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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
POQUITO VALLEY

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DECLARATION  
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FOR  
POQUITO VALLEY

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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

This declaration of covenants, conditions and restrictions (the "Declaration") is made and entered into as of the 11th day of May, 1988, by Yavapai Title Company (the "Trustee"), as trustee under Trust No. 300 (the "Trust") in the records of the Trustee, and Poquito Valley Partnership, an Arizona general partnership ("Developer"), as beneficiary under the Trust.

RECITALS

A. Trustee holds fee title in trust to certain real property in Yavapai County, Arizona, described on Exhibit "A" hereto (the "Property"). Developer owns the beneficial interest in the Property as second beneficiary under the Trust.

B. Developer desires to develop the Property for sale and desires to establish covenants, conditions and restrictions applicable to the Property concerning the proper use, occupancy and enjoyment of the Property for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property.

C. Developer plans, but is not required, to annex additional real property to the plan of covenants, conditions and restrictions originally imposed upon the Property.

NOW, THEREFORE, Declarant and Developer, for the purposes above set forth, declare that the Property shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, servitudes, reservations, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each Owner thereof.

1. DEFINITIONS

Defined terms appear throughout this Declaration with the initial letter of such term capitalized. Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows:

1.1 "Annexation Property" means the real property described on Exhibit "B" hereto.

1.2 "Condominium Unit" means a unit, together with any appurtenant interest in all common elements, which is created by a condominium declaration under the laws of the State of Arizona. This term shall not include a Rental Apartment.

1.3 "Declarant" means the above recited Declarant, its successors and assigns, while acting as trustee of the Trust or of a successor Trust.

1.4 "Developer" means the above recited Developer, its successors and assigns, or any Person to whom Developer's rights hereunder are hereafter assigned by recorded instrument, or any Mortgagee of Developer which acquires title to or succeeds to the interest of Developer in any portion of the Property by reason of the foreclosure (or conveyance in lieu of foreclosure) or trustee's sale under the Mortgage of said Mortgagee.

1.5 "Dwelling Unit" means any building or portion of a building or any mobile structure situated upon a Lot or Parcel, or a residential Condominium Unit, designed and intended for use and occupancy as a residence by a Single Family.

1.6 "Lot" means any area of the Property designated as a Lot on any subdivision plat recorded by or with the consent of Developer and any Condominium Unit within the Property. This term does not include a Rental Apartment.

1.7 "Mortgage" means any recorded, filed or otherwise perfected instrument, which is not a fraudulent conveyance under Arizona law, given in good faith and for valuable consideration as security for the performance of an obligation, including, but not limited to, a deed of trust, but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code. "Mortgagee" means the holder of a note secured by a Mortgage, including the trustee and beneficiary under any deed of trust. "Mortgagor" means the party executing a Mortgage as obligor. "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property. "First Mortgagee" means the holder of a First Mortgage.

1.8 "Occupant" means any Person, other than an Owner, in right-ful possession of any portion of the Property, whether as a guest, tenant or otherwise.

1.9 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, of any property which is a part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation. In the event that fee simple title to any portion of the Property is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et. seq., legal title shall be deemed to be in the trustor. In the event that fee simple title to any portion of the Property is vested in a trustee of a dual beneficiary trust of the type customarily utilized in Arizona in place of a deed of trust or other security instrument, legal title shall be deemed to be in the second beneficiary.

1.10 "Parcel" means an area of real property within the Property consisting of 36 acres or more and identified by numerical designation on the Plat. A Parcel shall not include a Lot but, in the case of staged developments, shall include areas not yet included in a subdivision plat, condominium declaration or other recorded instrument creating lots and related amenities.



1.11 "Person" means an individual, corporation, partnership, trustee or other entity capable of holding title to real property, and their respective heirs, personal representatives, successors and assigns.

1.12 "Plat" means the plat of survey recorded in Book 7 of Land Surveys at page 64 in the official records of Yavapai County, Arizona, and any supplements or amendments thereto including, but not limited to, the amended survey recorded in Book 8 of Land Surveys at page 1.

1.13 "Private Roads" and "Private Streets" are synonymous and mean any street, roadway, drive, sidewalk, walkway, path or other right-of-way within, or partly within, the Property made available to Owners generally but which has not expressly been dedicated to the public use.

