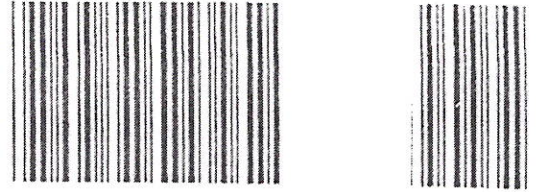


When Filed Please Return To:
UTAZ Investments, LC
1987 North 550 West
Provo, UT, 84604



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
97-0103779 02/18/97 04:44

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHGROVE ESTATES

THIS DECLARATION is made on the date hereinafter set forth by UTAZ Investments, LC a Utah limited liability company, registered in Arizona as UTAZ, LC, a Utah limited Liability Company hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Mesa, County of Maricopa, State of Arizona, which is more particularly described as:

LOTS 1-20 AND TRACTS "A", "B" & "C" of Highgrove Estates, according to the plat of record in the office of the County Recorder, Maricopa County, Arizona, recorded in Book 43 of Maps, Page 7

NOW, THEREFORE, Declarant hereby; declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property, and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heir, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to THE ESTATES AT HIGH GROVE HOMEOWNER'S ASSOCIATION, an Arizona non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of legal title to any Lot which is a part of the Properties, including contract Sellers, but excluding those having such interest merely as security for the performance of an obligation. Where the legal title is vested of record in a Trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., and legal title shall be deemed to be in the Trustor.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Tract A (Private Drives). Tract B and Tract C of Highgrove Estates according to the plat of record in the Office of the County Recorder, Maricopa County, Arizona recorded in Book 434 of Maps, Page 7

Section 5. "Plat" shall refer to that plat recorded in Book 434, of Maps Page 7 in the office of the Maricopa County Recorder

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 7. "Declarant" shall mean and refer to UTAZ Investments, LC, a Utah limited liability Company, registered in Arizona as UTAZ, LC, an Arizona foreign limited liability company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 8. "Mortgage" shall include~ Deeds of Trust and similar security instruments under valid Agreements of Sale.

Section 9. "Bylaws" shall mean the Bylaws adopted by the Board of Directors of the Association, as amended.

ARTICLE II

PROPERTY RIGHTS

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

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

(d) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereon; and

(e) The right of the Association to amend this Declaration, the Association's Articles and Bylaws or its published rules and regulations after due notice and hearing as provided in the Bylaws.

Section 2. Delegation of Use: Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Waiver of Use: No Owner may exempt himself from personal liability for assessments duly levied by and charges discussed herein, by waiver of the use or enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot. Each individual who signs a purchase contract for a Lot on behalf of a corporation, partnership or other entity shall be personally liable for the assessments on said Lot notwithstanding any principle or rule of law to the contrary.

Section 4. Right of First Refusal: The right of an Owner to sell, transfer, or otherwise convey his or her Lot shall not be subject to any right of first refusal or similar restriction imposed by the Association.

Section 5. Leasing Restrictions. All leases or rental agreements for Lots shall be in writing and specifically subject to the requirements of the Association's Articles of Incorporation, Bylaws, Management Agreement, and these Restrictions, as now in effect or duly adopted or amended. No Lot may be leased or rented for less than a minimum initial term of six months unless otherwise agreed to by the Association's Board of Directors.

Section 6. Restrictions on Mortgaging Lots: Notwithstanding anything to the contrary stated herein, no Owner shall be restricted in his or her right to mortgage or otherwise encumber the Lot or Lots, which he or she owns.

Section 7. Notice. Upon the sale or lease of a Lot by an Owner, Owner shall deliver to the Association, within 10' days of the signing of any lease or deed transferring title, a copy of said instrument setting forth the, name, address and telephone number of the lessee or vendee as the case may be.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) within two (2) years from conveyance of the first Lot in the project to a Class A member.

