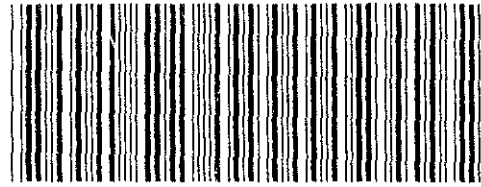


When recorded mail to:

HOMES BY DAVE BROWN
2164 East Broadway Road
Suite 300
Tempe, Arizona 85282
Attention: Walter W. Venberg

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OFFICIAL RECORDS OF
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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
CRYSTAL TERRACE HOMEOWNERS' ASSOCIATION

When recorded mail to:

HOMES BY DAVE BROWN
2164 East Broadway Road
Suite 300
Tempe, Arizona 85282
Attention: Walter W. Venberg

**COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
CRYSTAL TERRACE HOMEOWNERS' ASSOCIATION**

THESE COVENANTS, CONDITIONS, AND RESTRICTIONS are hereby declared by Declarant (as identified herein) on this 6 day of ~~May~~, 1996.
JUNE

Recitals

- A.** Declarant is the owner of certain real property (the "Property") in the County of Maricopa, State of Arizona, the legal description of which is set forth on Exhibit A hereto.
- B.** Declarant desires to form a nonprofit corporation (the "Association") to act as the agent and representative of the Members and residents of Crystal Terrace Homeowners' Association in (i) acquiring, constructing, operating, managing, and maintaining the Common Areas; (ii) establishing, levying, collecting, and disbursing Assessments and other charges imposed hereunder; and (iii) administering and enforcing all provisions hereof and enforcing the use and other restrictions imposed on the Property hereby.

Declaration

NOW, THEREFORE, Declarant hereby declares that all of the Property will be held, sold, and conveyed subject to the following easements, restrictions, stipulations, reservations, covenants, and conditions (collectively, the "Covenants, Conditions, and Restrictions), which are for the purposes of establishing a uniform plan for development, improvement, maintenance, and sales of the Property so that the value and desirability of the Property is protected; to insure the protection and preservation of such uniform plan for such purposes, the Covenants, Conditions, and Restrictions will run with the Property and be binding on all parties having any right or title to or interest in the Property or any part thereof, together with their heirs, successors, and assigns, and will inure to the benefit of each owner of the Property or any part thereof.

ARTICLE I - DEFINITIONS

The following terms will be defined as set forth herein for purposes of this Declaration:

(a) "Annexation Property" will mean the real property described on Exhibit B attached hereto.

(b) "Architectural Control Committee" will mean and refer to the Architectural Control Committee provided for in Article IV hereof.

(c) "Areas of Association Responsibility" will mean (i) all Common Areas; (ii) all land and the improvements thereto situated within the boundaries of a Lot that the Association acknowledges in a recorded document as land that is to be improved, maintained, repaired, and replaced by the Association; and (iii) any portion of the Property, including any improvements thereto, that is situated within any dedicated right-of-way for which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair, and replacement of such areas.

(d) "Articles of Incorporation" or "Articles" will mean the Articles of Incorporation of the Association as filed with and approved by the Arizona Corporation Commission, as those Articles may be amended from time to time in accordance with Arizona law.

(e) "Association" will mean and refer to Crystal Terrace Homeowners' Association, an Arizona nonprofit corporation, together with its successors and assigns.

(f) "Board" will mean the Board of Directors of the Association.

(g) "Bylaws" will mean the Bylaws of the Association, as the same may from time to time be amended or supplemented.

(h) "Commencement Date" is hereby defined as the later of the date on which the Common Areas are deeded to the Association or any improvements to the Common Areas required by the recorded plat of the Property are completed; provided, however, that if the Property is developed in phases by Declarant, then the "Commencement Date" will be determined with respect to the Lots and the portion of the Property included in the various phases only at such time as Declarant commences sales activities in the ordinary conduct of business as to such phase.

(i) "Common Areas" will mean and refer to those certain areas designated on the recorded plat of the Property as Tracts A through D inclusive, together with the improvements and appurtenances thereto, and any other areas brought within the jurisdiction of the Association as Common Areas, as otherwise provided herein.

(j) "Common Expenses" will mean and refer to the expenses for the operation of the Association, including without limitation the collection and administration of all recorded charges and assessments payable to the Association hereunder and the enforcement of this Declaration, and expenses for the maintenance, repair, and restoration of areas required to be maintained by the Association, other than areas required to be maintained by the Association as the result of an Owner's failure to maintain such areas, including without limitation salaries, wages, payroll taxes, attorneys' and accountants' fees, supplies, materials, parts, services, and landscaping and replacement of any property required to be maintained by the Association.

(k) "Declarant" will mean and refer to First American Title Insurance Company, a California corporation, as Trustee of Trust No. 6478, together with its successors and assigns, but only if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

(l) "Exterior Elevation" will mean and refer to the exterior roof, wall surfaces, and accessories thereto of the improvements constructed upon each Lot.

(m) "FNMA" will mean the Federal National Mortgage Association.

(n) "Front Yard" will mean and refer to that portion of each Lot between the public street (and sidewalks) and the improvements thereon or walls or fences located on the Lot.

