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**CERTIFICATE OF AMENDMENT TO**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

(Original Declaration recorded in Docket 3497 at Page 38, et seq.)

**DO NOT REMOVE**

**THIS IS PART OF THE OFFICIAL DOCUMENT**

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**CERTIFICATE OF AMENDMENT TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDMENT to the *Declaration of Covenants, Conditions and Restrictions* (the "Declaration") is made by the Owners of the Property known as Las Placitas Townhouses, more fully described in Exhibit A attached hereto.

**RECITALS**

**WHEREAS**, the Declaration was recorded on May 16, 1969, in Docket 3497 at Page 38, et seq., in the office of the County Recorder, Pima County, Arizona; and

**WHEREAS**, the Owners desire to modify and amend the Declaration to reflect certain changes, as are more particularly set forth below.

**WHEREAS**, Paragraph 26 of the Declaration requires that any amendment must be "by an instrument in writing, executed and acknowledged by the then owners of not less than three-quarters (3/4) of the townhouse units on said property...."

**NOW, THEREFORE**, the Declaration is amended as follows:

**DELETE the first sentence of Paragraph 15, and REPLACE IT with the following sentence:**

*All fixtures and equipment installed within a townhouse unit, as well as all utility lines, pipes, wires, conduits or systems serving or benefiting only that townhouse unit, whether inside or outside the townhouse unit, shall be maintained and kept in repair by the owner thereof.*

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**CERTIFICATE**

The foregoing amendment to the Declaration was approved by owners of not less than three-quarters (3/4) of the townhouse units as evidenced by the attached written consents executed and acknowledged by the requisite townhouse unit owners. Said amendment shall become effective immediately upon recordation of this Certificate.

<< THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK >>

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE UNDERSIGNED, owner of that certain real property situated in the State of Arizona, County of Pima, known as LAS PLACITAS TOWNHOUSES, more specifically described as follows:

All that part of the southeast One-Quarter of Section 10, Township 14 S, Range 15 E, G&SRB&M, Pima County, Arizona described as follows:

Beginning at the south One-Quarter corner of said Section 10; Thence South  $89^{\circ} 52' 00''$  East along the South line of said Section 10, 330.06 feet to the Southeast corner of the West One-Half of the West One-Half of the Southwest One-Quarter of the Southeast One-Quarter of said Section 10 and the True Point of Beginning;

Thence North  $0^{\circ} 06' 00''$  East along the east line of the West One-Half of the West One-Half of the Southwest One-Quarter of the Southeast One-Quarter of said Section 10, 665.00 feet to a point;

Thence South  $61^{\circ} 03' 03''$ , East 203.39 feet to a point of curvature;

Thence southeasterly along the arc of a curve concave to the Northeast having a radius of 420.61 feet, a central angle of  $13^{\circ} 33' 30''$ , 99.53 feet to a point of tangency;

Thence South  $74^{\circ} 36' 33''$  East, 62.12 feet to a point;

Thence South  $00^{\circ} 06' 12''$  West along the east line of the West One-Half of the Southwest One-Quarter of the Southeast One-Quarter of said Section 10, 513.37 feet to a point on the south line of said Section 10;

Thence North  $89^{\circ} 52' 00''$  West along the south line of said Section 10, 330.06 feet to the True Point of Beginning.

Except the south 100.0 feet and the west 16.0 feet, thereof.

This area is 4.39 acres, more or less.

Also being known as Parts of Lots One and Two of Bloodworth Addition, according to map or plat thereof of record in the office of the County Recorder, Pima County, Arizona, in Book 19 of Maps and Plats, at page 26.

according to the plat thereof attached hereto and made a part hereof, hereby covenants, agrees and declares that all of said property and townhouse units thereon are and will be held, sold and conveyed subject to the following covenants, conditions and restrictions, which are hereby declared to be for the benefit of all of the property described herein, and the owners thereof, their heirs, successors, grantees and assigns. This declaration hereby establishes a plan for the individual ownership of real property estates, consisting of a lot and the improvements contained thereon, and the ownership by a non-profit association comprised of all owners of townhouses, of all of the remaining property, both real and personal, which is hereinafter defined and referred to as the "Common Elements". Said restrictions establish and impose a general plan for the improvement and development of said property described herein and the adoption and establishment of covenants, conditions and restrictions upon said land and upon any and all townhouse units constructed or to be constructed thereon, and upon the use, occupancy and enjoyment thereof. Every conveyance of any of said townhouses, or property or portion thereof shall be and is subject to the said covenants, conditions and restrictions, as follows:

1. Definitions. "Association" shall mean and refer to LAS PLACITAS TOWNHOUSES, its successors and assigns. "Properties or premises" shall mean and refer to that certain real property described above. "Lot, townhouse or unit" shall mean and refer to any plot of land shown upon any recorded map of said premises and any amendments thereto. "Member" shall mean and refer to every owner who holds membership in the Association. "Owner" shall mean and refer to the record owner of equitable title (or legal title if equitable title has merged) of any said lot which is part of the premises.

2. Said premises are hereby restricted to residential dwellings for residential use. No buildings or structures erected upon said premises 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 outbuilding shall be used on any portion of the premises at any time as a residence, either temporarily or permanently. No car or other vehicle shall be parked overnight in a service street.

3. Each townhouse shall be a separately designated and legally described freehold estate consisting of a lot according to the above referred to plat and the improvements thereon. Said freehold estates are herein defined and referred to as "townhouses".

4. The "common elements" shall be defined as including but not necessarily limited to all of the above referred to property except the property specifically designated as a "lot" or "unit" on the above referred to plat attached hereto and all recorded amendments thereto. The portion of the "lot" or "unit" not actually occupied by the building or enclosed as a private patio, even though specifically designated as part of a "lot" or "unit" on the above referred to plat and deed to an individual owner or owners, be and it is hereby subject to an easement of use and enjoyment in favor of each and every townhouse owner, resident and occupant. This declaration does hereby reserve and grant to the Association a right and easement of use and enjoyment in and to such property as though said property were part of the "common elements". The record owner or owners of such areas shall have no greater rights and privileges than any other townhouse owner, resident or occupant with respect to the use and enjoyment of said property.

5. Notwithstanding any provisions herein contained to the contrary, it shall be expressly premissible for the Builder of a major 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, 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 office.

6. No pets, other than two dogs, cats, or other household pets, may be kept on the premises, and each must be kept confined to the individual apartment and patio area.

7. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), 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 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 LAS PLACITAS TOWNHOUSES ASSOCIATION, a non-profit corporation incorporated or to be incorporated under the laws of the State of Arizona, its successors and assigns (hereinafter referred to as the Association), in furtherance of its powers and purposes as hereinafter set forth.

8. 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 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.

9. 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 representative. Every member shall have a mutual right and easement of enjoyment in and to the common elements and all air space, land and other property outside the exterior building lines, patio enclosures and carport areas of each and every individual townhouse, and such easement shall be appurtenant and shall pass with the title to each and every townhouse. Such right and easement of enjoyment shall be subject to reasonable rules and regulations as from time to time are promulgated by the Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners of townhouses of LAS PLACITAS TOWNHOUSES and is necessary for the protection of said owners.

10. It is anticipated that residential dwelling units will be constructed on various parcels within the townhouse project's property and that the ownership of individual units shall be evidenced by a deed of a lot together with the improvements thereon constituting a "townhouse". Maintenance, upkeep and repairs of individual patios and patio walls shall be the sole responsibility of the individual owners thereof and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common elements and all exteriors of the townhouse units, including, but not limited to recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative. The powers, rights and duties of the Association and Board of Directors shall be as follows; and as may be adopted in its Articles of Incorporation and Bylaws not inconsistent herewith.

(a) Membership in the Association, except for membership of the incorporators and the First Board of Directors, shall be limited to record owners of equitable title (or legal title if the equitable title has merged) of townhouse constructed or planned to be constructed on the property above described. An owner of a townhouse shall be automatically, upon becoming the owner of a townhouse, a member of the Association, and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease.

In the event any such townhouse unit is owned by two or more persons, whether by joint tenancy, tenancy in common, community property or otherwise, the membership as to each townhouse shall be joint and a single membership for such townhouse shall be issued in the names of all, and they shall designate to the Association in writing at the time of issuance, one of their number who shall hold the membership and have the power to vote said membership, and in the absence of such designation and until such designation is made, the Board of Directors of the Association shall make such designation.