Section 3. In the event any Owner is in arrears in the payment of an amount due pursuant to any provision of this Declaration for a period of thirty (30) days or shall be in default in the performance of any provisions of this Declaration for a period of thirty (30) days, that Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until payments are brought current or otherwise as provided in Article II, Section 1(b) hereof.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

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

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and for the improvement and maintenance of the Common Area. The assessments shall cover the cost of water and sewer for the Common Area, garbage removal services of the City of Mesa, the cost of all repairs, replacement and maintenance of the Common Area and all other authorized activities and facilities, including, but not limited to, common yard maintenance, private drive maintenance, sprinkler system, tennis court(s), playground, basketball court(s), common parking areas, parkway landscaping, costs of additional common facilities and improvements, professional fees, taxes and insurance for the Common Area, as may, from time to time, be authorized by the Association's Board of Directors. The Association may impound each Owner's share of Common Area insurance at the time of closing. Notwithstanding anything herein to the contrary, each Owner shall provide and pay directly for insurance covering the structure of his or her Lot as well as water and sewer services for his or her Lot.

Section 3. Establishment of Assessment. Declarant and each owner of a Lot covenants for themselves and their heirs, successors and assigns, that such Lot shall be subject to an assessment, in an amount to be determined by the Association, as permitted by this Declaration of Covenants, Conditions and Restrictions. The amount to be prorated among the members of the Association shall be established annually by the Board of Directors.

Section 4. Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment shall be One Thousand Eight Hundred Dollars (\$1,800.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than the amount that the cost of living has increased above the maximum assessment

for the previous year according to the index which is maintained by the National Bank of Arizona, a national banking association, without a vote of the membership.

(b) 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 above the amount that the cost of living has increased according to the index which is maintained by the National Bank of Arizona, a national banking association, by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Notice and Quorum for Any Action Authorized Under Section 4 and 5: Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60 percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty- 60- days following the preceding meeting,

Section 7. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty- (30) -days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates. The Association shall, upon demand; and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12 %) per annum. The association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. In addition to the above, any assessment not paid on or before the due date shall be automatically assessed \$25.00 as a late charge.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure, landscaping or any other item requiring prior Architectural Control Committee or Board approval in this Declaration, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alternation therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said complete plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

MAINTENANCE

Each Owner shall be responsible for the upkeep and maintenance of his Lot and for the upkeep and maintenance of individual patios, all other areas, features, or parts of his Lot and property not otherwise maintained by the Association. All fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the Lot, shall be maintained and kept in repair by the Owner thereof. Termite control shall be the responsibility of the Owner. An Owner shall do no act nor any work that will impair any easement or hereditament, not do any act nor allow any condition to exist which will adversely affect the other Lots or their Owners.

ARTICLE VII

DAMAGE OR CONDEMNATION OF PROPERTY: INSURANCE

Section 1. Damage by Owner. In the event any common element is damaged or destroyed by an Owner or any of this guests, tenants, licensees, agents, or members of this family, such Owner shall be liable to the extent: provided under Arizona law to repair the damage element, and the Association shall so repair the damaged element in good workmanlike manner in substantial conformance with the original plans and specifications.

The Owner shall then repay the Association in the amount actually expended for such repair.

Each Lot Owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall be delinquent and shall become a lien upon Owner's Lot and shall continue to be such a lie~ until fully paid. The lien shall be subordinate to any first mortgage or encumbrance on the subject property. Said charges shall bear interest from the date of delinquency at the rate of twelve percent (12 %) per annum. The amount of principal and interest owed by the Owner to the Association shall be a debt, and shall be collectable by any lawful procedure allowed by the laws of the State of Arizona.

Each such Owner, by this acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner for the collection for such charges and to enforce and aforesaid lien by all methods available for the enforcement of such liens and such Owner hereby expressly grants to the Association power of sale in cOIU1ection with the lien.

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

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

Section 2. Insurance. The Association shall maintain in effect casualty and liability insurance and fidelity bond coverage as specified in this paragraph.