(o) "HUD/VA" will mean the U.S. Department of Housing and Urban Development and the U.S. Veterans Administration.

(p) "Lot" or "Lots" will mean and refer to any plot of land shown upon any recorded plat of the Property; provided, however, that if the Property is developed in phases by Declarant, then "Lot" or "Lots" will refer at any point in time only to those Lots located on the phase or phases of the Property as to which Declarant has commenced or completed sales activities in the ordinary conduct of business.

(q) "Member" will mean a person who is a member of the Association.

(r) "Owner" will mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation or a lessee. "Owner" will include a purchaser under a contract for the conveyance of real property pursuant to sections 33-741 through 33-749 of the Arizona Revised Statutes. "Owner" will not include a purchaser under purchase contracts and receipts, escrow instructions, or similar executory contracts which are intended to control the rights and obligations of the parties to such executory contracts pending the closing of a sale or purchase transaction. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to sections 33-801 through 33-821 of the Arizona Revised Statutes, "Owner" will mean the trustor of such Lot. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement, "Owner" will mean the beneficiary

of any such trust or the assignee of such beneficiary who is in title possession of the trust property.

(s) "Project Documents" will mean this Declaration, the Articles, the Bylaws, and any rules adopted by the Board or the Architectural Control Committee.

(t) "Property" will mean the real property described on Exhibit A attached hereto and by this reference incorporated herein, ~~subject to the reservations set forth herein and in the plat of record of Dave Brown 7th Avenue;~~ provided, however, that if the Property is developed in phases by Declarant, the "Property" will refer at any point in time only to the phase or phases of the Property as to which Declarant has commenced or completed sales activities in the ordinary conduct of business.

ARTICLE II - RESERVATIONS, EXCEPTIONS, AND DEDICATIONS

Section 1. Recorded Subdivision Plat of the Property. The recorded subdivision plats of the Property dedicated for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and further restrictions applicable to the Property, including without limitation certain minimum and maximum set back requirements, and all dedications, limitations, restrictions, and reservations shown on the recorded plat of the Property are incorporated herein and made a part hereof, as is more fully set forth herein, and will be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying said Property or any part thereof, whether specifically referred to therein or not.

Section 2. Title Subject to Easements and Dedications. It is expressly agreed and understood that the title conveyed by Declarant to the Property or any portion thereof by contract, deed, or other conveyance will be subject to any easements affecting the Property or the conveyed portion thereof for roadways, drainage, water, gas, storm sewer, or electric lighting purposes, together with any dedications associated therewith. Owners of the respective Lots will not be deemed to separately own pipes, wires, conduits, or other service lines running through their Lot which will be utilized for or service other Lots, but each Owner will have an easement in and to the aforesaid facilities as will be necessary for the use, maintenance, and enjoyment of his, her, or its Lot.

Section 3. Owners' Easements of Enjoyment. Subject to the rights and easements granted to the Declarant in Section 7 of this Article II, every Member and any person residing with such Member will have the right to and an easement of enjoyment in and to the Common Areas, which rights and easements will be appurtenant to and will pass with the title to every Lot subject to the following provisions:

(a) The Association will have the right to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such

conditions as may be agreed to by the Members; provided, however, that no such dedication or transfer will be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of the Members of all classes has been recorded;

(b) The Association will have the right to regulate the use of the Common Area through rules adopted by the Board and to prohibit the access of Members and other persons to those portions of the Common Area, such as landscaped areas, that are not intended for use by the Owners, lessees, or their guests;

(c) The Association will have the right to suspend the rights of an Owner and such Owner's family, tenants, and guests to use the Common Areas if such Owner is more than 15 days delinquent in the payment of Assessments or other amounts due to the Association or if such Owner has violated any other provision of the Association Documents and has failed to cure such violation within 15 days after the Association notifies the Owner of the violation; and

(d) If a Lot is leased or rented by its Owner, the lessee of such Lot and the members of the lessee's family residing with such lessee will have the right to use the Common Areas during the term of the lease and the Owner of such Lot will have no right to use the Common Areas until the termination or expiration of such lease.

Section 4. Utility Easement. There is hereby created an easement upon, across, over, and under the Common Areas and the Lots for reasonable ingress and egress for the purposes of installing, replacing, repairing, or maintaining all utilities on the Property, including without limitation gas, water, sewer, telephone, cable television, and electricity utilities. By virtue of this easement, it expressly will be permissible for a providing utility company to erect and maintain the necessary equipment on the Common Areas or Lots, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Areas or Lots except as initially designed, approved, and constructed by Declarant or as approved by the Board.

Section 5. Declarant's Use for Sales and Leasing Purposes. Declarant will have the right and an easement to maintain sales or leasing offices, management offices, and models throughout the Property and to maintain one or more advertising signs on the Common Areas while Declarant is selling Lots. Declarant reserves the right to place models, management offices, and sales and leasing offices on any Lots owned by Declarant and on any portion of the Common Area in such number, of such size, and in such locations as Declarant deems appropriate.

Section 6. Declarant's Easements.

