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CANCELLATION
OF
RESTATED AND AMENDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CASA REAL

WHEREAS on June 25, 1999, a Restated and Amended Declaration of Covenants, Conditions and Restrictions for Casa Real subdivision was recorded in the office of the Pima County Recorder, State of Arizona, in Docket 11076, at page 2715, (hereinafter referred to as "Restated Declaration"); and

WHEREAS, the Restated Declaration revoked and superseded the original Declaration and all previously recorded amendments; and

WHEREAS, Article X, Section 3 of the original Declaration, as amended, provides that "the Declaration may be amended by a majority vote of the Owners who have voted in person or by proxy in favor of the amendment and upon the approval of all of the Eligible First Mortgagees"; and

WHEREAS, the Board of Directors of CASA REAL HOMEOWNERS ASSOCIATION (hereinafter "the Association") has been unsuccessful and has failed to obtain all of the required signatures and approvals set forth in the provisions and requirements of the Amended Restrictions and the Declaration; and

WHEREAS, the Board of Directors of the Association have determined that the provisions and requirements set forth requiring approval of a majority of the owners and consents of all of the Eligible First Mortgagees in order to amend the Declaration have proved to be impossible and overburdensome for the Board of Directors and Members of the Association to carry out and complete; and

WHEREAS, the Association is desirous in reinstating the original Declaration and all previously recorded amendments;

NOW, THEREFORE, the undersigned, constituting the President and Secretary of the Association, attest that they have the power to execute this Cancellation of Amended and Restated Declaration of Covenants, Conditions and Restrictions for Casa Real subdivision;

That the Restated and Amended Declaration of Covenants, Conditions and Restrictions for Casa Real subdivision recorded in the office of the Pima County Recorder, State of Arizona, on June 25, 1999, in Docket 11076, at page 2715, are hereby canceled and declared null, void, and of no further force and effect;

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RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS RESTATED DECLARATION made on the date hereinafter set forth by PIONEER TRUST COMPANY OF ARIZONA, as Trustee under Trust No. 11,208, hereinafter referred to as "Developer".

W I T N E S S E T H :

WHEREAS, on September 28, 1977 First States Service Corporation caused to be recorded in the Office of the County Recorder of Pima County, Arizona in Book 5650 at pages 735-748 inclusive, a document entitled "Declaration of Covenants, Conditions and Restrictions" imposing certain covenants, conditions and restrictions against the following described property:

Casa Real, Lots 1 through 185 and common areas lots 186 through 188 as recorded in Book 28 of Maps and Plats at page 100 in the office of the County Recorder of Pima County Arizona.

WHEREAS, subsequent to the recording of said Declaration of Covenants, Conditions and Restrictions, First States Service Corporation caused said property to be conveyed and transferred to Pioneer Trust Company of Arizona as Trustee under Trust #11,208 and thereafter Pioneer Trust Company of Arizona, as Trustee under Trust #11,208 amended said Declaration of Covenants, Conditions and Restrictions by causing certain amendments to be recorded in Book 5826 at page 453-454 inclusive in the office of the Pima County Recorder, Pima County, Arizona.

WHEREAS, Pioneer Trust Company desires to further amend the Declaration of Covenants, Conditions and Restrictions as amended by restating said Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, pursuant to Article 18 and 19 of the Declaration of Covenants, Conditions and Restrictions dated the 28th day of September, 1977 and recorded in Book 5650 at page 735-748, inclusive, in the Office of the Pima County Recorder, Pima County, Arizona, the Developer hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

The Declaration of Covenants, Conditions and Restrictions recorded in the office of the County Recorder of Pima County, Arizona in Book 5650 at pages 735-748 inclusive and the amendment thereto recorded in Book 5826 at pages 453-454 inclusive are are superseded and no longer binding.

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ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to CASA REAL HOMEOWNERS ASSOCIATION its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinabove described.