(a) The Association shall obtain, maintain, and pay the premiums as a common expense a policy of property insurance covering all of the Common Area (except land, foundation, excavation, and other items normally excluded from coverage) including fixtures and any building service equipment to the extent that they are a part of the Common Area, as well as common personal property as applies. Such policy shall provide, as a minimum, protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered the standard "all risk" endorsement. Such insurance shall be in an amount equal to 100% of the current replacement cost of the common replacement cost of the common Area of the properties, exclusive of land, foundation, excavation, and other items normally excluded from coverage. The name of the insured under such policy shall be set forth therein substantially as follows:

"THE ESTATES AT HIGH GROVE HOMEOWNER'S ASSOCIATION, an Arizona non-profit corporation."

The policy shall provide that it may not be canceled or substantially modified without at least ten days (10) prior written notice to the Association. Such insurance shall provide for an agreed amount and inflation guard endorsement, if available.

(b) The Association shall also maintain comprehensive general liability insurance coverage covering all of the Common Area, public ways of the project and commercial spaces, if any, owned by the Association, whether or not they are leased to some third party and covering all officers of the Association. Coverage limits shall be in the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and shall in any event be for at least \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation,

maintenance or use of the Common Area and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be canceled or substantially modified by any party without at least ten (10) days' prior written notice to the Association.

(c) The Association shall also maintain blanket fidelity bonds for all officers, directors, trustees, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. Furthermore, where the Association had delegated some or all of the responsibility for the handling of funds to a management agent, blanket fidelity bonds shall be required for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage shall be not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bond be less than a sum equal to three months' aggregate assessments on all units plus reserve funds. Fidelity bonds required herein must meet the following requirements.

- (1) Fidelity bonds shall name the Association on the obligee;
- (2) The bonds shall contain waivers by both issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "Employees," or similar terms or expressions;
- (3) The premiums on all bonds required herein for the Association (except for the premiums on fidelity bonds maintained by a management agent for its own officers, employees, and agents) shall be paid by the Association as a common expense; and
- (4) The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) day's prior written notice to the Association.

Section 3. Condemnation. If a portion or all of the Common Areas should be taken by exercise of the power of eminent domain, or should be transferred and conveyed to a condemning authority in anticipation of such exercise, the entire award made as compensation for such taking, including but without limitation, any amount awarded as severance damages, or the entire amount therefrom, in each case, reasonable and necessary costs and court costs (which net amount is hereafter in this Section referred to as the "Award") shall be paid to the Board as trustee for all Owners and First Mortgages. As soon as practicable, the Board shall utilize the Award to restore the portion of the Common Area thus taken if any, and shall divide the remainder of the Award amount to the Owners according to their shares in the Common Area set forth above. If the cost of repair and restoration of the Common Area shall exceed the amount of the Award, a special assessment shall be levied against the Owners to the extent necessary to make up such deficiency, such assessment to be levied equally against the Owners of Lots. The special assessment provided for herein shall be secured by

the lien provided for in this Declaration. Nothing herein contained shall be deemed to impair or affect the priority of any First Mortgagee' in any proceeds of any condemnation award.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Residential Use. Lots 1-19 inclusive, of Highgrove Estates, shall single-family residential Lots, and there may be erected on any one Lot, not more than one single-family residence plus such accessory and auxiliary garages guest house and servants quarters as are incidental to single-family residential use. No other buildings shall be erected on any of said Lots, not shall any of said lots or any part thereof be used for any business purpose whatsoever.

Section 3. Abandonment of Lot Lines. Two or more adjoining Lots may be combined and their original lot lines abandoned so as to permit construction in the middle of such consolidated properties. Thereafter any such consolidated Lots shall be treated for all-purpose as though their expanded dimensions had originally constituted only one lot.