(a) Declarant will have the right and an easement on and over the Area of Association Responsibility to construct all improvements to the Property that Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots and other Property owned by Declarant for construction or renovation-related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies, and fixtures, and the performance of work respecting the Property.

(b) Declarant will have the right and an easement upon, over, and through the Area of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations and exercising the rights granted to or reserved by Declarant by this Declaration.

Section 7. Easement in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and its directors, agents, employees, and independent contractors:

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

(b) For inspection, maintenance, repair, and replacement of the Areas of Association Responsibility accessible only from the Lots;

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

(d) For the purpose of enabling the Association, the Board, or any committee appointed by the Board to exercise and discharge their respective rights, powers, and duties under the Association Documents; and

(e) For inspection of the Lots in order to verify that the provisions of the Association Documents are being complied with by Owners and their guests, tenants, invitees, and other occupants of the Lot.

ARTICLE III - USE RESTRICTIONS

Section 1. Single Family Residential Construction. No building will be erected, altered, or permitted to remain on any Lot other than one detached single family dwelling, not to exceed two stories in height, to be used for residential purposes only; provided, however, that a storage shed or a satellite television dish may be erected on a Lot if such shed or dish would not be visible to a person not more than six feet in height standing on the sidewalk in front of that Lot. The dwelling on each Lot will have an attached garage, which garage will be for two or more cars. As used herein, the term "residential purposes" will be construed to prohibit mobile homes or trailers from being placed on the Lots, or the use of said Lots for garage apartments or apartment houses; and no Lot will be used for business or professional purposes of any kind, nor for any commercial or manufacturing purposes. No building of any kind will be moved on to any Lot without the prior written consent of the Architectural Control Committee, it being the intention that only new construction will be erected on any of the Lots.

Section 2. Prohibition of Offensive Activities. No activity, whether for profit or not, will be permitted on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort will be permitted nor will anything be done on any Lot which is, or may become, an annoyance or a nuisance to the neighborhood. This restriction is waived

in regard to the normal sales activities required to sell homes in the subdivision and the lighting effects utilized to display the model homes by Declarant.

Section 3. Use of Temporary Structures. Except to the extent permitted by Section 1 hereof, and then only to such limited extent, no structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, or other, will be maintained or used on any Lot at any time as a residence or for any other purpose other than as may be approved by the Architectural Control Committee pursuant to Section 1 of this Article III; provided, however, that Declarant reserves the exclusive right to erect, place, and maintain such facilities in or upon any portions of the Property as it determines, in its sole discretion, may be necessary or convenient while selling Lots, selling or constructing residences, and constructing other improvements upon the Property. Such facilities may include, but are not limited to, sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

Section 4. Storage of Automobiles, Trailers, and Other Vehicles.

(a) No motor vehicle may be parked or stored on any part of any Lot, easement, or right of way, or in a street adjacent to any Lot, easement, or right of way, unless such vehicle is concealed from public view inside a garage or other approved enclosure, except passenger automobiles, passenger vans, motorcycles, pickup trucks of 3/4 ton or less, or pickup trucks of 3/4 ton or less with attached bed campers that are in operating condition, have current license plates, and are in daily use as motor vehicles on the streets and highways of the State of Arizona.

(b) No non-motorized vehicle, trailer, recreational vehicle, boat, marine craft, hovercraft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, or in a street adjacent to any Lot, easement, or right-of-way, unless such object is concealed from public view inside a garage or other approved enclosure. Notwithstanding anything to the contrary contained herein, no Owner may park, allow, or cause to be parked a motor vehicle of any type or nature in excess of one week in a driveway on the Owner's Lot without removing the motor vehicle from the Lot or placing it inside Owner's enclosed garage except with the prior written approval of the Architectural Control Committee. Any vehicle that is not so parked may not be kept on the Property, and in the event it is removed by the Association, the costs of removal will be assessed to the Owner of the Lot from which the vehicle was removed and a lien will be placed on said Lot in the manner provided in Article VI to secure repayment for such costs.

(c) The restrictions contained in this Section 4 will not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair, or maintenance of a Lot, a house, or houses in the immediate vicinity of the location where parked.

Section 5. Mineral Exploration. No Lot will be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 6. Animals and Wildlife. No animal, bird, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets as allowed by local zoning requirements and use restrictions, will be maintained on any Lot, and then only if such pets are kept or raised thereon solely as domestic pets and not for commercial purposes. All pets which are authorized to be kept must be on a leash at all times when outside the fences of the individual Lots. No animal, bird, fowl, poultry, or livestock will be allowed to make noise or become a nuisance. No structure for the care, housing, or confinement of any animal, bird, fowl, poultry, or livestock will be maintained so as to be visible from neighboring property. On the written request of any Owner, the Architectural Control Committee will conclusively determine (in its sole discretion) whether, for the purposes of this Section, a particular animal, bird, fowl, poultry, or livestock is generally recognized as a house or yard pet, whether such pet is a nuisance, or whether the number of such pets on any property is reasonable. Any decision rendered by the Architectural Control Committee will be enforceable in the same manner as any other restriction contained herein.

