

Unofficial  
Document

When recorded return to:  
Transamerica Title Insurance Co.  
114 West Adams  
Phoenix, Arizona  
AC Trust No. 5961

02-R MISC.

198849

DECLARATION OF RESTRICTIONS

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THIS DECLARATION OF RESTRICTIONS is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 1970, by TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA, an Arizona corporation (hereinafter called "Declarant");

W I T N E S S E T H :

WHEREAS, Declarant owns the following described premises situated in Maricopa County, Arizona:

LAGUNA ROYALE, a subdivision of Tract B, Litchfield Park Subdivision No. 15-B, Unit One (Book 115 of Maps, page 1, M.C.R.) according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded on NOV 2 70-800, 1970, in Book 133 of Maps, page 39 (hereinafter sometimes called the "Premises" or the "Subdivision"; it being understood that the Subdivision consists of Lots 1 to 20 inclusive [hereinafter referred to as the "lots"] and Tracts A, B, C and D [hereinafter referred to as the "common areas"] as shown on the aforescribed plat); and

WHEREAS, Declarant is holding the Premises in trust for LITCHFIELD PARK PROPERTIES, an Arizona corporation (hereinafter called "Company"); and

WHEREAS, Declarant and Company desire to establish the nature of the use and enjoyment of the Premises and to establish a general plan for the improvement and development of the Premises; and

WHEREAS, Declarant desires to convey the Premises subject to the covenants, conditions and restrictions hereinafter set forth; and

WHEREAS, it is intended that the covenants, conditions and restrictions shall run with the land, and be binding upon all parties having, claiming or acquiring any right, title or interest in and to the Premises, and shall be for the benefit of the Premises and inure to the benefit of all owners thereof and their respective heirs, executors, administrators, successors and assigns;

NOW, THEREFORE, Declarant hereby declares that the Premises shall be subject to the following express covenants, conditions and restrictions (hereinafter collectively called "Restrictions"):

1. Townhouse Apartment Units: The Subdivision as a whole shall be limited in use to townhouse apartment units for multi-family residential purposes. Each lot within the

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Subdivision shall be known and described as, and limited in use to, a single-family residential townhouse apartment unit lot; provided, however, that each such lot shall have appurtenant thereto an easement over such portion of an adjoining lot that is used for purposes of an upstairs bedroom, said easement (which easement shall include the right to repair and maintain said bedroom) to have the same dimensions as the exterior walls and roof and interior floor of such upstairs bedroom as is initially constructed on said adjoining lot, and said upstairs bedroom to be subject to party wall and other appropriate provisions as set forth in the instrument to be prepared and recorded pursuant to the provisions of Paragraph No. 13 hereof.

The common areas shall be known and described as such, and shall be subject to such other covenants and restrictions as are hereinafter imposed upon them, and generally shall consist of areas (including any roads, pathways, playgrounds, and recreational or other facilities thereon) for the common use and enjoyment of the owners of the lots.

2. Construction: All structures on the lots and the common areas shall be of new construction, and no structures shall be moved from any other <sup>Unofficial Document</sup> location onto any of said lots or common areas, except as provided in Paragraph No. 3 hereinbelow. All construction work shall be prosecuted diligently from commencement until completion.

3. Temporary Structures: No structure shall be constructed or placed on any lot prior to construction and completion of the townhouse apartment unit (hereinafter called an "apartment unit") permitted under Paragraph Nos. 4 and 5 hereinbelow, except as follows: subject to the prior approval of the Company, a temporary structure may be erected or placed on a lot when the same is used in connection with the construction of the apartment unit permitted under Paragraph Nos. 4 and 5; and such temporary structure shall be promptly removed upon completion of the apartment unit. Subject to the prior approval of the Company, a temporary sales office used only for the original sale of the apartments constructed or to be constructed on the lots may be erected, placed or maintained on a lot during the original sale of said apartments; and said temporary sales office shall be promptly removed upon the completion of the original sale of the apartments in this Subdivision.