Section 4. Parking Automobiles of the private passenger class and pickup trucks not exceeding three quarter ton may be parked on the side of any Lot; provided that any such parking area shall comply with the same set back requirements as the residential dwellings and be subject to required approval by the Architectural Control Committee or Board. Campers, horse trailers, and boats may be parked on the back of any Lot; provided that any such parking area shall be attractively screened or concealed from neighboring Lots, roads, or streets, and then only with the prior approval of the Architectural Control Committee or Board. All other trucks, vehicles and equipment shall not be kept on any Lot or street except in a private garage. No motor vehicle which is under repair or not in operating condition shall be placed or permitted to remain on any street or streets, or any portion of any Lot, or Lots, in Highgrove Estates, unless it is within an enclosed garage or structure. No motor vehicle of any kind may park on any of the private streets (Tract " A ") in Highgrove Estates, whether visiting, temporary or other. This is in accordance with fire codes.

Section 5. Driveways. All driveways shall be constructed of concrete; 110 asphalt nor granite shall be permitted or accepted as suitable driveway material.

Section 6. General Upkeep. All clothes lines, yard equipment, garbage cans, and service yards shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring parcels and streets. All rubbish, trash or garbage shall be removed from the premises of all Lots and shall not be allowed to accumulate thereon.

Section 7. Antennas. No outside antenna, broadcasting tower, or receiving dish shall be erected on any of the Lots in Highgrove Estates, unless first approved in writing by the Architectural Control Committee or Board.

Section 8. Household Pets. No animals, reptiles, fish, or birds or any kind shall be kept on any Lot; provided, however, that a reasonable number of dogs, cats, birds (including pet pigeons) or fish may be kept on. Lot as household pets if such are not a nuisance or threat to other Lot Owners and are kept, bred, or maintained for commercial purposes all such household pets must be kept within a fenced area, encased or otherwise controlled and not allowed to wander off at no time will swine, peacocks, or geese be allowed.

Section 9. Signs. No exterior signs or advertisements of any kind shall be placed, or allowed or maintained on any Lot, except that mailboxes, residential nameplates and "for sale" and "for rent signs or any size not in excess of 480 square inches may be placed and maintained on a Lot in conformity with common specification. Exceptions to this restriction will be the Developer's signs during construction and sale of property.

Section 10. Tanks. No elevated tanks of any kind shall be erected, placed or permitted on any Lots. Any tanks, including tanks for the storage of fuel, must be buried or attractively screened to conceal it from neighboring Lots, roads or streets, and then only with the prior approval of the Architectural Control Committee or Board

Section 11. Construction Permitted All structures erected in Highgrove Estates, must be of new construction, and no building or structures may be moved from any other location, other than the point of distribution of manufacture, onto any of said Lots or tracts. Wood siding shall not be permitted on any residence except as may be approved by the Architectural Control Committee or Board as design work or such shiplap siding as may be approved by the Architectural Control Committee or Board to preserve the architectural integrity of the improvement. Other wise the walls of the residences shall be masonry block, brick or stucco construction. Stucco construction shall require sand or smooth stucco finish.

Section 12. Roofs. All roofs must be of either tile or concrete tile construction having a Dutch gable or hip. No 312-pitched roof shall be permitted. Flat roofs shall be permitted with the approval of the Architectural Control Committee or Board and provided that they are designed with a parapet.

Section 13. Garages. All single family residences constructed within Highgrove Estates shall be constructed with three-car garages enclosed with garage doors. All garages shall be of a side entrance design. No carports shall be allowed.

Section 14. Tennis Court. The location, set backs, design, fencing, lighting and type of materials for any tennis court, handball court or similar recreational improvement must be approved in advance of construction by the Architectural Control Committee or Board. The lighting for such facilities shall be turned off and utilization of such facilities terminated no later than 10:00 p.m. of each day.

Section 15. Landscaping. Each owner shall submit to the Architectural Control Committee or Board a preliminary and a final. Landscaping plan for review and approval. Each such plan shall be required, as a minimum, to provide for the retaining of a minimum of twenty (20) of the original citrus trees along the back and side yards of each lot. In addition, each yard shall be leveled and seeded or covered with plastic and gravel. All required landscaping shall be completed and approved by the Architectural Control Committee or Board within one hundred twenty (120) days of occupancy of the residence. A lot owner at all times shall maintain said original citrus trees, shall water and irrigate the same in a husband like manner, and replace the same immediately should any original tree die. The Architectural Control Committee or Board shall lot line and fence line citrus retentions to create buffer zones.

