelity National Title Agency, Inc. (or a successor trustee), as Trustee under Trust #10,710 and the beneficiaries under said Trust, together with each of their successors or assigns in the ownership of the Property. The term "successors or assigns" as used in this section shall not be deemed to mean individual Parcel Owners who purchased individual Parcels or an interest therein but only a person or entity that succeeds to substantially all of the ownership of the Declarant. Should Trust #10,710 terminate and should legal title to the Property described hereinabove be vested in the beneficiaries of said Trust #10,710, reference to "Declarant" herein shall mean the beneficiaries of Trust #10,710, together with each of their successors or assigns.

7.8 "Detached Single-family Dwelling" or "Single-family Dwelling" shall mean a building and structures customarily appurtenant thereto, erected and maintained in conformance with the requirements of this Declaration for private residential purposes and designed for occupancy by a single family. It shall not mean any flat, apartment, multi-family dwelling or duplex, lodging house, rooming house, hotel, hospital or sanatorium, even though intended for residential purposes, or similar dwelling, whether or not a fee is charged for occupying the dwelling. "Detached Single-family Dwelling" or "Single-family Dwelling" shall expressly not include any mobile homes, manufactured homes, multi-sectional manufactured homes, modular homes, factory-built homes, mobile/component housing or similar units, which are manufactured elsewhere, or a Single-family Dwelling constructed elsewhere and moved to the Parcel for attachment to either a permanent or movable foundation.

7.9 "Improvement" or "Improvements" shall mean any and all alterations of the land, other than interior modifications of existing structures, including but not limited to structures, buildings, outbuildings, ramadas, garages, guest houses, storage sheds, playhouses, servants' quarters, swimming pools, satellite dish antennae, tennis courts, walls, fencing, landscaping, driveways, ranch improvements and private roads, whether intended

to be temporary or permanent. It shall also include all acts done to exteriors, including changes in color, whether for maintenance, repair, or alterations.

7.10 "Parcel" shall mean any lot split or re-subdivided from the original lot, a Parcel consisting of approximately thirty-six (36) acres as shown by a number on the recorded map, a Parcel and portions of another contiguous Parcel, or two or more contiguous Parcels upon which a Detached Single-family Dwelling may be erected in conformance with the requirements of this Declaration; provided, however, an ownership or single holding by any Owner comprising parts of two adjoining Parcels, or the whole of one Parcel may, at the option of the Declarant, be deemed to constitute a single Parcel.

7.11 "Member" shall mean a person or entity entitled to hold membership in the Association.

7.12 "Mortgage" shall include mortgages, deeds of trust and recorded Contracts for Sale of Real Estate wherein the purchaser is entitled to possession of the subject Property, and the term "Mortgagee" shall include mortgagees, beneficiaries under deeds of trust and holders of vendor's interests in recorded contracts for sale of real estate wherein the purchaser is entitled to possession of the subject Property.

7.13 "Owner" shall mean the holder of record title to each parcel. The term "Owner" also shall be deemed to include a contract purchaser who is entitled to possession of a Parcel under the terms of a recorded Contract for Sale of Real Estate and shall exclude the holder of the vendor's interest in such a Contract.

7.14 "Property" shall mean the real property heretofore described and such additional property as may hereafter be declared subject to these covenants, conditions and restrictions and be brought within the jurisdiction of this Declaration.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed the day and year first above written.

FIDELITY NATIONAL TITLE AGENCY, INC.
an Arizona corporation
as Trustee under Trust #10,710 only
and not in its corporate capacity

By: Margaret L. Shick

Its: Trust Officer

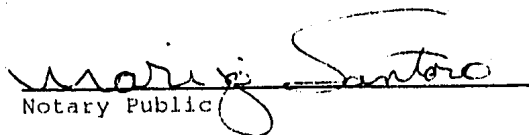
-14-

5206-1/040999

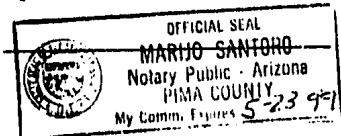
990411967

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing was acknowledged before me this 14th day of April, 1999, by Martha L. Hill, Trust Officer for Fidelity National Title Agency, Inc., as Trustee under Trust #10,710, as Trustee only, and not in its corporate capacity.