1.14 "Property" means the real property described on Exhibit "A" hereto and any additional real property made subject to this Declaration by annexation pursuant to Section 7, but only after completion of such annexation, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.15 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with, the office of the County Recorder for Yavapai County, Arizona.

1.16 "Rental Apartments" means Dwelling Units within a permanent improvement consisting of commercially integrated Dwelling Units under single ownership upon one or more contiguous Lots or Parcels, each of which is designed and utilized, otherwise than as a hotel or on some other transient basis, for rental or leased residential purposes to nonowners on a non-cooperative basis. This term is intended to include rented or leased apartments in the typically regarded sense as of the date hereof, and it is not intended to include unusual or atypical arrangements or any arrangements whereby the Dwelling Unit Occupant is, directly or indirectly, an owner or beneficiary of ownership in his apartment or whereby he occupies his Dwelling Unit pursuant to some form of reciprocal use agreement, irrespective of whether any such arrangements may otherwise fall within the aforesaid definition.

1.17 "Single Family" means one or a group of more than one persons, each related to the other by blood, marriage or legal adoption.

1.18 "Supplemental Declaration" means a declaration of covenants, conditions, restrictions, servitudes, reservations and easements, or similar instrument, annexing additional real property to the Property and subjecting such real property to this Declaration as provided in Section 7.

## 2. PROPERTY SUBJECT TO DECLARATION

Developer intends to develop the Property by subdivision and otherwise into various Lots and Parcels and to develop and/or sell and convey such Lots and Parcels as portions of the Property are developed. Property which is not part of a Lot or Parcel and which is dedicated to the public or a governmental entity for public purposes shall not be subject to this Declaration.

[REDACTED]

tion while owned by the public or the governmental entity, although restrictions imposed in this Declaration upon the Owners and Occupants concerning the use and maintenance of such public areas shall at all times apply to the Owners and Occupants. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Declaration shall run with all Lots and Parcels for all purposes and shall be binding upon and inure to the benefit of Declarant, Developer, all Owners and Occupants and their successors in interest. Nothing in this Declaration shall be construed to prevent Developer from modifying development plans for the Property or any portions thereof not yet conveyed to another Person or from dedicating portions of the Property, including streets or roadways.

### 3. RIGHTS OF ENJOYMENT

No Owner may exempt himself, and no Owner shall be exempt, from personal responsibility hereunder or release any Lot or Parcel owned by him from the provisions of this Declaration by voluntary waiver of, or suspension or restriction of, the Owner's right to the use and enjoyment of or by abandonment of the Owner's Lot or Parcel.

### 4. PERMITTED USES AND RESTRICTIONS

The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots and Parcels, the Owners thereof, and all Occupants:

4.1 Violation of Law or Insurance. No Owner shall permit anything to be done or kept in or upon his Lot or Parcel which will result in the cancellation, or increase in premium, or reduction in coverage of insurance maintained by any other Owner or which would be in violation of any law.

4.2 Animals. No animals other than domestic farm animals and commonly accepted household pets may be kept, bred or maintained in any Lot or Parcel. In no event shall any animal be allowed to run free away from its owner's Lot or Parcel without a leash or other appropriate restraint, or conduct itself so as to create an unreasonable annoyance.

4.3 Nuisances; Construction Activities. No Owner shall permit or suffer anything to be done or kept about or within his Lot or Parcel, or on or about the Property, which will obstruct or interfere with the rights of other Owners, Occupants or Persons authorized, to the use and enjoyment of their Lots or Parcels, or annoy them by unreasonable noises or otherwise, nor shall an Owner commit or permit any nuisance or commit or suffer any illegal act to be committed therein or thereabout. Each Owner shall comply with the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. Normal construction activities and parking in connection with the building of improvements on a Lot or Parcel shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and Parcels shall be kept in a neat and tidy condition during construction periods,

and trash and debris shall not be permitted to accumulate. Construction of any Dwelling Unit on the Property must be completed within 12 months from its commencement.

4.4 Motor Vehicles. No motor vehicle shall be repaired, serviced or rebuilt in any Lot or Parcel except within an enclosed garage or other structure.

4.5 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot or Parcel which in any manner will allow light to be directed or reflected unreasonably on any other Lot or Parcel.

4.6 Garbage. No garbage or trash shall be kept, maintained or contained in any Lot or Parcel so as to be visible from another Lot or Parcel except temporarily (and in no event more than one week), in appropriate containers for pickup. No incinerators shall be kept or maintained in any Lot or Parcel. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot or Parcel.