There shall be no landscaping, ground cover, plants, mailboxes, or any other type of structure permitted within the fire truck overhang easement of five (5) feet along the lot frontages as shown on the plat. Grass or gravel covered plastic are the only landscaping permitted within this easement. This is in accordance with the fire codes.

Section 16. Light Post. Each and every Owner shall have at least one approved light post located within the front yard of his Lot and shall obtain the approval of the Architectural Control Committee or Board of its location, design and construction. Each such light post shall be equipped and maintained with; automatic electronic sensors or timers for turning on and off. Owners shall keep such lights and equipment in good repair at all times.

Section 17. Minimum Livable Area. All single-family residences constructed within Highgrove Estates, shall contain a minimum livable area of 3,500 square feet on grade level if one story, with or without basement, and 3,000 square feet on the grade level with 4,000 square feet total if two story. A split level home containing a grade level, sub-grade level and above grade level shall contain a minimum livable area of 4,000 square feet on the grade level and sub-grade level combined. All square footage requirements shall be exclusive of open porches, pergolas or attached garages.

Section 18. Breezeways. Any guest house or living quarters other than the primary residence shall be connected to the primary residence with a breezeway or walkway which is covered by a connecting roof so that all living quarters appear to be of an integral and single plan or design. This provision shall apply to all storage garages and storage houses and the structures shall require a minimum of two citrus trees and adequate motorcade wall to obscure said structure.

Section 19. Plan Approval. Except as provided herein, no single-family

residence, garage, barn, stable, guest house, or shed, fence or other structure, *nor* any modification of or addition to any structure of any nature, shall be construction within Highgrove Estates, without having first obtained the prior approval of design, location and materials by the Architectural control Committee or Board as described herein. All such approvals shall be obtained pursuant to the provisions and requirements of Article V herein.

Section 20. Commencement of Construction. No garage, barn, stable, guest house, or similar structure shall be erected on any Lot until construction of the primary single-family residence (complying with these restrictions) shall have been commenced on said Lot, and no garage, barn or guest house shall be maintained or occupied until construction on said single-family residence is finished and ready for occupancy. Any garage, guest house, or similar structure erected on any Lot shall be of the same design and each entire wall and the roof of such garage, guest house or similar structure shall be constructed of the exact same materials as the permanent residence on said Lot. During construction, the street shall be kept clean on a daily basis by the Lot owner.

Section 21. Permanent Structures. No garage, barn stable, guesthouse, trailer, mobile home, motor home, motor vehicle, or any temporary structure of any nature may be used temporarily or-permanently as a residence on any Lot or Tract. All permanent structures on all Lots shall comply with all minimum yard set back requirements established by the zoning ordinance of the City of Mesa, Arizona, as it may be amended from time to time. :

Section 22. Set Back Requirements: All permanent structures on all Lots shall comply with all minimum yard set back requirements established by the applicable city-zoning ordinance as it may be amended from time to time. However, notwithstanding a more lenient zoning ordinance, the minimum set back requirements shall be as follows:

Front Side	30 feet.
Rear Street	10 feet and 20 feet
Side	30 feet'
	20 feet

Section 23. Fenced Areas. Each Owner shall enclose his back and side yards with a six-foot brick veneer masonry or stucco block wall. No front yard fence or wall shall exceed three (3) feet in height and shall be consistent with the fence described above unless the Architectural Control Committee or Board has specifically issued a variance from this requirement. The Architectural Control Committee or Board must approve the location, design, detail and type of materials for all fences in advance. For stucco fences, and or smooth finish stucco shall be required.