Section 7. Landscaping. If the Front Yard of any Lot is not landscaped prior to the sale of such Lot to a homeowner, within 120 days from the close of the sale of such Lot the Owner of such Lot will have fully landscaped said Lot in accordance with a landscape plan approved by the Architectural Control Committee. Such landscape plan must include a minimum of one tree contained in a 24 inch or greater box to be planted in the Front Yard and an appropriate ground cover for the Front Yard. The landscaping of each Lot will be in harmony with other landscaped areas within the Property. If the Owner of such Lot fails to comply with the provisions of this Section within the time limits set forth herein, then the Association or its successors or assigns will have the rights and remedies provided in Section 10 of this Article III. No hedge in excess of three feet in height or any walls or fences will be erected or maintained nearer to the front line of any Lot than the plane of the front exterior wall of the residential structure on a Lot. No side or rear fence, wall, or hedge will be more than six feet high. All fences must be constructed of masonry. No chain link fences will be placed on any Lot without the prior approval of the Architectural Control Committee. Each Owner will comply with all of the requirements of the City of Phoenix, Arizona regarding the landscaping of the Owner's Lot(s).

Section 8. Lot Maintenance. The Owners and any occupants of a Lot will at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner, will maintain the Lot in neat order, and will in no event use the Lot for the storage of materials and equipment, except for normal residential uses that are incidental to the construction and maintenance of improvements thereon as herein provided. The drying of clothes in such a manner as to be visible from any other Lot is prohibited. No Lot will be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials will not be kept except in sanitary containers constructed of metal, plastic, or masonry materials with sanitary covers or lids. Containers for the storage of trash, garbage, and other waste materials will be stored out of public view. Equipment for the storage or disposal of such waste materials will be kept in a clean and sanitary condition and will be stored out of public view. New building materials used in the construction of improvements erected upon a Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon until the completion of such

improvements, provided that the construction progresses without unreasonable or undue delay, after which time such materials either must be removed from the Lot or stored in a suitable enclosure on the Lot.

Section 9. Prosecution of Construction, Maintenance, and Repairs. All construction, maintenance, and repair work will be prosecuted diligently from commencement until completion. All buildings will be completed within one year of the commencement of their construction, in accordance with the plans and specifications for such construction, maintenance, or repairs approved by the Architectural Control Committee when applicable, and landscaping of each Lot, again in accordance with the plans and specifications approved by the Architectural Control Committee when applicable, will be completed within 120 days of the later of (i) the issuance of a certificate of occupancy for the dwelling constructed thereon, or (ii) the commencement of occupancy of such dwelling. In the event any building is destroyed or damaged by fire, act of God, or other occurrence, such damage must be repaired, replaced, or reconstructed within 12 months after such damage or destruction. The time limits set forth in this Section will be extended by any periods during which construction is not able to proceed due to acts of God, labor disturbances, actual inability to procure necessary materials, or other causes beyond the reasonable control of Owner.

Section 10. Improper Maintenance and Use of Lots. In the event any portion or the whole of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots and Property, or in the event any portion of a Lot is being used in a manner which violates this Declaration or any plat of the Property or local zoning ordinances, or in the event the Owner of any Lot is failing to perform any of its obligations under this Declaration or other controlling documents, the Association may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner. If the offending Owner does not take corrective action within 14 days of the issuance of such notice, the Association may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period of time the requisite corrective actions have not been taken, the Association will be authorized and empowered to cause such action to be taken and the cost thereof will become a lien against the Property, enforceable as provided in Article VI hereof.

Section 11. Maintenance of Window Coverings. No reflective materials, including without limitation aluminum foil, reflective screens or glass, mirrors, or similar items, will be installed or placed upon the outside or inside of any windows of any residence or other structure located on any Lot without the prior written approval of the Architectural Control Committee.

Section 12. Heating, Air Conditioning, and Solar Panels. All heating, cooling, air conditioning units, ventilating devices, and any solar panels or water heaters will be installed in such a manner as to be concealed from any other Lots, adjacent streets, and alleys, unless a different installation is approved by the Architectural Control Committee.

Section 13. Signs. No sign of any kind will be displayed to the public view on any Lot, except traditional mail boxes and residential name plates which will only contain the occupant's name(s) and address. The Architectural Control Committee will approve any signs advertising any Lot or other property for sale or rent prior to the use or display of any such sign. Signs used by a builder to advertise any property during the construction and sales period may be displayed and will be promptly removed upon completion of the builder's construction activities on the Lot. This restriction will not apply to Declarant in Declarant's normal and customary sales activities.

Section 14. Exemption For Purposes of Construction, Development, and Sale. The restrictions contained in this Article III will not apply to Declarant, Declarant's agents, servants, employees, contractors, or subcontractors, or other persons on the Property for the benefit of Declarant. Declarant also will have the rights and power to erect and utilize sales offices and models on the Property, grant easements, amend this Declaration to comply with the requirements of HUD/VA and FNMA, and otherwise amend this Declaration during the period of Declarant's control as provided herein. Declarant will have the right during the period of construction, development, and sale to grant specifically limited exemptions from these restrictions to any other developer or builder or any Owner. Any such exemptions will be granted only upon the specific request itemizing the exemption requested, the location thereof, the need therefor, and the anticipated duration thereof, and any such exemption will be similarly itemized. No such exemption will be broader in terms of activity, location, or time than is reasonably required, and will be for a specified period of time.