4.7 Mining. No portion of the Property shall be used in any manner to explore for or remove any oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

4.8 Safe Condition. Without limiting any other provision in this Section 4, each Owner shall maintain and keep his Lot or Parcel at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots or Parcels.

4.9 Rental of Lots or Parcels. An Owner who leases or otherwise grants occupancy rights to his Lot or Parcel to any Person shall be responsible for assuring compliance by the Occupant with all of the provisions of this Declaration, as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by the Occupant thereof.

4.10 Temporary Occupancy and Temporary Buildings. Subject to the last sentence of Section 4.20 hereof, no basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

4.11 Maintenance of Lawns and Plantings. Each Owner of a Lot or Parcel shall keep all shrubs, trees, hedges, grass and plantings of every kind located on his Lot or Parcel, appropriately trimmed, shall keep all such areas properly cultivated and free of trash, uncontrolled weeds and other unsightly material and shall maintain all paved and concrete areas, including driveways, roadways and parking areas, in good condition and repair.

4.12 Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot or Parcel which shall induce, breed or harbor infectious plant disease or noxious insects.



4.13 Repair of Building. No building or structure on any Lot or Parcel shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then such building or structure shall be immediately repaired or rebuilt or shall be demolished and the Lot or Parcel upon which such improvements were located shall be cleared and restored to a presentable and safe condition.

4.14 Restriction on Further Subdivision, Compounds, Property Restrictions and Rezoning. No Lot or Parcel (other than Parcels 4A, 4B, 4C and 4D as shown on the Plat) shall be subdivided or separated into lots smaller than five acres by any Owner. In computing the area included within any such piece of property, the area of any easements or rights of way shall be included and the area of any abutting dedicated roadway shall be included to the extent that it was part of the Property or the Annexation Property on the date of this Declaration. No further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any Lot or Parcel without the provisions thereof having been first approved in writing by Developer as long as Developer or Declarant owns any of the Property and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot or Parcel, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot or Parcel has been approved by Developer as long as Developer or Declarant owns any of the Property and the proposed use otherwise complies with this Declaration. An Owner may own more than one Lot which, if contiguous, may be combined into a single Lot with the consent of governmental authorities having jurisdiction.

4.15 Party Walls. The rights and duties of Owners with respect to party walls or fences between Lots, between Parcels and between Lots and Parcels shall be as follows:

(a) The Owners of contiguous Lots and/or Parcels who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.

(b) In the event that any party wall or party fence is damaged or destroyed through the act of an Owner or any Occupants, agents or guests of the Owner, or members of the Owner's family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the Owner of the adjoining Lot or Parcel.

(c) In the event any party wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, or any Occupants, agents or guests of the Owner or members of the Owner's family, it shall be the obligation of all Owners whose Lots or Parcels adjoin such party wall or party fence to rebuild and repair such wall or fence at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their Lots or Parcels on the party wall or party fence.

[REDACTED]

(d) Notwithstanding anything to the contrary herein, there shall be no impairment of the structural integrity of any party wall or party fence without the prior consent of all Owners of any interest therein, whether by way of easement, fee or otherwise.

4.16 Utility Service. No lines, wires, or other services for the communication or transmission of electric current or power or electromagnetic impulses, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or Parcel unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures.

4.17 Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot or Parcel shall be allowed to overhang or otherwise to encroach upon any Private Street from ground level to a height of eight feet.

4.18 Developer's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Developer, or its duly authorized agents, of structures, improvements or signs necessary or convenient to the development and sale or leasing of all or any portion(s) of the Property.

4.19 Mobile Structures. Any recreational vehicles, trailers or other mobile structures placed upon a Lot or Parcel for the purposes of residential occupancy shall have skirting or other appropriate materials placed around the bottom perimeter of the structure if the bottom surface of the structure does not rest on the ground so that wheels, suspensions, undercarriages and similar portions of the structure are not visible.

4.20 Height and Size Limits. No structure on any Lot or Parcel shall have an elevation greater than 35 feet from the ground upon which it sits (or the natural elevation of the ground where the structure is located if the level of the ground has been raised by fill or other means from its natural state). No Dwelling Unit on any Lot or Parcel shall contain fewer than 720 square feet of livable space, except as provided in the following sentence. Mobile structures including, but not limited, to travel trailers, campers and similar vehicles containing less than 720 square feet of livable space may be used for occupancy purposes on the Property for no more than 30 days out of any 356 consecutive days.