Section 24. Commercial Activities. No hotel, store, multi-family dwelling, boarding house, guest ranch, or any other place of business of any kind, and no hospital, sanitarium or other place for the care or treatment of the physically or mentally sick or for the treatment of disabled animals shall be erected or permitted upon the premises of any Lot, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence or building on any said lot.

Section 25. Upkeep Assessment. The Owners of all Lots shall keep the same reasonably clean and clear of weeds and trash, so as not to cause unsightly or dangerous condition, and if such Owner should fail after (10) days written notice from the Architectural Control Committee or Board to remove said weeds or trash, the Board of Architectural Control Committee shall have the right to enter upon such Lot and may cause the same to be cleaned four times yearly, if necessary, and assess the actual cost thereof to the Owner of such Lot. Any such assessment shall be a lien against the Property and may be enforced as set out in Article IV. .

Section 26. Drainage. The Developer has established appropriate grades as required by proper governmental authorities within Highgrove Estates, and said final grade shall not be disturbed in any manner which may adversely affect any other residential Lot or Property whether within the subdivision or elsewhere; not shall any owner divert or cause diversion of the surface water from the street adjacent to his Property onto any other property. All surface water shall be left free to their natural flow unless lawfully diverted to a drainage ditch. The provisions of this paragraph shall be subordinate to the City of Mesa subdivision regulations governing such drainage.

Section 27. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Property within Highgrove Estates, which shall induce, breed, or harbor infectious plant diseases or noxious insects.

Section 28. Air-Conditioning and Heating Equipment. No heating, air-conditioning or refrigeration equipment shall be. Placed, allowed or maintained anywhere other than on the ground provided, however, that solar units meeting all governmental guidelines for residential use may be located on the roof if such unit is not viewable from the public street on which the residence fronts or faces and if specifically approved by the Homeowner's Committee. .

Section 29. Utility and Service Units: No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent. if any, underground placement thereof may be prohibited by the law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers where: required.

(Section 30.) Trash Containers and Collection. No garbage or trash shall be placed or kept on any property within Highgrove Estates, except-in covered containers. In no event shall such containers be maintained so as to be visible from neighboring Property except to make the same available for collection and, the only for the shortest time reasonably necessary to effect such collection.

Section 31. Burning and Incinerators. No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.

ARTICLE IX

EASEMENTS

There is hereby created a blanket easement upon, across, over, and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones, and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on the property and to affix and maintain electrical and/or telephone wires, circuits and conduit on above, across and under the roofs and exterior walls of the Lot. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities lines may be installed or relocated on the premises, except as planned or approved by the Association's Board of Directors and except as may be installed or required by the City of Mesa. This easement shall in no way affect any other recorded easements on the premises.

Each Lot and the Common Area shall be subject to any easement for encroachments created by construction, reconstruction, repair, settling, shifting, movement and overhangs, as designed or constructed and for the maintenance of same, so long as it stands. In the event an improved structure is partially or totally destroyed and then rebuilt, the Owners agree that minor construction shall be permitted and that a valid easement for the encroachments of parts of the adjacent Lots or Common Area due to encroachments and the maintenance thereof shall exist. Notwithstanding any provision herein to the contrary, any encroachment permitted herein shall not exceed one (1) foot.

Despite any inference contained herein to the contrary, it is understood that the City of Mesa is not responsible for nor will it accept maintenance of the utilities, streets, facilities, landscaped areas of the Common Area, etc., located on these properties.

Section 1. "A vacation Easement" is recorded in Document # _____ of the Official Records of Maricopa County, Arizona Recorder. Highgrove Estates is within the Falcon Field Influence Area. Additional information pertaining to aircraft operations and airport development may be obtained by contracting the Falcon Field Administration office.

ARTICLE X

WATER

The association shall provide water only for use on the Common Area and shall not be responsible to provide water for any Lot herein for domestic consumption or landscape maintenance. The Association shall pay the cost of water used for the Common Area from assessments levied pursuant to Article IV.