Notary Public

My commission expires:



Pursuant to Arizona Revised Statutes, Section 33-404, the names and addresses of the beneficiaries as disclosed by the records of said Trust #10,710 are as follows: The disclosure was recorded in the records of Cochise County, Arizona in Instrument # 980824517 on August 27, 1998

-15-

5206-1/040999

990411967

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

GOVERNMENT Lot 3; GOVERNMENT Lot 4, EXCEPT the East 48.81 feet; the South half of the Southwest quarter, EXCEPT the East 48.81 feet, SECTION 1. The Northwest quarter, EXCEPT the East 48.81 feet; the Northwest quarter of the Southwest quarter; GOVERNMENT Lot 5, EXCEPT the East 48.81 feet and GOVERNMENT Lot 6, SECTION 12 and part of SECTION 11, all in TOWNSHIP 21 South, RANGE 19 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, described as follows:

BEGINNING at the Southwest corner of said SECTION 1;
THENCE North 00 degrees 14 minutes 56 seconds East along the West line of SECTION 1, a distance of 2182.21 feet to the Northwest corner of said Lot 3;
THENCE North 71 degrees 02 minutes 03 seconds East along the North line of Lots 3 and 4, SECTION 1, a distance of 2731.77 feet to a point being 51.53 feet Southwesterly from the Northeast corner of Lot 4;
THENCE South 00 degrees 15 minutes 55 seconds East along a line parallel to and 48.81 feet West of the East line of Lot 4, a distance of 3083.16 feet to a point on the North line of the Northwest quarter of SECTION 12;
THENCE South 00 degrees 22 minutes 10 seconds West along a line parallel with and 48.81 feet West of the East line of the Northwest quarter and the East line of Lot 5, SECTION 12, a distance of 4520.31 feet to a point on the South line of Lot 5;
THENCE South 82 degrees 42 minutes 03 seconds West along the South line of Lots 5 and 6, a distance of 2284.425 feet;
THENCE South 82 degrees 34 minutes 52 seconds West along the South line of Lot 6, a distance of 328.78 feet to the Southwest corner of Lot 6, SECTION 12, also being the Southeast corner of Lot 1, SECTION 11;
THENCE South 82 degrees 31 minutes 17 seconds West, a distance of 1338.54 feet to the Southwest corner of Lot 1;
THENCE North 00 degrees 07 minutes 20 seconds East, a distance of 1083.28 feet to the Northwest corner of Lot 1;
THENCE North 00 degrees 07 minutes 20 seconds East, a distance of 480.44 feet;
THENCE South 89 degrees 54 minutes 50 seconds East, a distance of 1325.295 feet to a point on the West line of SECTION 12;

990411967

THENCE North 00 degrees 03 minutes 39 seconds East, a distance of 829.72 feet to the West quarter corner of SECTION 12;
THENCE North 00 degrees 14 minutes 56 seconds East, a distance of 2648.80 feet to the POINT OF BEGINNING.

RESERVING AND TOGETHER WITH an ingress-egress and utility easement over that certain existing dirt road described in EASEMENTS "A" and "B", described as follows:

EASEMENT "A":
(TOGETHER WITH)

An ingress-egress and utility easement over a strip of land, 25.00 feet in width, located in SECTION 1, TOWNSHIP 21 South, RANGE 19 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, the centerline being described as follows:

BEGINNING at a point on the East line of SECTION 1, a distance of 790.14 feet North of the Southeast corner of said SECTION 1;
THENCE South 64 degrees 40 minutes 39 seconds West, a distance of 167.25 feet;
THENCE South 71 degrees 51 minutes 27 seconds West, a distance of 796.13 feet;
THENCE North 89 degrees 14 minutes 43 seconds West, a distance of 315.88 feet;
THENCE North 82 degrees 45 minutes 24 seconds West, a distance of 782.36 feet;
THENCE North 87 degrees 16 minutes 01 seconds West, a distance of 607.18 feet;
THENCE North 68 degrees 28 minutes 33 seconds West, a distance of 51.12 feet to the POINT OF TERMINATION.