4.21 Placement of Improvements. Except on Parcels 4A, 4B, 4C and 4D, no structures other than perimeter walls or fences (including corrals) may be erected or maintained upon any Lot or Parcel nearer than 60 feet to the property line of the Lot or Parcel. No more than two Dwelling Units may be placed upon any portion of the Property except Parcels 4A, 4B, 4C and 4D for each five contiguous acres (computed in accordance with Section 4.14 hereof) owned by an Owner.

4.22 Sanitary Facilities. No Dwelling Unit, except temporary mobile structures permitted under the last sentence of Section 4.20, shall be occupied prior to installation therein of operational water flush toilets and

sanitary facilities. All sanitary conveniences and facilities on Lots or Parcels shall be maintained in a safe and sanitary condition and in conformity with all applicable requirements of governmental authorities.

4.23 Swine. No swine may be raised, bred or kept on any portion of the Property for commercial purposes. Subject to the other provisions of this Declaration including, but not limited to, the second sentence of Section 4.2, and Sections 4.3 and 4.12, swine may be raised, bred and kept on the Property for other than commercial purposes so long as they are restricted to portions of the Property not less than 40 contiguous acres in size.

## 5. RIGHTS OF MORTGAGEES

5.1 No Personal Liability. Except as specifically provided in this Section 5, a First Mortgagee shall not in any case or manner be personally liable for the observance or performance of any covenant, restriction, or any provision of this Declaration except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money.

5.2 Enforcement After Foreclosure Sale. An action to abate the breach of any of the covenants, conditions, restrictions, servitudes and reservations in this Declaration may be brought against purchasers who have acquired title through foreclosure of a Mortgage and the subsequent foreclosure or trustee's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time the purchaser acquired an interest in the Lot or Parcel.

5.3 Subject to Declaration. At the time a Mortgagee comes into possession of or becomes record Owner of a Lot or Parcel, the Mortgagee shall be subject to all of the terms and conditions of this Declaration in the same manner as any other Owner.

## 6. EASEMENTS

6.1 Blanket Easements and Utility Construction Easements. There is hereby created a blanket easement upon, across, over and under the Property for ingress and egress for installing, constructing, replacing, repairing, maintaining and operating all utilities (whether public or private), including, but not limited to, water, sewer, gas, telephone, electricity, cable, security systems, and communication lines and systems, and in addition thereto for the use of emergency vehicles of all types. By virtue of the easement, it shall be expressly permissible for Developer and its contractors and/or the providing utility company to construct and maintain the necessary facilities, wires, circuits, conduits, cables and related appurtenances, facilities and equipment on, above or below the surface of the Property and to enter upon said Property, including, but not limited to, the Lots and Parcels, to accomplish the foregoing.

6.2 Developer Easement. There is hereby created an affirmative, nonexclusive easement appurtenant to the Property and to those portions of the Annexation Property and any other property which, by amendment hereto, Developer specifies as benefited by this easement, for ingress, egress and the

[REDACTED]

installation and maintenance of utilities and drainage facilities over all Private Streets, and for the right to go over, under and across, and to enter and remain upon all Private Streets for all purposes reasonably related to Developer's rights and obligations hereunder, and to the development, operation, maintenance, advertisement, sale, rental and use of the Property and any property which Developer specifies by amendment hereto as benefited hereby.

7. ANNEXATION OF ADDITIONAL PROPERTY

It is contemplated that additional real property will be annexed to and become subject to this Declaration as hereinafter set forth in this Section. Developer intends, but is not obligated, to annex some or all of the Annexation Property described on Exhibit "B." Developer may amend Exhibit "B" at any time to delete property described thereon from said Exhibit.

7.1 Annexations. Developer may elect to annex additional real property to this Declaration in increments of any size whatsoever, or to annex more than one such increment at any given time and in any given order. Although Developer shall have the ability to annex additional property as provided in this Section 7, Developer shall not be obligated to annex any property, and any such property shall not become subject to this Declaration unless and until a Supplemental Declaration shall have been recorded as herein provided, or at such later time as may be provided in the Supplemental Declaration.