ARTICLE XI

RIGHTS OF ELIGIBLE MORTGAGE HOLDERS, INSURERS OR GUARANTORS

Section 1. Notice of Action. Upon request to the Association, identifying the name and address of the holder, insurer or guarantor, and the Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of.

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by Owner of a Lot subject to a first mortgage held, insured, or guarantor which remains uncured for a period of sixty (60) days;

(F) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in Section 2 below or in Section 4 of Article XII.

Section 2. Other Provisions for Eligible Mortgage holders.

Eligible mortgage holders shall also be afforded the following rights:

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot on which there is a first mortgage held, insured, or guarantor which remains uncured for a period of sixty (60) days;

(b) Any election to terminate the legal status of the project after substantial destruction of a substantial taking in condemnation of the project property requires the approval of eligible holders holding mortgages on Lots which have at least 51% of the vote of Lots subject to eligible holder mortgages.

(c) No reallocation of interest in the Common Area resulting from a partial condemnation or partial destruction of the project may be effected without the prior approval of eligible holders holding mortgages on all remaining Lots whether existing in whole or in part, and which have at least 51% of the vote of such remaining Lots subject to eligible holder mortgages.

(d) Where professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Lots to which at least 67 % of the votes in the Association are allocated and the approval of eligible holders holding mortgages on the Lots which have at least 51% of the votes of Lots subject to eligible holder mortgages.

ARTICLE XII

GENERAL PROVISIONS.

Section 1. Enforcement. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing, occupying, owning and otherwise having an interest in any lot, their heirs, personal representatives, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these covenants, restrictions, reservations and conditions and all decision of the association, or its Board of Directors, which shall have the right and duty to enforce the same and expend Association monies in pursuance thereof, and also ay be enforced by the Owner of any Lot by the holder of any first mortgage, or deed of trust, or the Owner under a valid agreement of sale, or anyone or more of said parties. Any lien, liability or obligation arising as the result of a breach of the covenants, restrictions, reservations and' conditions s hall be binding upon and effect against any Owner of the premises, other than one whose title thereto is acquired by foreclosure of a mortgage, or deed of trust sales, or peed in lieu of foreclosure, or forfeiture proceeding or sheriff's sale or equivalent proceedings. Any person shall take such title subject to the lien hereof for all the charges pursuant to the provisions of this Declaration that have accrued up to the time of such taking of title, and subject to the lien hereof for all the charges pursuant to the provisions of this Declaration that have accrued up to the time of such taking of title, and subject to the lien hereof for all the charges pursuant to the provisions of this Declaration that have accrued up to the time of such taking of title, and subject to the lien hereof for all the charges that shall accrue subsequent to the taking of such title. Any person or entity acquiring title by foreclosure, or forfeiture of any agreement of sale, or sheriff's sale or equivalent proceedings, shall take title subject to the liens hereof for only those charges that accrue subsequent to the taking of such title. The breach of any of the covenants, restrictions of such title. The breach of any of the covenants, restrictions or conditions may be enjoined or reviewed by appropriate proceedings notwithstanding the lien or existence of any mortgage or deed of trust. ALL INSTRUMENTS OF CONVEYANCE OF ANY INTEREST OF ALL OR ANY PART OF A LOT SHALL CONTAIN REFERENCE TO THIS INSTRUMENT AND SHALL BE SUBJECT TO THE COVENANTS, RESTRICTIONS, RESERVATIONS AND CONDITIONS HEREIN. THIS INSTRUMENT SHALL BE BINDING UPON ALL RESALE PURCHASERS OF LOTS AND UPON ALL PERSONS AFFECTED BY ITS TERMS. WHETHER OR NOT EXPRESS REFERENCE IS MADE TO THIS INSTRUMENT OR IN ANY SUCH INSTRUMENT OF CONVEYANCE. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Owners of individual Lots shall have similar rights of action against the Association, where applicable.

Section 2. Attorney's Fees. In the event the Association employs an attorney or attorneys to enforce the collection of any amounts due pursuant to this Declaration or in connection with any lien provided for herein, or the foreclosure thereof, or to enforce compliance with specific performances of the terms and conditions of this Declaration, the Owner, Owners and parties against whom the action is brought shall pay all attorneys' fees, costs and expenses thereby incurred by the Association in the event the Association prevails in any such action.