Section 15. Common Areas. All of the Common Areas will be for the exclusive purpose of and use by Owners and the other occupants of Lots and Dwelling Units on the Property. The Common Areas will be maintained by the Association, and the Association will be responsible for all costs of maintenance, upkeep, and the like thereon. The cost of maintaining the Common Areas will be borne by the Association and its Members through Assessments, as provided in Article VI below.

ARTICLE IV - ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. The Board will establish an Architectural Control Committee to perform the functions of said Committee set forth in this Declaration and will adopt procedural rules and regulations for performance of such duties by such Committee, including procedures for the preparation, submission, and determination of applications for any approvals of such Committee required by this Declaration. The Architectural Control Committee will consist of such number of regular members and alternate members as the Board may designate, and such members will be appointed by the Board. Committee members need not be architects, except as the Board may, in its discretion, require. The Architectural Control Committee will hold regular meetings. A quorum for such meetings will consist of a quorum of regular members and the concurrence of a majority of the regular members present will be necessary for any decision of said Committee. An alternate member may participate at any meeting at which there is not a quorum of regular members present, may be counted in the quorum at any such meeting, and will

have all the authority of a regular member while so participating. The Architectural Control Committee will promulgate architectural guidelines and standards to be used in rendering its decisions, which guidelines and standards must be approved by the Board prior to their implementation.

Section 2. Approval of Building Plans. No building, structure, or improvements, including without limitation landscaping, will be erected, placed, or altered on any Lot until construction plans and specifications and plot plans showing the location of the structure and its elevation have been approved by the Architectural Control Committee as to (i) harmony of exterior design and color with existing structures, (ii) location with respect to topography and finished ground elevation, and (iii) compliance with minimum construction standards. No existing structure will be modified, altered, added to, or repainted unless copies of the construction plans and specifications and plot plans, together with such other information as may be deemed pertinent, were submitted to the Architectural Control Committee or its designated representative prior to commencement of construction and the proposed color, materials, plans, and specifications have been approved by such Committee or representative. The Architectural Control Committee may require the submission of such plans, specifications, and plot plans, together with such other documents as it may deem appropriate, in such form and detail and at such times as it may elect, in its discretion. The Architectural Control Committee will have full and complete authority to approve construction of any improvement on any Lot and its judgment will be final and conclusive.

Section 3. Committee Membership. The initial members of the Architectural Control Committee will be Walter W. Venberg, David J. Piccoli, and David M. Brown, who may designate one or more representatives to act on behalf of such Committee. Committee members may be removed and replaced by the Board. The address of the Architectural Control Committee will be 2164 East Broadway, Suite 300, Tempe, Arizona 85282 or such other place as such Committee may from time to time designate.

Section 4. Replacement. In the event of the death or resignation of any member or members of the Architectural Control Committee, the Board will appoint a successor member or members, and until such successor member or members have been appointed, the remaining member or members will have full authority to approve or disapprove plans, specifications, and plot plans submitted to such Committee or to delegate such authority to a representative of such Committee.

Section 5. Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline and the Architectural Control Committee will not be bound thereby.

Section 6. Variances. The Architectural Control Committee, solely in the exercise of its discretion, may permit variances from any of the particular restrictive covenants contained in Article III of this Declaration. The Architectural Control Committee will require the submission to it of such documents and items as it will deem appropriate in connection with its consideration

of any request for a variance. Such variances will be granted by the Architectural Control Committee only in a writing that is signed by not less than a majority of the members of the Architectural Control Committee or by the designated representative of the Architectural Control Committee, and will not be effective until delivered to the Owner who requested the variance. Any requests for a variance will be deemed to have been disapproved for the purposes hereof upon either (i) the issuance of a written notice of disapproval from the Architectural Control Committee or its designated representative as provided herein; or (ii) a failure by the Architectural Control Committee or its designated representative to respond to the request for variance within 60 days of the making of the request. The granting of one or more variances by the Architectural Control Committee will not require the granting of any further variances at any time thereafter. If the Architectural Control Committee or any successor to the authority thereof ceases to function, or the term of the Architectural Control Committee expires, no variances from the covenants of this Declaration will be permitted, it being the intention of Declarant that no variances will be available except at the discretion of the Architectural Control Committee.

ARTICLE V - HOMEOWNERS' ASSOCIATION

Section 1. Purpose. The purpose of the Association is to assure and monitor the maintenance, preservation, and use of the Common Areas of the Property and Lots by the Homeowners. For that purpose the Association may make assessments, whether regular or special, enforce those assessments and the rules and regulations set forth herein as provided as provided herein, and otherwise enforce the provisions contained in the Bylaws and Articles of Incorporation of the Association.

Section 2. Membership and Voting Rights. Every Owner of a Lot which is subject to assessment will be a Member of the Association. Membership will be appurtenant to and will not be separate from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

Section 3. Membership Classes. The Association will have two classes of voting membership:

Class A. Class A Members will be all Owners, with the exception of the Declarant, and will be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons will be Members. The vote for such Lot will be exercised as all of the persons holding interests in such Lot may determine, but in no event will more than one vote be cast with respect to any Lot.