AND

EASEMENT "B"
(RESERVING AND SUBJECT TO)

An ingress-egress and utility easement over a strip of land, 25.00 feet in width, located in SECTIONS 1 and 2, TOWNSHIP 21 South, RANGE 19 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, the centerline being described as follows:

BEGINNING at a point on the East line of SECTION 1, a distance of 790.14 feet North of the Southeast corner of said SECTION 1;
THENCE South 64 degrees 40 minutes 39 seconds West, a distance of 167.25 feet;

990411967

THENCE South 71 degrees 51 minutes 27 seconds West, a
 distance of 796.17 feet;
 THENCE North 89 degrees 14 minutes 43 seconds West, a
 distance of 315.88 feet;
 THENCE North 82 degrees 45 minutes 24 seconds West, a
 distance of 782.36 feet;
 THENCE North 87 degrees 16 minutes 01 seconds West, a
 distance of 607.18 feet;
 THENCE North 68 degrees 28 minutes 33 seconds West, a
 distance of 51.12 feet to the TRUE POINT OF BEGINNING;
 THENCE continuing North 68 degrees 28 minutes 33 seconds
 West, a distance of 283.06 feet;
 THENCE North 67 degrees 23 minutes 59 seconds West, a
 distance of 595.47 feet;
 THENCE South 84 degrees 39 minutes 34 seconds West, a
 distance of 2396.57 feet;
 THENCE North 76 degrees 32 minutes 21 seconds West, a
 distance of 458.31 feet;
 THENCE North 58 degrees 45 minutes 50 seconds West, a
 distance of 126.23 feet;
 THENCE South 85 degrees 36 minutes 12 seconds West, a
 distance of 146.93 feet;
 THENCE South 69 degrees 30 minutes 45 seconds West, a
 distance of 28.60 feet to a point on the West line of Lot
 1 in SECTION 2 and the POINT OF TERMINATION.

PARCEL II:

GOVERNMENT Lot 1; GOVERNMENT Lot 2; the Southeast quarter;
 the East 48.81 feet of GOVERNMENT Lot 4; the East 48.81
 feet of the South half of the Southwest quarter, SECTION
 1. GOVERNMENT Lot 1; GOVERNMENT Lot 2; GOVERNMENT Lot 3;
 GOVERNMENT Lot 4; the East 48.81 feet of GOVERNMENT Lot 5;
 the West half of the Northeast quarter; and the East 48.81
 feet of the Northwest quarter, SECTION 12, all in TOWNSHIP
 21 South, RANGE 19 East of the Gila and Salt River Base
 and Meridian, Cochise County, Arizona, described as
 follows:

BEGINNING at the Northeast corner of said SECTION 12, also
 being the Northeast corner of GOVERNMENT Lot 1;
 THENCE South 00 degrees 00 minutes 58 second East along
 the East line of SECTION 12, a distance of 709.69 feet to
 the corner common to SECTIONS 6 and 7, TOWNSHIP 21 South,
 RANGE 20 East;
 THENCE South 00 degrees 00 minutes 34 seconds East along
 the East line of SECTION 12, a distance of 2640.94 feet to
 the West quarter corner of SECTION 7, TOWNSHIP 21 South,
 RANGE 20 East;

990411967

THENCE South 00 degrees 00 minutes 13 seconds East along the East line of SECTION 12, a distance of 813.98 feet to the Southeast corner of said Lot 3;
 THENCE South 82 degrees 32 minutes 23 seconds West along the South line of Lots 3 and 4, SECTION 12, a distance of 2353.14 feet;
 THENCE South 82 degrees 42 minutes 03 seconds West along the South line of Lots 4 and 5, a distance of 350.04 feet to a point being 49.25 feet Southwesterly of the Southwest corner of Lot 4;
 THENCE North 00 degrees 22 minutes 10 seconds East along a line parallel with and 48.81 feet West of the West line of Lot 4 and the West line of the West half of the Northeast quarter, a distance of 4520.31 feet to a point on the Section line common to SECTION 1 and 12;
 THENCE North 00 degrees 15 minutes 55 seconds West along a line parallel with and 48.81 feet West of the West line of the West half of the Southeast quarter and the West line of Lot 2, SECTION 1, a distance of 3083.15 feet to a point on the North line of Lot 4, said point being 51.53 feet Southwesterly from the Northwest corner of Lot 2;
 THENCE North 71 degrees 02 minutes 03 seconds East along the North line of Lots 4, 2 and 1, a distance of 2817.71 feet to the Northeast corner of Lot 1;
 THENCE South 00 degrees 00 minutes 27 seconds East along the East line of SECTION 1, a distance of 2071.01 feet to the West quarter corner of SECTION 6, TOWNSHIP 21 South, RANGE 20 East;
 THENCE South 00 degrees 00 minutes 27 seconds East along the East line of SECTION 1, a distance of 1933.49 feet to the POINT OF BEGINNING.