Section 3. "Common Area" and "Common Elements" shall be synonymous and shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association, including, but not limited to, all of the real property described in the CASA REAL Final Plat recorded in Book 29 at Page(s) 69 in the office of the Pima County Recorder except the real property specifically designated as Lots or Units 1 through 185, inclusive. The common elements shall include all recreational facilities, swimming pools, pumps, trees, sidewalks, pavement, streets, pipes, walls, conduit and public utility lines.

Section 4. "Lot" and "Townhouse" and "dwelling unit" shall be synonymous and shall mean and refer to separately designated and legally described freehold estate of any plot of land and the improvements thereon shown upon the recorded subdivision Plat of CASA REAL, a subdivision.

Section 5. "Roadways" shall mean those areas designated as roadways and private drives of the CASA REAL Plan hereinabove mentioned.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Developer" shall mean and refer to PIONEER TRUST COMPANY OF ARIZONA, as Trustee under Trust #11,208, their successors and assigns who acquire more than one undeveloped Lot from PIONEER TRUST COMPANY OF ARIZONA, as Trustee under Trust #11,208, their successors and assigns.

Section 9. "Mortgage" shall mean any mortgage, deed of trust or other security instrument by which a dwelling unit or any part thereof is encumbered and the term "first mortgagee" means the holder of any mortgage under which the interest of any owner of a dwelling unit is encumbered and which mortgage has first and paramount priority, subject only to the lien of general or ad valorem taxes and assessments.

ARTICLE II

Membership and Voting Rights

Section 1. Every owner of a Lot shall be a member of the CASA REAL HOMEOWNERS ASSOCIATION and such membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessments.

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

Class A - Class A members shall be all owners, with the exception of the Developer, and each Class A member shall be entitled to one vote for each lot in which he holds the interest required for membership. When more than one person holds the interest required for membership, all such persons shall be members, but the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B - The Class B member shall be the Developer. The Class B member shall be entitled to three (3) votes for each Lot in which it holds a fee interest. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever is first to occur:

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

(b) On March 1, 1984.

ARTICLE III

Property Rights

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to limit the number of guests of members and Owners;

(b) The right of the Association to establish rules and to regulate the use of any recreational or common facility situated upon the Common Area;

(c) The right of the Association, subject to the provision of Article XI, Section 4 hereof, and in accordance with its Articles and By-Laws, to borrow money for the purpose of improving and maintaining the Common Area and facilities and in aid thereof to mortgage said

property, and the rights of such mortgage in said properties shall be subordinate to the rights of the homeowners hereunder;

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(e) The right of the Association, subject to the provisions of Article XI, Section 4 hereof, to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and on such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3rds) of the votes of the Class A membership and two-thirds (2/3rds) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) nor more than sixty (60) days in advance.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws and rules and regulations of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Developer hereby covenants for itself, its heirs and assigns, that it will convey fee title to the Common Area as described in the CASA REAL Final Plat recorded in the Office of the County Recorder of Pima County, Arizona in Book 29 at page 69. The Common area shall be free and clear of all encumbrances and liens prior to the conveyance of the first lot.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer for each Lot owned within the properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the Common Area.

Also, the Board of Directors of the Association shall provide that Association dues, charges or assessments shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Areas and common property owned by the Association that must be replaced on a periodic basis. All such dues, charges and assessments imposed by the Association shall be paid on a periodic basis in regular installments rather than by special assessments.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Thirty-Five and no/100 (\$35.00) per Lot:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 20% above the maximum assessment for the previous year without a vote of the membership.

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

(c) The provisions of this Declaration regarding payment of assessments shall not apply to the Developer or the Owner of an undeveloped Lot. In consideration of the foregoing, the Developer agrees that if during the time period commencing on the date of conveyance of a unit to a owner and ending with the termination of Developer Class B membership, the total assessments collected are insufficient to meet the operating expenses of the Association, the Developer shall pay the deficiency. After termination of Developer Class B membership the Developer shall not be required to pay a deficiency nor shall undeveloped Lots or unoccupied units owned by Developer be subject to an assessment.