Class B. The Class B Member(s) will be the Declarant and will be entitled to three votes for each Lot owned. The Class B membership will cease and be converted to Class A membership on the happening of either of the following events, whichever occur earlier:

- (i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- (ii) January 1, 2006; or
- (iii) Five years after Declarant stops all sales, recordation, construction, and planning activities with respect to the Property.

Section 4. Articles of Incorporation and Bylaws. The Association will have been organized by the Declarant's filing with the Arizona Corporation Commission of the Articles of Incorporation, and all duties, obligations, benefits, liens, and rights hereunder in favor of the Association will vest in the Association. The Association will be governed by the Bylaws, which will not conflict with the terms and provisions contained in this Declaration. All Members will have the right to inspect all books and records of the Association at reasonable times during normal business hours.

ARTICLE VI - MAINTENANCE ASSESSMENTS AND LIENS

Section 1. Creation of Lien and Personal Obligation of Assessment. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it will be so expressed in such Deed, is deemed to covenant and agree to pay the Association: (i) regular and supplemental annual assessments or charges; and (ii) special assessments for capital improvements and as otherwise provided herein. All assessments made with respect to any of the Lots, the Property, or otherwise hereunder will be established and collected as hereinafter provided. The amount of each assessment, whether payable in installments or in a lump sum, together with interest, late charges, costs, and reasonable attorneys' fees, will be a charge on the land and will be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees also will be the personal obligation of the person who is the Owner of any portion of the Property which is assessed at the time when any assessment or any installment thereof falls due. The personal obligation for delinquent assessments or installments thereof will not pass to a Member's successor as Owner of a Lot unless expressly assumed by such successor; provided, however, that the personal obligations of a Member will survive any voluntary or involuntary transfer of a Lot or with respect to any Member who was the Owner of such Lot at the time such payment became due. No Member may waive or otherwise escape liability for an assessment by nonuse or abandonment of any Common Area or his, her, or its Lot. Any person acquiring an interest in any Lot, upon written notice to the Board, will be entitled to a statement from the Association setting forth the amount of the unpaid assessments or installments thereof, if any. A person receiving such a statement will not be liable nor will any lien attach to such Lot for an amount with respect to unpaid assessments, or installments thereof in excess of the amount set forth in such statement, except for assessments and other charges which become due after the date thereof. The lien provided for in this Section may be foreclosed upon by the Association in any manner provided or

permitted for the foreclosure of real property mortgages, deeds of trust, or liens against real property in the State of Arizona.

Section 2. Purpose of Assessments. The assessments levied by the Association will be used exclusively to promote and to protect the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Areas. The Association's responsibilities will include, by way of example but not limitation and subject to the discretion of the Board, any and all of the following: (i) maintaining the Common Areas, if any; (ii) payment of Common Expenses; (iii) caring for vacant Lots and doing any other thing necessary or desirable, in the opinion of the Association, to keep the Property in neat and in good order; or (iv) doing all other things which are considered to be of general benefit to the Owners collectively.

Section 3. Maximum Annual Assessment. The annual assessment is to be established by the Board may not exceed a certain amount hereinafter referred to as the "Maximum Annual Assessment," which Maximum Annual Assessment will be determined and will vary in accordance with the following provisions:

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment against each Owner or Lessee will be \$25.00 per each membership:

(b) From and after January 1 of the second year immediately following the conveyance of the first Lot to an Owner, the Board may, without a vote of the Members, increase the Maximum Annual Assessment during each fiscal year of the Association by an amount proportional to the amount of increase during the prior fiscal year in the Consumer Price Index for all Urban Consumers (All Items), U.S. City Average, published by the United States Department of Labor Bureau of Labor Statistics (1984 = 100), or in the event said Index ceases to be published, by any successor Index recommended as a substitute therefore by the United States government, or an amount equal to five percent of the prior year's annual assessment, whichever is greater; and

(c) 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 by an amount greater than the maximum increase allowable pursuant to Subparagraph (b) above only by a vote of at least two-thirds of each class of Members of the Association who are voting in person or by proxy at a meeting called for that purpose.

Section 4. Rate of Assessment. The maintenance charge and assessments on Lots held by the Class B Member ("Class B Lots") will be a maximum of 25 percent of the maintenance charge and assessments on Lots held by the Class A Member per month and will begin to accrue on a monthly basis on each Lot on the Commencement Date. The maintenance charge applicable to Class B Lots will continue so long as Declarant, its successors, or its assigns (excluding Owners) owns any Lot. The entire accrued charge will become due and payable on the date such

Lot and its membership convert from Class B to Class A by reason of Owner's purchase of a residence thereon. For the first year of ownership of any Lot purchased by an Owner from Declarant or its successors or assigns, or any fraction thereof, the assessment against that Lot will be the number of months such Lot is owned by such Owner multiplied by the monthly assessment rate payable on January 1 of the year in which the Lot was purchased, or, if no rate was established on that January 1, the monthly assessment rate established on a later date for assessments during such year. After the first year, the maintenance charge and assessment will be collected annually in the amount of the annual assessments (or monthly, based on 1/12th of the annual assessment, or quarterly, based on one-quarter of the annual assessment, if so decided by the Board), payable on January 1 of each year for the preceding year (or on the first day of each month for the preceding month or each calendar quarter for the preceding quarter, if applicable).

