

MAIL TO AFTER RECORDING:  
SUSAN L. GUILLES  
6249 N. 78TH ST., #37  
SCOTTSDALE, AZ 85250

1932

LP

COVENANTS, CONDITIONS AND RESTRICTION

Order No. 9321173-K County of San Diego  
Escrow No. 19819 Map No 9648 & TPM#20052  
February 10, 1994

This Agreement for Covenants, Conditions, and Restrictions are herein made for property located in, on or over that certain real property described in Exhibit "A" attached hereto and by reference made a part hereof is made this 10th day of February 1994, by Susan L. Guiles, Gary F. Simpson, and Carolyn J. Finlayson, all hereinafter referred to as "Developer" with reference to the following:

RECITALS

A. Developer is the owner of the real property located in the county of San Diego, State of California, more particularly described on Exhibit "A";

B. This Agreement is for the benefit of both the Developer and the future subdivision lot owners of record ("Lot Owners") which shall include the Developer to the extent Developer retains any record ownership interest in any lot or lots.

C. It is the intention of the Developer that this Agreement constitute a covenant running with the land, binding upon each successive Lot Owner of all or any portion of the Property.

D. This Agreement shall be filed for record in the Office of the Recorder of San Diego County, California. It is the intent that the obligation hereby created shall be and constitute a covenant running with the land and any subsequent purchaser of all or any portion thereof, by acceptance of delivery of a deed and/or conveyance regardless of form, shall be deemed to have consented to and become bound by these presents, including without limitation, the right of any person entitled to enforce the terms of this Agreement to institute legal action as provided in Paragraph E, below, such remedy to be cumulative and in addition to other remedies provided in this Agreement and to all other remedies at law or in equity.

E. ENFORCEMENT. The Developer or any Owner shall have the right to enforce, by any proceeding at law or in equity, the terms of this Agreement and subsequent amendments, if any, including the right to prevent the violation of any such terms and the right to recover damages or other dues for such violation.

The result of every act or omission, whereby any term contained in this Agreement is violated in whole or in part, is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private shall be applicable against every such result and may be

exercised by any Owner. Each remedy provided by this Agreement shall be cumulative and not exclusive and in addition to other remedies provided in this Agreement and to all other remedies at law or in equity.

Failure by the Developer or any Owner to enforce any provisions of this Agreement shall in no event be deemed a waiver of the right to do so thereafter.

F. LITIGATION. In the event the Declarant, or any Owner shall commence litigation to enforce any of the conditions or restricts herein contained the prevailing party in such litigation shall be entitled to costs of suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party who is entitled to recover his costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover his costs shall not recover attorney's fees.

G. AMENDMENTS. This Agreement may be amended by written instrument (or counterparts thereof) by:

1. Signed and acknowledged by the Owners (or their duly appointed Attorney-in-Fact) of at least seventy-five percent (75%) of the Lots.
2. By Developer as long as Developer owns two (2) or more Lots, signed and acknowledged by Developer.

Such amendment shall be filed for record in the Office of the Recorder of San Diego County, California.

The foregoing notwithstanding, unless prior consent is obtained by one-hundred percent (100%) of the Lot Owners, no amendment to this Agreement may be made which would change the equal division of costs and expenses among the subdivided parcels described in Paragraph 5; or change the responsibilities of maintenance and repair required herein on any one Lot Owner. Each such amendment shall become effective upon such recording.

H. SEVERABILITY. This Agreement shall be governed by the laws of the State of California. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid in law or equity by any court of competent jurisdiction, the validity, and enforceability of the remaining provisions shall not be affected thereby.

I. NOTICE. In each instance in which notice is to be give to the Owner of a Lot, the same shall be in writing and may be delivered personally in which case personal delivery of such notice to one or two or more Co-Owners or to the Partnership, as the case may be, and personal delivery of the notice to any officer or agent for the service of process of a corporation owning such Lot shall be deemed delivered to the corporation, or such notice may be

delivered by certified, United States Mail, or registered postage prepaid, return receipt requested, addressed to the Owner of such Lot at the most recent address furnished by such Owner in writing for the purposes of giving notice, or, if no such address shall have been furnished then to the street (or Post Office Box) address of such Lot, and any notice so deposited in the mail within San Diego County, California, shall be deemed delivered seventy-two (72) hours after such deposit.

IT IS HEREBY AGREED AS FOLLOWS:

Parcels shall be used for purposes in compliance with all applicable statutes, ordinances and regulations of the governmental entity having jurisdiction over this property. No structure shall be erected, altered, placed or permitted to be erected on any parcel other than one single-family dwelling and garage, provided however, that horse barns, sheds or other out-buildings and structures in compliance with all pertinent ordinances of the county of San Diego shall be permitted to be erected on any parcel. Any building placed, erected or maintained upon any parcel shall be entirely constructed thereon.

1. When improved, each lot to be improved with a single family dwelling of traditional frame or steel construction. The minimum living area, exclusive of garages and open porches, shall be not less than fifteen hundred sixty square feet (1560 sq. ft.) in size. Each dwelling shall have an attached or detached garage with a floor area of not less than 440 square feet in size.

2. Dwelling to be constructed of flame retardant materials, including but not limited to such materials as clay tile or cement tile roofing materials and stucco wall exterior.

3. Temporary mobile homes used on the site during construction, must have a permit issued by the County of San Diego, and are to remain on the site no longer than twelve (12) months from the close of escrow, as per County standards.