Section 4. Special Assessments For Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, and non-periodic repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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 Section 3 or 4 shall be sent to all members 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 of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (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. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessment. The monthly assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance by the Developer of a Lot to an individual owner.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. Subject to the provisions of Article XI, Section 3, the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the

owners who make use of the wall in proportion of such use.

Section 3. Destruction By Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VI

Architectural Control

No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topograph by the Developers prior to the completion of the development and thereafter by the Board of Directors 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, it shall be presumed that the Board disapproves said plans and no changes or alterations shall be permitted.

ARTICLE VII

Exterior Maintenance

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint, repair, replace and care for gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements, except such exterior maintenance shall not include glass surfaces or enclosed areas within patios but shall include carports. The Association shall accept

responsibility for the control, maintenance, safety and liability of the private streets, roads and Common Area within the development.

In the event that the Board of Directors determine that the need for maintenance or repair has been caused through the willful or negligent act of the Owner, his family or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VIII

Use Restrictions

Section 1. Said premises are hereby restricted to residential dwellings for single family residential use. All buildings or structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises, and no subsequent buildings or structures other than townhouses, being residence units joined together by party walls, shall be built on any parcel where the builder theretofore programmed and constructed a townhouse. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any portion of the premises at any time as a residence either temporarily or permanently.

Section 2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for PIONEER TRUST OF ARIZONA as Trustee under Trust #11,208, its builder, successors or assigns who shall construct all or a portion of said townhouses to maintain during the period of construction and sale of said townhouses, upon such portion of the premises as such builder may choose, except those Lots on which residences have been completed and the Lots conveyed to individual owners, such facilities as in the sole opinion of said builder may be reasonably required, convenient or incidental to the construction and sale of said townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales offices.

Section 3. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except, and unless prohibited by the rules and regulations adopted by the Association, dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 4. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or safety or unreasonably disturb the owner of any townhouse or any resident thereof. Further, no business activities of any kind whatever shall be conducted in any building or in

any portion of the premises. Provided, further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the builder, its agents and assigns during the construction and sale period, and of CASA REAL HOMEOWNERS ASSOCIATION, a non-profit corporation incorporated or to be incorporated under the laws of the State of Arizona, its successors and assigns, in furtherance of its powers and purposes as herein set forth.

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

Section 6. Except in the individual patio areas, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said premises except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives.

Section 7. The common elements shall remain undivided, and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common elements.

Section 8. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, other than an aerial for a master antenna system, should any such master system or systems be utilized and required any such exterior antenna.

ARTICLE IX

Easements

There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for each individual owner or public service utility company or municipality to erect and maintain the necessary poles, house

sewer connections and other necessary equipment or lines on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits or house sewer connections above, across and under the townhouses, including the roof and exterior walls of each unit. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said premises except as initially programmed and approved by the major builder of said premises or thereafter approved by the Association's Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

Each townhouse and the common elements shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of the same, so long as they stand, shall and does exist. In the event the multi-family structure is partially or totally destroyed, and then rebuilt, the Owners of townhouses agree that encroachments not to exceed one (1) foot of parts of the adjacent townhouse units or common elements due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

ARTICLE X

General Provisions

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

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

Section 3. Revocation and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit or and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a terms of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

This Declaration shall not be revoked unless the owners of fifty-one (51%) percent of the dwelling units and all first mortgagees consent and agree to such revocation by written instruments duly recorded. This Declaration shall not be amended, except as otherwise herein provided, unless the owners of fifty-one (51%) percent of the dwelling units and all

first mortgagees consent and agree to such amendment by written instruments duly recorded. Any amendment to this Declaration may also be evidenced by a recorded certificate of the Secretary of the Association, certifying that, at a meeting of the owners, duly called, that the owners of fifty-one (51%) percent of the dwelling units consented to such amendment, and that all first mortgagees have given written consent to such amendment, and that copies of such written consents are in the corporate records of the Association.

Nothing withstanding the foregoing amendment procedure, the Developer expressly reserves the right to amend this declaration, subject to the consent of all mortgagees at any time prior to the expiration of Developers Class B membership.