(b) The Association, or its duly delegated representative, shall maintain and otherwise manage all property up to the exterior building lines and patio enclosures, including but not limited to the landscaping, parking areas, streets and recreational facilities, common elements and exteriors of the buildings located upon the above described properties, and such additional maintenance of the buildings as the Board of Directors shall from time to time determine to be in the best interest of the Association, and the co-owners, and shall maintain and otherwise manage and be responsible for the rubbish removal of all areas within the above described property. The Board of Directors shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property, so that said townhouse project will reflect a high pride of ownership. All maintenance and repair of the individual townhouse units shall be the sole obligation and expense of the individual unit owners, except to the extent the exterior maintenance and repair is provided by the Association.

(c) The record owner of equitable title (or legal title if equitable title has merged) of each townhouse shall be entitled to one membership in the Association, for himself and his family residing in the townhouse, which membership shall be subject to all of the provisions of the Association's Articles of Incorporation, Bylaws, Management Agreement, and these Restrictions, as now in effect or duly adopted and amended. Said owner of each such townhouse, for himself, his heirs, successors and assigns, further covenants that each such townhouse shall be subject to an assessment in an amount to be determined by the Association, in the following manner:

(1) Such townhouse unit's pro-rata share of the actual cost to the Association of all taxes on common area lands, repair, replacement and maintenance of the common elements and townhouses as provided for herein; and of the maintenance of the exteriors of townhouse units as may from time to time be authorized by the Board of Directors, and other facilities and activities including, but not limited to, mowing grass, caring for the

grounds, sprinkler system, swimming pool, recreational buildings, exterior walls of the townhouses, and other charges required by this Declaration of Covenants, Conditions and Restrictions,

(2) Such townhouse unit's pro-rata share of the actual cost to the Association of such recreational facilities as may from time to time be provided by the Association.

(3) Such townhouse unit's pro-rata share of such sum as the Board of Directors of the Association shall determine to be fair and prudent for the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein, including fire and other hazard insurance premiums as hereinafter provided, and a liability insurance premium for a liability insurance policy in the fact amount of not less than \$500,000.00, which policy, in addition to public liability, shall cover repair and construction work to all of the assets and property owned by or to be maintained by the Association. The disposition of liability insurance proceeds shall be made upon majority vote of the Board of Directors but in all events shall be used to and for the purpose of the Association;

(4) Such townhouse unit's pro-rata share of such additional sum as the Board of Directors of the Association shall determine to be necessary to meet the primary purposes of the Association, including but not limited to charges for water and garbage collection.

(5) Each townhouse unit's pro-rata share shall be  $\frac{1}{23}$  of the total amount determined under subparagraphs (1), (2), (3) and (4) above. In the event the actual number of townhouses constructed is not 23, the denominator in the fraction " $\frac{1}{23}$ " shall, wherever it appears in this Declaration, be changed to reflect the correct number of townhouses.

The amount to be prorated among the members of the Association pursuant to paragraphs 10 (c) (1), 10 (c) (2), 10 (c) (3), 10 (c) (4) and 10 (c) (5) above shall be established annually by the Board of Directors. Said amount shall be established after the Board of Directors has met with the management corporation, as hereinafter provided, and has examined the annual report to be prepared by said management corporation, and the annual audit prepared by a Certified Public Accountant;



An annual report shall be prepared by the management corporation or by such other party as the Board of Directors shall order. The exact date for the annual report shall be determined by the Board of Directors. The Board of Directors shall meet with the management corporation or other party preparing said report within forty (40) days following the preparation of same to discuss and set the rate for the current year.

At the time of the first conveyance of each townhouse unit and from time to time thereafter the Board of Directors or the designated representative shall notify the owner or owners of each townhouse unit as to the amount of the estimated annual assessment and shall each month collect for each townhouse unit 1/12 of the said townhouse unit's proportional share of said annual assessment.

Each townhouse owner, for himself, his heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that he is an owner, he will remit these charges directly to the management corporation, or to such other party or parties as directed by the Association's board of Directors.