4. Permanent mobile homes are not allowed on the site.

5. All Lot Owners agree to abide by the Private Facilities Maintenance & Cost Sharing Agreement, covering Map No. 9648 & TPM #20052, filed concurrently with this agreement in the Recording Office of the County of San Diego.

6. Any signatory hereto who has been a beneficiary of the deed of trust or the holder of a lien on said land hereby consents and agrees that such lien shall be subordinate to the covenants contained in this declaration, and that such covenants shall be binding and effective against any owner of said property whose title there is acquired by foreclosure, trustee's sale, lien foreclosure, or otherwise.

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7. No noxious or offensive activity shall be carried on upon any parcel, nor shall anything be done thereon which may be or may become an annoyance or nuisance to neighboring properties. No contrivance which is in an obvious state of disrepair shall be placed or permitted to remain upon any parcel if such vehicle or contrivance is visible from any street or any other neighboring property.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date included hereinbefore.

DEVELOPER:

\_\_\_\_\_  
Carolyn J. Finlayson

\_\_\_\_\_  
Date

\_\_\_\_\_  
  
Gary F. Simpson

\_\_\_\_\_  
*FEB. 22, 1994*  
Date

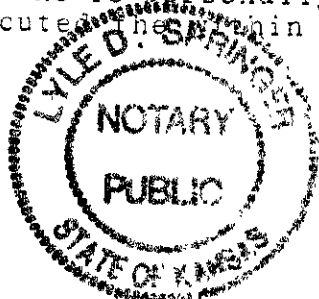
\_\_\_\_\_  
Susan L. Guiles

\_\_\_\_\_  
Date

(Please Attach Proper Notary Jurat, Certificate(s) of Acknowledgment)

STATE OF KANSAS. MONTGOMERY COUNTY. ss.

BE IT REMEMBERED That on this 22nd day of February A.D., 1994 before me the undersigned, a notary public in and for the county and state aforesaid came: Gary F. Simpson who is personally known to me to be the same person who executed the within instrument.



*Lyle D. Springer*  
Expires 2-13-98

STATE OF KANSAS. MONTGOMERY COUNTY. ss.

BE IT REMEMBERED That on this 22nd day of February A.D., 1994 before me the undersigned, a notary public in and for the county and state aforesaid came: GARY F. SIMPSON who is personally known to me to be the same person who executed the within instrument.

GOVERNMENT CODE 27361.7

I Certify under the penalty of perjury that the notary seal on the document to which this statement is attached, reads as follows:

NAME OF NOTARY Lyle D. Springer  
DATE COMMISSION EXPIRES 12-13-98  
COUNTY WHERE BOND IS FILED Montgomery County  
PLACE OF EXECUTION KANSAS DATE 2-22-94

SIGNATURE AND FIRM NAME

FIDELITY NATIONAL TITLE

*Org. Ecker*

## EXHIBIT "A"

APN# 133-342-16

## PARCEL 1:

Parcel 4 of parcel map No. 9648 in the County of San Diego, State of California, according to the Parcel map thereof No. 9648, recorded January 31, 1980, in the Office of the County Recorder of San Diego County as File No. 80-036588 of Official Records.

## PARCEL 2:

Easement for road and utility purposes over, under, along and across the northerly 40 feet of parcel 1 of said parcel map No. 9648.

## PARCEL 3:

Easement for road and utility purposes over, under, along and across parcel 1, Parcel 2 and parcel 3 of said Parcel Map No. 9648.

APN# 133-342-17

## PARCEL 1:

Parcel 3 of parcel map 9648 in the County of San Diego, State of California, according to the Parcel Map thereof No. 9648, recorded January 31, 1980, in the Office of the County Recorder of San Diego County as File No. 80-036588 of Official Records.

## PARCEL 2:

An easement for road and utility purposes over, under, along and across Parcel 1 and Parcel 2 of said parcel Map No. 9648, for the benefit of Parcel 3.

## PARCEL 3:

Parcel 3 reserves an easement for road and utility purposes over, under, along and across westerly 30 feet for the benefit of parcel 1 and parcel 2 of said Parcel Map No. 9648.

APN# 133-342-18

## PARCEL 1:

Parcel 2 of parcel Map 9648 in the County of San Diego, State of California, according to the Parcel Map thereof No. 9648, recorded

January 31, 1980, in the Office of the County Recorder of San Diego county as file No. 80-036588 of Official Records.

## PARCEL 2:

An easement for road and utility purposes over, under, along and across the westerly 30 feet of Parcel 1 and parcel 3 of said parcel map No. 9648, for the benefit of Parcel 2.

## PARCEL 3:

Parcel 2 reserves an easement for road and utility purposes over, under, along and across the westerly 30 feet for the benefit of parcel 1 and parcel 3 of said parcel Map No. 9648.

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EXHIBIT "A" CONTINUED

APN# 133-342-19

PARCEL 1:

Parcel 1 of parcel Map No. 9648, in the County of San Diego, State of California, according to the Parcel Map thereof No. 9648, recorded January 31, 1980, in the Office of the county Recorder of San Diego County as file No. 80-036588 of Official Records.

PARCEL 2:

Easement for road and utility purposes over, under, along and across Parcels 2 and 3 of said Parcel Map No. 9648.

PARCEL 3:

Parcel 1 reserves an easement for road and utility purposes over, under, along and across the westerly 30 feet of parcel 1 for the benefit of parcel 2 and parcel 3 of said Parcel Map No. 9648.

DOC # 1994-0138353  
02-MAR-1994 08:00 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
SAN DIEGO COUNTY RECORDER

RF:	9.00	FEES:	23.00
AF:	13.00		
MF:	1.00		