Section 5. Determination of Assessments. The annual budget and the rate at which each Lot will be assessed will be determined by the Board annually and may be adopted and adjusted from year to year by the Board as the needs of the Property may require, in the judgement and discretion of the Board; provided, however, that such assessment will be uniform (except for special assessments). The Board will cause an estimated annual budget of the Common Expenses to be prepared for each fiscal year of the Association. Such annual budget will be presented to the Members and will be used as a basis for assessments. In the event that during the course of any fiscal year, the Board determines that the assessments levied in accordance with the estimated annual budget for the Common Expenses for such fiscal year are insufficient or are greater than required to cover the estimated expenses of operating the Association for the remainder of such fiscal year, the Board will prepare and approve a supplemental budget covering the estimated deficiency or excess for the remainder of the fiscal year. A copy of such supplemental budget will be furnished to each Member, and upon furnishing such copy, if a deficiency is shown by the supplemental budget, the Board will levy a supplemental assessment for the estimated deficiency against each Lot or Dwelling Unit and each Member or increase the amount of the remaining annual assessment installments attributable to each Lot or Dwelling Unit and each Member for the proportionate share of such estimated deficiency. If an excess is shown by the supplemental budget, the Board will reduce the amount of the remaining annual assessments installments attributable to each Lot or Dwelling Unit and each Member for the proportionate share of such estimated surplus. In the event that the remaining installments of the existing annual assessment are increased due to a deficiency in the supplemental budget, such increase will be payable in the same manner and on the same date as the then remaining balance of the original assessment for such fiscal year; in the event of an excess, the reduced assessment will be effective and applied in the same manner and on the same date as the then remaining balance of the original assessment for such fiscal year.

Section 6. Special Assessments for Lot Maintenance. In addition to the annual assessments authorized above, the Association may levy in any assessment year one or more special assessments applicable to that year only and applicable only to Lots requiring maintenance or to Owners in violation of this Declaration, or both, for the purposes of defraying the cost of such repair and maintenance of any Lot which is not properly maintained by a Lot Owner or curing

any violation by an Owner of the Declaration. Such special assessments will be levied against such Owners and at such times as the Board deems necessary and appropriate to bring each Lot and Owner into conformity with this Declaration.

Section 7. Effect of Nonpayment of Assessments. Any assessments that are not paid when due will be delinquent. If an assessment is not paid within 30 days of its due date, the assessment will bear interest from the date of delinquency at the rate of 12 percent per annum or as otherwise determined by the Board, and will be liable for a late charge established by the Board in an amount not to exceed 18 percent per annum of the amount of any delinquent assessment or installment thereof. The Association may bring an action at law or in equity against the Owner personally obligated to pay a delinquent assessment or foreclose the lien of an assessment against the Lot, and in either case interest and reasonable attorneys' fees of such action will be added to the amount of the delinquent assessment. Additionally, actions in equity may be maintained to enforce compliance hereof against any Owner.

Section 8. Subordination of the Lien to Mortgages. The lien for the assessments against any Lot provided herein will be subordinate to the lien of any first mortgage. The sale or transfer of any Lot will not affect the assessment lien. However, notwithstanding any provision hereof to the contrary, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof will extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer will relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 9. Working Capital Fund. To insure that the Association will have adequate funds to meet its expenses or to purchase necessary equipment or services, each Owner purchasing a Lot from Declarant will pay to the Association immediately upon becoming the Owner of a Lot, a sum equal to 1/6th of the annual assessment of that Lot in addition to the Owner's obligation to pay the annual assessment. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted hereunder or under the Bylaws. Payments made pursuant to this Section will be nonrefundable and will not be considered as an advance payment of any assessments levied by the Association pursuant to this Declaration.

Section 10. Transfer Fee. Each purchaser of a Lot will pay to the Association, immediately upon becoming the Owner of the Lot, a transfer fee in such amount as may be established from time to time by the Board.

ARTICLE VII - INSURANCE

Section 1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to an Owner, the Association will maintain the following insurance coverage to the extent such coverage is reasonably available:

(a) comprehensive general liability insurance, including medical payments insurance in an amount determined by the Board but not less than \$1,000,000.00; such insurance will cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Areas of Association Responsibility and all other portions of the Property which the Association is obligated to maintain under this Declaration and also will include higher automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to any Owner;

(b) property insurance on all Areas of Association Responsibility insuring against all risk of direct physical loss insured in an amount equal to the maximum insurable replacement value of the Areas of Association Responsibility as determined by the Board; provided, however, that the total amount of insurance after application of any deductible will not be less than 100 percent of the then-current replacement cost of the insured property exclusive of land, excavations, foundations, and other items normally excluded from a property policy;

(c) workers' compensation insurance to the extent necessary to meet the requirements of the laws of the State of Arizona; and

(d) such other insurance as the Association will determine from time to time to be appropriate or to protect the Association or the Owners.