Each townhouse owner further agrees that these charges if not paid within twenty (20) days after the first of each month shall become a lien upon said owner's lot and townhouse and shall continue to be such lien until fully paid. This lien shall be subordinate to the lien for any first mortgage.

Each such owner, by his acceptance of a deed to a lot and townhouse, hereby expressly vests in the LAS PLACITAS TOWNHOUSES ASSOCIATION, or its agents, the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other townhouse owners. The Association, acting on behalf of the unit owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event the major Developer or the Association employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by said Developer or the Association.

No owner of a townhouse may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his townhouse.

(d) Each owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each owner.

Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled by an affirmative vote of three-fourths (3/4) of the members of the Association. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement.

It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of the term of any prior management contract. Any and all management agreements shall be made with a responsible party or parties having considerable experience with the management of a project of this type.

(e) A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such townhouse and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the owner of any townhouse should fail or refuse to transfer the membership registered in his name to the purchaser of such townhouse, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership to the purchaser and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

(f) No exterior additions, or alterations to any building, nor changes in fences, hedges, walls and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the property by an architectural committee composed of the

Board of Directors of the Association, or by a representative designated by the Board of Directors. The members of such committee shall not be entitled to compensation for services performed pursuant to this paragraph.

(g) The Association's Board of Directors shall have the right and power to provide for the construction of additional recreation and other common facilities, or the alteration, demolition or removal of existing recreational and other common facilities, from time to time, as in their discretion appears to be in the best interests of the Association and the Townhouse Project. Any such alteration, demolition, removal, construction, improvements or additions, increasing the owners' annual assessment shall be authorized by an affirmative vote of three-fourths (3/4) of the Board of Directors at a duly called meeting at which a quorum is present, and ratified and approved by a majority of the council of co-owners present at a duly called meeting at which a quorum is present.

11. The declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the common elements to the Association prior to the conveyance of the first lot.

12. (a) In the event any common element is damaged or destroyed by an owner or any of his guests, agents or members of his family, such owner does hereby irrevocably authorize the Association to repair said damaged element, townhouse, and the Association shall so repair said damaged element, townhouse, in a good workmanlike manner in conformance with the original plans and specifications. The owner shall then repay the Association in the amount actually expended for said repairs.

In the event any townhouse is damaged or destroyed by an owner or any of his guests, agents or members of his family, such owner shall, within thirty (30) days from the date of the occurrence of the damage or destruction, repair and rebuild the exterior of said townhouse and any damage to adjacent townhouses or property in a good workmanlike manner in conformance with the original plans and specifications used in the construction of said townhouses. In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse and adjacent property within said thirty-day period, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhouse and/or adjacent property in a good workmanlike manner in conformance with the original plans and specifications of the townhouses. The owner shall then repay the Association in the amount actually expended for such repairs.

Each townhouse owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall become a lien upon said owner's lot and townhouse and shall continue to be such lien until fully paid. The amount owed by said owner to the Association shall be a debt, and shall be collectible by any lawful procedure allowed by the laws of the State of Arizona.

Each such owner, by his acceptance of a deed to a lot and townhouse, hereby expressly vests in the Association or its agents the right and power to bring all actions against such owner for the collection of such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including those specified in paragraphs 10 (c) (1), (2), (3), (4), and (5) above, and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

Nothing contained in this paragraph 12(a) shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies had not this paragraph 12(a) been inserted.

(b) In the event of a dispute between an owner and the Board of Directors with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of the owner addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association and/or its Board of Directors. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by the Board of Directors, one chosen by the owner, and these two arbitrators shall then choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then by any Judge of the Superior Court of Pima County, Arizona. A determination by any two of the three arbitrators shall be binding upon the owner and the Association, who shall share the cost of arbitration equally. In the event one part fails to choose any arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

13. The rights and duties of the owner of townhouses within this Townhouse Project with respect to party walls shall be governed by the following:

(a) Each wall, including patio walls, which is constructed as a part of the original construction of the

of the townhouse multi-family structure, any part of which is placed on the dividing line between separate townhouse units, shall constitute a party wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be 'entitled' to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

(b) In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests or agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining owner of the full use and enjoyment of such wall, then the first of such owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the adjoining owner.