Section 4. First Mortgagees Rights. First mortgagees are hereby granted the right to jointly, or singly pay taxes or other charges which are in default and which may or have become a charge against any common areas or other common property owned by the Association, and such first mortgagees may, jointly or singly, pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common areas or common property and any first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Nothing in this Declaration shall in any manner be deemed to give a dwelling unit owner, or any other party, priority over any rights of a first mortgagee of a dwelling unit pursuant to the terms of such first mortgagee's mortgage in the case of a distribution to a dwelling unit owner of insurance proceeds or condemnation awards for losses to or a taking of Common Areas or other common property owned by the Association.

Section 5. Interpretation. So long as the Federal Home Loan Mortgage Corporation shall be the holder of any first mortgage, this Declaration shall be interpreted in conformity with all rules, regulations and requirements of the Federal Home Loan Mortgage Corporation applicable to conventional mortgages, in effect as of the day of this Declaration, or as hereafter amended, and any provision hereof which is inconsistent therewith shall be deemed to be modified to conform thereto. If there is any conflict among or between this Declaration, the Articles of Incorporation of the Association, the By-laws of the Association, or the Rules and Regulations of the Association, the provisions of this Declaration shall prevail; thereafter, priority shall be given first to such Articles of Incorporation, then to such By-laws, and then such Rules and Regulations.

ARTICLE XI

Townhouse Association

Section 1. Association. The affairs of the Townhouse Association shall be conducted by the CASA REAL HOMEOWNERS ASSOCIATION, a non-profit organization.

Section 2. Right of Inspection. The first mortgagee of any lot in the CASA REAL shall have the right at reasonable times to inspect the books and records of the Association.

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Section 3. Right to Notice. Each first mortgagee shall, upon notice to the Association, be entitled to a written notification from the Association of any default in the performance by the owner of a dwelling unit encumbered by the mortgage in favor of such mortgagee of any obligation under this Declaration or under the Articles of Incorporation, By-laws, Rules and Regulations of the Association which is not cured within sixty (60) days.

Section 4. Restrictions. Any provision contained in this Declaration to the contrary notwithstanding, unless at least two-thirds (2/3rds) of the first mortgagee's (based upon one vote for each first mortgage owned or held) and two-thirds (2/3rds) of the dwelling unit owner's (other than the declarant, his successors and assigns) have given their prior written approval, the Association shall not be empowered or entitled to: (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common areas or any common property owned by the Association, directly or indirectly (except that the Association shall have the right to grant easements for public utilities or for other public purposes consistent with the intended use of such common property); (b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a dwelling unit owner; (c) by act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of dwelling units, the exterior maintenance of dwelling units, the maintenance of common property party walks or common fences and driveways, or the upkeep of lawns and planting areas in the subdivision; (d) fail to maintain fire and extended-coverage insurance on the common areas and common property on a current replacement cost basis in an amount of not less than one hundred per cent (100%) of the insurable value (based on current replacement costs); (e) use hazard insurance proceeds for losses to any Common Areas or common property for other than the repair, replacement or reconstruction of such common property.

Section 5. Management and Service Contracts. Any agreement for professional management of the subdivision, or any other contract providing for services of the declarant shall not exceed three (3) years. Any such agreement shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

ARTICLE XII

Insurance Requirements

Section 1. Comprehensive General Liability and Property Insurance. Comprehensive general liability and property damage insurance covering all Common Areas and all other areas under the jurisdiction or control of the Association shall be purchased by the Association and shall be maintained in full force and effect at all times. Such insurance policy or policies shall contain a "severability of interest" clause or

endorsement which shall preclude the insurer from denying the claim of a dwelling unit owner because of negligent acts of the Association or of other dwelling unit owners. The scope of coverage of such policy or policies must include all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use as CASA REAL. Coverage shall be for at least one million dollars (\$1,000,000.00) per occurrence of personal injury and/or property damage.

Section 2. Fire Hazard Insurance. Fire and other hazard insurance covering the entire subdivision, including all Common Areas, shall be purchased by the Association and shall thereafter be maintained in full force and effect at all times. Such policy or policies shall consist, at a minimum, of a multi-peril type policy covering the entire subdivision, providing, as a minimum, fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage lenders in Tucson, Arizona, on a replacement cost basis, in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).