Section 2. Policy Terms. Insurance policies purchased by the Association will contain the following provisions to the extent such provisions reasonably are available:

(a) a provision that there will be no subrogation with respect to the Association or its agents, servants, and employees with respect to Owners and members of Owners' households;

(b) a provision that no act or omission by any Owner, unless acting within the scope of his, her, or its authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;

(c) a provision that the coverage afforded by such policy will not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;

(d) a "severability of interests" endorsement which will preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or any other Owner;

(e) a statement that the name of the insured is the Association; and

(f) for policies of hazard insurance, a standard mortgage clause providing that the insurance carrier will notify the first mortgagee named in the policy at least 10 days in advance of the effective date of any substantial modification, reduction, or cancellation of the policy.

Section 2. Payment of Premium. The premiums for any insurance obtained by the Association pursuant to this Article VII will be included in the budget of the Association and will be paid by the Association.

Section 3. Payment of Insurance Proceeds. With respect to any loss to any Area of Association of Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss will be adjusted with the Association and the insurance proceeds will be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The proceeds will be disbursed by the Association for repair or restoration of the damage to the Area of Association Responsibility.

ARTICLE VIII - MISCELLANEOUS

Section 1. Term. Each covenant of this Declaration will run with the land and will be binding upon all parties and all persons claiming hereunder for a period of 40 years from the date this Declaration is recorded, after which time said covenants will be automatically extended for successive periods of 10 years each unless an instrument signed by a majority of the then-Owners of the Lots has been recorded agreeing to change or terminate this Declaration in whole or in part.

Section 2. Amendment. The terms and conditions of this Declaration may be amended in whole or in part, uniformly or nonuniformly, and affecting some or all of the Property, at any time when an instrument setting forth such amendments will be signed and approved by at least two-thirds of the Owners and is recorded in Maricopa County, Arizona, except as otherwise provided in Sections 3 and 5 of this Article VIII below.

Section 3. Right of Amendment if Requested by Governmental Agency or State or Federally Chartered Lending Institutions. Notwithstanding anything in this Declaration to the contrary, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by HUD/VA or FNMA and to further amend to the extent requested by any other federal, state, or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any state or federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any other portion of the Property. Any such amendment will be effected by the recordation, by Declarant, of a Certificate of Amendment duly signed by or on behalf of the partners, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the mandatory language requested by such agency or institution. Recordation of such a Certificate

will be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, will be binding upon all of the Property and all persons having an interest therein. No other amendment to this Declaration may be made except as provided in Section 2 of this Article VIII.

Section 4. Enforcement. Declarant or any Owner will 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 Declarant or by any Owner to enforce any condition, covenant, or restriction herein contained will in no event be deemed a waiver of the right to do so thereafter.

Section 5. HUD/VA Requirements. Notwithstanding any provision hereof to the contrary, while there is a Class B Member, the following actions will require the approval of HUD/VA: (i) annexation of additional properties to the Property or to this Declaration; (ii) any amendment to this Declaration; and (iii) dedication of any of the Common Areas to any public or governmental body. Notwithstanding any provision hereof to the contrary: (i) no portion of the Common Areas may be mortgaged or conveyed without the prior consent of at least two-thirds of the Owners, excluding Declarant; (ii) any conveyance or encumbrance of the Common Areas or any portion thereof will be subject to an easement in favor of each Owner requiring ingress or egress to the Owner's Lot through the Common Areas or any portion thereof; (iii) nothing contained herein will be deemed to prevent the conveyance of the Common Areas to the Association free and clear from all encumbrances before HUD/VA insures the first mortgage on any Lot; (iv) nothing contained herein will be deemed to impose absolute liability on any Owner for damage to the Common Areas or any Lot; (v) the failure by any Owner to pay any assessment due hereunder will not constitute a default under any mortgage insured by HUD/VA; and (vi) no mortgagee will be obligated to collect any assessment due hereunder.

Section 6. Severability. The invalidation of any one of the conditions, covenants, or restrictions set forth in this Declaration by a judgment or court order will in no way affect any other provisions hereof which will remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first written above.

FIRST AMERICAN TITLE INSURANCE
COMPANY, a California corporation, as
Trustee of Trust No. 6478

By: Roderick Nolt
Its TRUST OFFICER

STATE OF ARIZONA }
 } ss.
County of Maricopa }

SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED before me, the undersigned notary public, this 6 day of June, 1996, by Roderick N. Collier, the duly authorized representative of FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee of Trust No. 6478.



Notary Public

My Commission Expires:

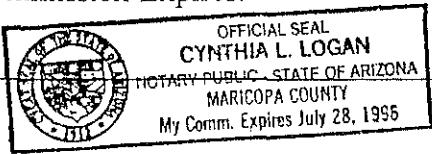


EXHIBIT A - THE PROPERTY

Legal Description: The plat known as DAVE BROWN 7TH AVENUE, located in Maricopa County, Arizona, recorded 5/30/96, Book 416, Page 50.
Lots 1 thru 71 Inclusive and Tracts a,b,c and d