Section 3. Severability. The invalidity of anyone or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part hereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained herein should be invalid or should operate to render this agreement invalid, this agreement shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs or section or sections had not been inserted.

In the event that any provision or provisions of this instrument appear to be violative of the Rule against Perpetuities, such provision or provisions shall be construed as being void and of no effect as of twenty-one (21) years after the death of the 1st surviving incorporator of Highgrove Estates, or twenty one (21) years after the death of the last survivor of all of the incorporator's children and grandchildren who shall be living at the time this instrument is executed, whichever is the later.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten 10 Years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by persons or parties owning not less than sixty-six and two-thirds percentage (66 2/3 %) of the Lots and thereafter by an instrument signed by persons or parties owning not less than sixty-six and two-thirds percent (66 2/3 %) of the Lots. Any amendment must be recorded.

The consent of Owners of Lots to which at least 67 % of the vote in the Association are allocated and the approval of eligible holder~ holding mortgages on Lots which have at least 67 % of the votes of Lots subject to eligible holder mortgages shall be required to terminate the legal status of the project as a placed unit development. In addition, the approval of eligible holders holding mortgages on Lots which have at least 67 % of the votes of Lots subject to eligible holder mortgages shall be required to add or amend any material provisions of the Restrictions which establish, provide for, govern or regulate any of the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair, and replacement of a Common Area;
- (d) Insurance or fidelity bonds;
- (e) Rights to use of the Common Area;
- (f) Responsibility for maintenance and repair of the several portions of the Property;
- (g) Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;
- (h) Boundaries of any Lots;
- (i) The interests in the Common Area;
- (j) Convertibility of Lots into Common Area or of Common Area into Leasing of Lots;
- (k) Imposition of any right of first refusal or similar restriction on the right of any Owner to sell, transfers, or otherwise conveys his or her Lots;

Any provisions, which are: for the express benefit of mortgage holders, eligible mortgage holders; or eligible insureds or guarantors of first mortgages on Lots.

The foregoing provisions of this Section, 4 shall not apply to amendments made as a result of destruction, damage or condemnation. In addition, any additional amendments shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

An eligible mortgage holder who receives a written request to approve additions or amendments to the Articles of Incorporation, Bylaws, any management agreement, or the Restrictions, but who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7th day of February, 1997

UTAZ Investments, LC
a Utah Limited Liability Company
Registered in Arizona as
UTAZ, LC
a Utah Limited Liability Company

Signed:

Chesapeake Bay Investments, LC, Utah Limited Liability Company
Registered In Arizona as
Bay Investments, LC, a Utah Limited Liability Company, Member
By its Managing Member, Craig Willett

The Potomac Group, Inc., a Utah Corporation
Registered in Arizona as
GregCo, Inc., a Utah Corporation, Member
By its President, Greg Hopkins

STATE OF UTAH)
) ss.
County of Utah)

On this 7th day of February 1997, before me, a Notary Public, personally appeared Craig Willett, Managing Member of Chesapeake Bay Investments, LC a Utah Limited Liability Company registered in Arizona as Bay Investments, LC, a Utah Limited Liability Company and Greg Hopkins, President of the Potomac Group. Inc., a Utah Corporation registered in Arizona as GregCo, Inc., a Utah Corporation, as a members of UTAZ Investments, LC registered in Arizona as UTAZ, LC, a Utah Limited Liability Company, and that they ,as such Members, known to me to be the persons whose names are subscribed to the foregoing instruments, acknowledged that they executed the same for the purposes therein contained, being authorized so to do on behalf of the LC.



NOTARY PUBLIC
ANGELAT. THOMAS
15North 100 East #201
Provo, Utah
My Commision Expires 5-24-98
State of Utah

Notary Public
My Commission Expires: 5/24/98