If the subdivision is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, flood insurance shall be maintained in the amount of the aggregate of all outstanding principal balances of mortgage loans encumbering dwelling units located within the subdivision or the maximum limit of coverage available under the national flood insurance act of 1968, as amended, whichever is less.

Each such policy must contain or have attached thereto a standard mortgagee clause which provides that all proceeds paid thereunder shall be paid to the Association for the use and benefit of all mortgagees under mortgages encumbering any dwelling units, as their interest may appear, and such policy or policies must further provide that the insurance carrier shall notify each first mortgagee named, at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy. Such policy or policies shall further provide that the interest of each mortgagee holding a mortgage on any dwelling unit in insurance proceeds shall not be invalidated by any action, neglect or inaction of the Board of Directors of the Association, owners of dwelling units or their tenant or agents. Such policy or policies shall further provide for waiver by the insurer of any policy provisions which would render the mortgagee clause invalid by reason of the failure of such mortgagee to notify the insurer of any hazardous use or vacancy in any dwelling unit and any policy requirement that the mortgagee pay the premium thereon.

Section 3. Other Insurance. The Association shall purchase and maintain in force fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees, or volunteers responsible

for handling funds belonging to or administered by the Association. Such fidelity bonds or insurance shall name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is, in no event, less than 1-1/2 times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added, if the policy would not otherwise cover volunteers.

Section 4. Minimum Financial Rating Carrier. Each hazard insurance policy obtained by the Association pursuant to the foregoing shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better. Hazard insurance policies shall also be acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided that such insurance carrier has a general policy holder's rating of at least A. Each such carrier shall be specifically licensed or authorized by law to transact insurance business in the State of Arizona.

Policy shall be unacceptable where:

- (1) Under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against a dwelling unit owner or the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Mortgage Corporation's designee; or
- (2) By the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or
- (3) The policy includes any limiting clauses (other than insurance conditions) which could prevent the Federal Home Loan Mortgage Corporation or any dwelling unit owner from collecting insurance proceeds.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set their hands and seals this 4th day of October, 19 79.

HERDER CONSTRUCTION COMPANY

PIONEER TRUST COMPANY OF ARIZONA
As Trustee Under Trust #11,208

By: Charles W. [Signature]

By: Brian W. [Signature]

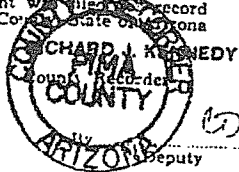
Assistant Trust Officer

STATE OF ARIZONA } ss.
COUNTY OF PIMA }
Witness my hand and Official Seal.

I hereby certify that the within instrument was filed for record in Pima County, State of Arizona

No. 19938
Book 7968 Page 1024/1024
Date: FEB 06 '87 - 1 PM
Request of: E2 9:00
Fee:

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AMENDMENTS TO THE RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE CASA REAL HOMEOWNERS ASSOCIATION

Pursuant to the Restated Declaration of Covenants Conditions and Restrictions of Casa Real Homeowners Association recorded on October 5, 1979 at Book 6128, pages 189 through 203 in the office of the Pima County Recorder and upon the vote of the owners of fifty-one percent (51%) of the units and all (100%) of the first mortgagees, after notice and at a special meeting of the Association, such Declaration of Covenants, Conditions and Restrictions shall be amended as follows.

I

Article IV, Section 8 shall be deleted in its entirety and the following new Section 8 shall be substituted in its place.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate per annum established by the Board of Directors. Subject to the provisions of Article XI, Section 3, the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her lot.

II

Article VII shall be deleted and the following new Article VII shall be substituted in its place.

Article VII Exterior Maintenance.

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: Paint, repair, replace and care for gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements, except such exterior maintenance shall not include glass surfaces, roofs or enclosed areas within patios but shall include carports. The Association shall accept responsibility for the control, maintenance, safety and liability of the private streets, roads and Common Area within the development.