7.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form which annexes additional real property to the plan of this Declaration and which incorporates by reference all of the provisions of this Declaration and shall contain such other provisions as are set forth in this Declaration relating to Supplemental Declarations. Supplemental Declarations may contain such complementary additions and modifications of the provisions of this Declaration as may be necessary to reflect the different character, if any, of the property being annexed and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

7.3 Annexation Without Approval of other Owners. Additional property may be annexed to and become subject to this Declaration without the approval, assent or vote of any other Owner, provided that a Supplemental Declaration covering said property shall be recorded by Declarant (as trustee for Developer) or Developer. The recordation of such a Supplemental Declaration shall constitute and effectuate the annexation of the property described therein, unless a later effective date is specified in the Supplemental Declaration, making the real property subject to this Declaration and thereafter said real property shall be part of the Property for all intents and purposes of this Declaration and all of the Owners of Lots or Parcels in the annexed property shall automatically be Owners hereunder.



8. EXEMPTION OF DECLARANT AND DEVELOPER FROM RESTRICTIONS;  
DEVELOPER VOTING RIGHTS

Notwithstanding anything to the contrary in this Declaration, none of the covenants, conditions, restrictions, easements or other provisions in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant (as trustee for Developer) or Developer, their employees, agents and contractors, or parties designated by them in connection with the construction, completion, sale or leasing of Lots or Parcels or the property described on Exhibit "B" hereto. Whenever a vote by Owners is required or permitted under this Declaration, Developer shall be entitled to five votes for each acre (or portion thereof) of the Property owned by Developer or by Declarant (as trustee for Developer) and all other Owners shall be entitled to one vote for each acre (or portion thereof) of the Property owned.

9. LIMITATION ON DEVELOPER'S LIABILITY

Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting title to any portion of the Property and becoming an Owner, acknowledges and agrees that neither Developer (including, but not limited to, any assignee of the interest of Developer hereunder) nor any partner in Developer (or any partner or shareholder in any such assignee) shall have any personal liability to any Owner or other Person arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration except, in the case of Developer (or its assignee), to the extent of its interest in the Property; and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor.

10. TERM; TERMINATION

This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect until January 1, 2088, and thereafter shall continue for consecutive periods of 25 years each, unless there is an affirmative vote, not more than 360 days prior to the date otherwise scheduled for commencement of the next extension of the term of this Declaration, to terminate this Declaration by Owners holding title to a majority of the Property acreage at a duly held meeting of the Owners, or without any meeting if all Owners have been duly notified and if a similar majority consent in writing to such termination within said 360-day period. This Declaration may be terminated at any time upon a vote in favor of termination by Owners holding 90% of the Property acreage at a duly held meeting of the Owners for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Declaration shall be effective unless and until the written consent to such termination has been obtained, within a period of 180 days prior to such vote to 180 days after such vote, from the holders of recorded First Mortgages on 75% of the Lots and Parcels upon which there are such recorded First Mortgages. If the necessary votes and consents are obtained, there shall be recorded with the County Recorder of Yavapai County, Arizona, and/or other appropriate governmental offices, a Certificate of Termination, duly signed by the requisite



Owners and Mortgagees, with their signatures notarized. Thereupon, this Declaration, as of the date the next extension of the term hereof would otherwise have commenced, shall have no further force and effect.

## 11. AMENDMENT

11.1 Amendment to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided in this Declaration, any proposed amendment must be approved by Owners holding title to a majority of the Property acreage. Amendments may be adopted at a duly held meeting of the Owners upon the affirmative vote of the required majority, or without any meeting if all Owners have been duly notified and the necessary majority consent to such amendment in writing. Once properly adopted, an amendment shall be effective upon recording, or at such later date as may be specified in the amendment.

11.2 Effect of Amendment. It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all provisions of this Declaration which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the Section being amended or the amendment itself.

11.3 Required Approvals. Notwithstanding the foregoing provisions of this Section 11, so long as Developer or Declarant owns any portion of the Property, this Declaration may not be amended by the Owners without the written consent of Developer, which may be withheld for any reason in the sole and absolute discretion of Developer.

## 12. GENERAL PROVISIONS

12.1 Captions and Exhibits; Construction. Captions given to various Sections herein are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any exhibits referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as hereinabove set forth.

12.2 Severability. If any provision of this Declaration or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration shall be construed as if such invalid part were never included therein.

12.3 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until 21 years after the death of the survivor of the now living descendants of United States Senators Dennis DeConcini and John McCain.