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

(d) IN addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to or rebuild his townhouse in any manner which required the extension or other alteration of any party wall shall first obtain the written consent of the adjoining owner.

(e) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chose by each of the owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five days, then by any Judge of the Superior Court of Pima County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

(f) These covenants shall be binding upon the heirs, and assigns of any owners, but no person shall be liable for any act or omission respecting any party wall except as took place while an owner.

14. 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.

15. All fixtures and equipment installed within a townhouse unit, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse unit, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the multi-family building or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other townhouse units or their owners.

16. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all of the buildings, including all townhouses, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all common elements, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be common expenses. All such insurance coverage, including insurance on individual townhouses obtain by the Board of Directors shall be written in the name of the Board of Directors as Trustee for each of the townhouse owners in the same proportions as their undivided interest in the common elements. Premiums for insurance obtained by the Board of Directors on individual townhouses shall be part of the common expense. In addition to the aforesaid insurance required to be carried by the Association, any owner may, if he wishes, at his own expense and for his own benefit, carry any and all other insurance he deems advisable. It shall be the individual responsibility of each owner, at his own expense, to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Board of Directors, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All insurance proceeds shall be deposited in a bank or other financial institution, the account of which bank or institution are insured by a Federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board

of Directors. The Board of Directors shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings.

In the event an owner shall refuse or fail to allow the repair and rebuilding to the damaged exterior of the townhouse and adjacent area and storage area within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhouse and/or adjacent and/or storage area in a good workmanlike manner in conformance with the original plans and specifications of the townhouses.

17. 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 same, so long as it stands, 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 minor encroachments of parts of the adjacent townhouse units or common elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

18. 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. By virtue of this easement it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said townhouses. 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 said builder or the Association's Board of Directors. This easement shall in no way affect any other recorded easement on said premises.

19. (a) The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing, leasing subleasing or occupying any townhouse on said property, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these covenants,

restrictions, reservations and conditions may be enforced by the Association or its Board of Directors, which shall have the right and duty to enforce the same and expend Association moneys in pursuance thereof, and also may be enforced by the owner of any townhouse or any one or more of said parties. Any breach of said covenants, restrictions, reservations and conditions shall be binding upon and effective against any owner of said premises, other than one whose title thereto is acquired by foreclosure of a mortgage and the Sheriff's sale. Any purchaser who acquires title, except through foreclosure of a mortgage and a Sheriff's sale, shall take title to said premises subject to the lien hereof for all said charges pursuant to paragraph 10 and paragraph 12 that have accrued up to the time of said mortgage foreclosure, and subject to the lien hereof for all said charges that shall accrue subsequent to the mortgage foreclosure, and provided also that the breach of any of said covenants, restrictions, reservations and conditions may be enjoined, abated, or reviewed by appropriate proceedings, notwithstanding the lien or existence of any such mortgage. All instruments of conveyance of any interest of all or any part of said townhouses shall contain reference to this instrument and shall be subject to the covenants, restrictions, reservations and conditions herein as fully as though the terms and conditions of this instrument were therein set forth in full. The terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or note. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages. In the event the major Developer or the Association employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by said Developer or the Association.

(b) Notwithstanding and prevailing over any other provisions of this Declaration, of the Association's Articles or Incorporation or Bylaws, or any rules, regulations of management agreements, the following provisions shall apply to and benefit each holder of a first mortgage upon a townhouse unit (called the first mortgagee) and the major builder:

(1) The first mortgagee shall not in any case or manner be personally liable for the payment of any assessment or charge, nor for the observance or performance of any covenant, restriction, regulation, rule, Association Article of Incorporation or Bylaw, or Management Agreement, except for those matters which



are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as hereinafter provided.

(2) During the pendency of any proceeding to foreclose the first mortgage, including any period of redemption, the first mortgagee (or any receiver appointed in such action) may, but need not, exercise any and/or all of the right and privileges of the owner of the mortgaged townhouse, including but not limited to the right to vote as a member of the Association to the exclusion of the owner's exercise of such rights and privileges.

(3) At such time as the first mortgagee shall become record owner of a lot and townhouse, said first mortgagee shall be subject to all of the terms and conditions of these Covenants, Conditions and Restrictions, including but not limited to the obligation to pay for all assessments and charges accruing thereafter, in the same manner as any owner.