SUBJECT TO AND RESERVING an ingress-egress and utility easement over that certain existing dirt road described in EASEMENT "A", described as follows:

EASEMENT "A"
 (RESERVING AND SUBJECT TO)

An ingress-egress and utility easement over a strip of land, 25.00 feet in width, located in SECTION 1, TOWNSHIP 21 South, RANGE 19 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, the centerline being described as follows:

BEGINNING at a point on the East line of SECTION 1, a distance of 790.14 feet North of the Southeast corner of said SECTION 1;
 THENCE South 64 degrees 40 minutes 39 seconds West, a distance of 167.25 feet;
 THENCE South 71 degrees 51 minutes 27 seconds West, a distance of 796.13 feet;

990411967

THENCE North 89 degrees 14 minutes 43 seconds West, a distance of 315.88 feet;
THENCE North 82 degrees 45 minutes 24 seconds West, a distance of 782.36 feet;
THENCE North 87 degrees 16 minutes 01 seconds West, a distance of 607.18 feet;
THENCE North 68 degrees 28 minutes 33 seconds West, a distance of 51.12 feet to the POINT OF TERMINATION.

EXCEPT those portions thereof described as Parcels A and B below:

PARCEL A:

COMMENCING at the Southeast corner of said SECTION 1, being an aluminum capped pin stamped LS #7599;
THENCE North 00 degrees 00 minutes 27 seconds West, a distance of 790.14 feet;
THENCE South 64 degrees 40 minutes 39 seconds West, a distance of 167.25 feet;
THENCE South 71 degrees 51 minutes 27 seconds West, a distance of 417.41 feet to the POINT OF BEGINNING:

THENCE continuing South 71 degrees 51 minutes 27 seconds West, a distance of 378.72 feet;
THENCE North 89 degrees 14 minutes 43 seconds West, a distance of 23.94 feet;
THENCE North 14 degrees 56 minutes 27 seconds West, a distance of 203.50 feet;
THENCE North 71 degrees 51 minutes 27 seconds East, a distance of 90.00 feet;
THENCE North 18 degrees 08 minutes 33 seconds West, a distance of 209.55 feet;
THENCE North 71 degrees 51 minutes 27 seconds East, a distance of 300.00 feet;
THENCE South 18 degrees 08 minutes 33 seconds East, a distance of 420.48 feet to the POINT OF BEGINNING.

PARCEL B:

COMMENCING at the Southeast corner of said SECTION 1, being an aluminum capped pin stamped LS #7599;
THENCE North 00 degrees 00 minutes 27 seconds West, a distance of 790.14 feet;
THENCE South 64 degrees 40 minutes 39 seconds West, a distance of 167.25 feet;
THENCE South 71 degrees 51 minutes 27 seconds West, a distance of 652.63 feet to the POINT OF BEGINNING:

990411967

THENCE South 24 degrees 05 minutes 44 seconds West, a
distance of 350.00 feet;
THENCE North 83 degrees 42 minutes 34 seconds West, a
distance of 391.41 feet;
THENCE North 38 degrees 29 minutes 55 seconds West, a
distance of 350.00 feet;
THENCE South 82 degrees 45 minutes 24 seconds East, a
distance of 300.00 feet;
THENCE South 89 degrees 14 minutes 43 seconds East, a
distance of 315.88 feet;
THENCE North 71 degrees 51 minutes 27 seconds East, a
distance of 143.50 feet to the POINT OF BEGINNING.

js/____

990411967