In the event the Board of Directors determine that the need for maintenance or repair has been caused through the willful or negligent act of the Owner, his family or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

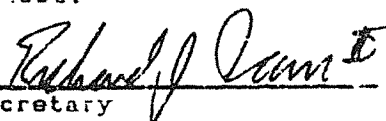
Dated this 25th day of November, 1986

Casa Real Homeowners Association



J. A. Hall President

Attest:



Secretary

State of Arizona)
) ss.
Country of Pima)

Subscribed and sworn to before me this 4 day of Feb
1987 by James A Hall, President and Richard Geare,
Secretary.


Notary Public

My Commission Expires:

My Commission Expires Sept. 27, 1990

E7 100000

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: CML
DEPUTY RECORDER
1951 R00A



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PAGE: 1873
NO. OF PAGES: 3
SEQUENCE: 97022061
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TUCSON AZ 85701

PICKUP
AMOUNT PAID \$ 9.00

AMENDMENT TO
THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR CASA REAL

WHEREAS, a Declaration of Covenants, Conditions, and Restrictions for CASA REAL was recorded in the office of the County Recorder of Pima County, Tucson, Arizona, in Docket 5650 at Page 735 et seq and has been amended from time to time;

WHEREAS, Article X, Section 3 of the Declaration provides that the Declaration may be amended upon the approval of at least fifty-one (51%) percent of the owners of the dwelling units and all of the first mortgagees consent in writing to such amendment; and

WHEREAS, at least fifty-one (51%) percent of the owners of the dwelling units and all of the first mortgagees approved the following amendment.

NOW, THEREFORE, the undersigned, constituting the President and Secretary of the CASA REAL HOMEOWNERS ASSOCIATION, attest that the following amendment to the Declaration of Covenants, Conditions and Restrictions for CASA REAL was approved, in writing, by at least fifty-one (51%) percent of the owners of the dwelling units and all of the first mortgagees.

ARTICLE X, Section 3, is hereby revoked and the following new Section 3 shall be substituted in its place:

10482 1873

3

Section 3. Revocation, Amendment and Term.

3.1. **Term.** The aforesaid provisions, conditions, restrictions and covenants, and each of them, shall run with the land and continue and remain in full force and effect at all times and against all persons until January 1, 2005, at which time they shall be automatically extended for successive periods of ten (10) years.

3.2. **Revocation.** This Declaration shall not be revoked unless the owners of fifty-one percent of the dwelling units and all of the Eligible First Mortgagees consent and agree to such revocation by written instrument which shall become effective upon its recordation in the Office of the Pima County Recorder.

3.3. **Amendment.** This Declaration may be amended at any time by a majority vote of all Owners, voting in person or by proxy and upon the approval of all of the Eligible First Mortgagees. Any amendment to this Declaration shall be evidenced by a written document signed by the President and Secretary of the Association and filed with the Pima County Recorder's Office, attesting that the requisite number of votes have been cast in favor of the amendment.

3.4. **Eligible First Mortgagee.** An "Eligible First Mortgagee" is the holder of a First Mortgage or Deed of Trust on a Lot which has requested, in writing, notice of various actions undertaken by the Association and shall be deemed to include any assignee of the rights of such Eligible First Mortgagee as reflected on the then current applicable land records.

IN WITNESS WHEREOF, the undersigned attest that the above amendment was approved in writing, by at least fifty-one (51%) percent of the owners of the dwelling units and all of the first mortgagees; and execute this Amendment on the 11 day of

February, 1997.

CASA REAL HOMEOWNERS ASSOCIATION

By: *Audis Tushnet*
President

Attest:

Dolores Chalfant
Secretary

STATE OF ARIZONA)
) ss:
COUNTY OF PIMA)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 11th
day of February 1997, ~~2005~~, by Ardie Trenholm,
President and Dolores Chalfant, Secretary of CASA REAL
HOMEOWNERS ASSOCIATION.

Kimberly Faye Tribble
Notary Public

My Commission Expires:

7-8-2000