(4) The first mortgages, or any other party acquiring title to a mortgaged townhouse unit through foreclosure suit or through any equivalent proceedings such as, but not limited to, the taking of a deed in lieu of foreclosure, free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure suit or equivalent proceedings, including the expiration date of any period of redemption, except as follows: Any such unpaid assessment against the townhouse unit foreclosed against may be treated as an expense common to all of the townhouse units, which expense may be collected by a pro-rata assessment of 1/23 of the total amount against each of the townhouse units, including the townhouse unit foreclosed against, and which pro-rata assessment may be enforced as a lien against each townhouse unit in the manner provided for other assessments authorized in this Declaration. Any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting owner of the respective townhouse unit to the Association, and the Board of Directors shall use reasonable efforts to collect the same from the owner even after he is no longer a member of the Association. There shall be a lien upon the interests of the first mortgagee or other party which acquires title to a mortgaged unit by foreclosure suit or by equivalent procedures for all assessments authorized by this Declaration which accrue and are assessed after the date the acquirer has acquired title to the unit free and clear of any right of redemption.

20. 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.

21. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any owner or owners in favor of the other owners.

22. In the event any townhouse unit owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said unit owner's right to vote as a member of the LAS PLACITAS TOWNHOUSES shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

23. If within seven (7) years of the recording of this Declaration, the undersigned or his heirs or assigns should develop additional lands within the area described in Exhibit "B" which is attached hereto and made a part hereof, such additional land may be annexed to the property described in this Declaration. It is further understood that as new areas are annexed, it is intended that all of the common area contained herein and all of the common area contained in the newly subjected land will be interrelated and will be for the use and benefit of all owners, residents, and their invitees and licensees in the interrelated areas. The owners of the townhouses to be erected upon the land subsequently subjected to these covenants shall be immediately included in the "Association" as set forth in this Declaration and governed according to the provisions hereof.

If and when such additional lands are annexed, then, and in that event, a special meeting of the Board of Directors will be called within thirty (30) days of the date of the completion and construction of the improvements located on the additional land. The purpose of such special meeting shall be to reallocate the assessments imposed under the "Declaration" charged to each townhouse.

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

25. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of

which are inserted conditionally on their being held valid in law, and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this Declaration invalid, this Declaration shall be construed as if such invalid, phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, or section or sections had not been inserted. In the event that any provision or provisions of this instrument appear to be violative of the Rule against Perpetuities, such provision or provisions of this instrument shall be construed as being void and of no effect as of twenty one (21) years after the death of the last surviving incorporator of LAS PLACITAS TOWNHOUSES, or twenty one (21) years after the death of the last survivor of all of said incorporators' children or grandchildren who shall be living at the time this instrument is executed, whichever is the later.

26. These covenants, restrictions, reservations and conditions shall remain in full force and effect for a period of twenty (20) years from the date hereof. Thereafter, they shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked or amended by an instrument in writing, executed and acknowledged by the then owners of not less than three-quarters (3/4) of the townhouse units on said property, which said instrument shall be recorded in the office of the Recorder for the County of Pima, State of Arizona, within ninety (90) days prior to the expiration of the initial effective period hereof or any ten-year extension. These covenants, conditions and restrictions may be amended during the first twenty-year period by an instrument signed by the then owners of not less than seventy five per cent (75%) of the townhouses on said property.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 15th day of May, 1969.

(signed)  
Ted. A. Bloodworth

(signed)  
Helen R. Bloodworth

By Her Attorney in fact

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF PIMA )

On this, the 15th day of May, 1969, before me, A Notary Public, personally appeared TED A. BLOODWORTH, known to me to be the person whose name is subscribed above as attorney in fact for HELEN R. BLOODWORTH, and acknowledged

to me that he executed the same as the act of his principal  
for the purposes therein contained.

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

(signed)  
Notary Public

My commission expires: March 7, 1973

STATE OF ARIZONA )  
                          ) ss.  
COUNTY OF PIMA )

The foregoing instrument was acknowledged before me,  
a Notary Public, this 15th day of May, 1969, by  
TED A. BLOODWORTH.

(signed)  
Notary Public

My commission expires: March 7, 1973