12.4 Mortgage of Lots and Parcels. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his respective Lot or Parcel. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Lot or Parcel.

12.5 Gender. Masculine, feminine and neuter references herein each shall include the others as the context requires.

12.6 Governmental Requirements. The provisions of this Declaration are in addition to and supplement any applicable requirements of governmental authorities. In the event of a conflict between the terms of this Declaration and the requirements of governmental authorities, the requirements of governmental authorities shall control.

13. DEVELOPER'S DISCLAIMER OF REPRESENTATIONS;  
NO COVENANTS OR RESTRICTIONS

13.1 Developer's Disclaimer of Representations. Notwithstanding anything to the contrary in this Declaration, Developer makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land now owned or hereafter acquired by Developer is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

13.2 No Express or Implied Covenants or Restrictions. Nothing in this Declaration shall create, or be deemed to create, any express or implied covenants or restrictions with respect to any real property, including without limitation the property described on Exhibit "B" hereto, not annexed hereto in the manner provided herein.

IN WITNESS WHEREOF, Declarant and Developer have caused this Declaration to be duly executed.

YAVAPAI TITLE COMPANY,  
AS TRUSTEE UNDER TRUST NO. 300

By

Its

Frank A. Kelly  
President

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POQUITO VALLEY PARTNERSHIP,  
an Arizona general partnership

By Morton K. Holben  
Its General Partner

By Marion M. Holben  
Its General Partner

By Marjorie Ball  
Its General Partner

By William Ball  
Its General Partner

STATE OF ARIZONA       )  
                                  ) ss.  
County of Yavapai       )

The foregoing instrument was acknowledged before me this 11th day  
of May, 1988, by Frank B. Kelly the President  
of Yavapai Title Company, Trustee under Trust No. 300, on behalf of the Trust.

**SEAL**

My Commission Expires:

My Commission Expires Feb. 3, 1992

Ruth Ann Williamson  
Notary Public

STATE OF ARIZONA       )  
                                  ) ss.  
County of Yavapai       )

The foregoing instrument was acknowledged before me this 11th day  
of May, 1988, by Morton K. Holben a General Partner of  
Poquito Valley Partnership, an Arizona general partnership, on behalf of the  
partnership.

**SEAL**

My Commission Expires:

My Commission Expires Feb. 3, 1992

Ruth Ann Williamson  
Notary Public

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STATE OF ARIZONA )  
 ) ss.  
County of Yavapai )

The foregoing instrument was acknowledged before me this 11th day  
of May, 1988, by Marion M. Holben a General Partner of  
Poquito Valley Partnership, an Arizona general partnership, on behalf of the  
partnership.

**SEAL**

Ruth Ann Williamson  
Notary Public

My Commission Expires:

My Commission Expires Feb. 3, 1992

STATE OF ARIZONA )  
 ) ss.  
County of Yavapai )

The foregoing instrument was acknowledged before me this 11th day  
of May, 1988, by Mary Catherine Ball a General Partner of  
Poquito Valley Partnership, an Arizona general partnership, on behalf of the  
partnership.

**SEAL**

Ruth Ann Williamson  
Notary Public

My Commission Expires:

My Commission Expires Feb. 3, 1992

STATE OF ARIZONA )  
 ) ss.  
County of Yavapai )

The foregoing instrument was acknowledged before me this 11th day  
of May, 1988, by William L. Ball a General Partner of  
Poquito Valley Partnership, an Arizona general partnership, on behalf of the  
partnership.

**SEAL**

Ruth Ann Williamson  
Notary Public

My Commission Expires:

My Commission Expires Feb. 3, 1992

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EXHIBIT A

Description of the Property

Parcels 4A, 4B, 4C in Section 35, Parcels 5-12 in Section 26, Parcels 13-20 in Section 23, Parcels 21-28 in Section 14, Parcels 29-36 in Section 11, and Parcels 37-44 in Section 2, all situated within Township 15 North, Range 1 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona as depicted on that certain plat of survey recorded in Book 7 of Land Surveys at page 64 in the official records of Yavapai County, Arizona, and as thereafter amended by that certain amended plat of survey recorded in Book 8 of Land Surveys at page 1.



**EXHIBIT B**

**Description of the Annexation Property**

All real property in Township 16 North, Range 1 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona.

All real property in Sections 2, 11, 14, 23 and 35 of Township 15 North, Range 1 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, except those portions described in the foregoing Exhibit "A."