4. Submission of Plans: Subject to the provisions set forth in Paragraph No. 5, no building, storage room, fence, wall, pool, antenna, tower, driveway, cooling unit, roadway, parking area, recreational facility or structure (hereinafter collectively called "structures") of any kind or character shall be commenced, erected, placed or maintained on the Premises unless and until plans and specifications (including but not limited to grading and landscape plans) showing the nature, location, approximate cost, quality of proposed materials, size, area, height, color, shape and design thereof first shall have been submitted to and approved in writing by the Company and a copy thereof as finally approved lodged permanently with said Company. Failure of the Company to reject

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in writing said plans and specifications within sixty (60) days from the date receipt thereof has been acknowledged in writing by the Company shall constitute approval of said plans and specifications. The Company shall have the right to reject any such plans or specifications which, in its opinion, are not suitable or desirable with respect to the individual lot or common area concerned or the Subdivision as a whole. In this regard, the Company shall have the right to take into consideration the matters mentioned above, as well as the aesthetics of the proposed structures, the harmony thereof with the surroundings, the effect of the structures as seen from the adjacent or neighboring property and the effect on the Subdivision as a whole. All subsequent rebuilding or exterior additions, replacements, changes or alterations (including but not limited to painting) of any structure shall be subject to the prior approval of the Company under the same conditions hereinabove set forth.

Anything hereinabove to the contrary notwithstanding, the Company's approval of the plans and specifications shall not constitute or be construed as a warranty or representation to any owner or other person having an interest in the Premises that any structure or structure<sup>Unofficial Document</sup> (or any part or parts thereof) constructed or placed (or to be constructed or placed) on the Premises complies with the Restrictions or is structurally sound or otherwise free from defects.

5. Minimum Requirements: The following Restrictions shall apply whether the Company approves, or fails to approve, the plans and specifications pursuant to Paragraph No. 4 hereinabove:

(a) Type of Dwelling Unit: No building other than one townhouse apartment unit not exceeding two stories in height for occupancy by a single family, and with no less than a one-car garage or carport, shall be constructed or permitted on a lot. Each lot shall have appurtenant thereto an easement over a portion of an adjoining lot for an upstairs bedroom as described in Paragraph No. 1 hereof. No less than two parking spaces (which shall include the minimum one-car garage or carport on each lot) per apartment unit shall be provided in the subdivision. This shall not prohibit such other structures on a lot as private recreational facilities, swimming pool, badminton courts, etc.

(b) Minimum Area: Excluding garages, carports and open porches, no apartment unit having a liveable floor area less than 1200 square feet shall be constructed or permitted on a lot.

(c) Setback Lines: Except as otherwise specifically permitted by the Company in writing, no part of any structure shall be located closer than (i) 8 feet to the exterior boundary line of the Subdivision adjacent to Villa Nueva Drive, and (ii) 10 feet to any other exterior boundary line of the Subdivision. This provision does not apply to fences, walls and hedges, which are governed by subparagraph (d) below.

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(d) Fences, Walls, Hedges: Setback lines for freestanding fences, walls and hedges will be agreed upon in accordance with the principles set forth in Paragraph No. 4 above. Without intending to be bound hereby, it is the Company's present intention that freestanding walls, fences and hedges shall not exceed three feet six inches in height in the Subdivision, except that freestanding walls, fences and hedges adjacent to Villa Nueva Drive and on the rear portion of the side lot lines of Lots 18, 19 and 20 may be seven feet in height, and except that freestanding walls, fences and hedges not exceeding seven feet in height may be constructed or placed on the rear portion of the side lot lines (but not to extend closer than four feet to the westerly and northerly property lines of the Subdivision) of Lots 1 through 17 inclusive.

(e) Certain Equipment: Each apartment unit shall have a television antenna installed therein. All radio, television and other antennas of every kind or nature shall be installed or placed so that no portion thereof shall be visible from neighboring property and the streets. (The term "neighboring property" hereinafter shall include, but not be limited to, any nearby lake.) All heating, air conditioning or other heating or cooling equipment of any nature whatsoever, Unofficial Document placed on the ground outside an apartment unit (or other building on a common area), shall be attractively screened or concealed from the neighboring property and the streets; and if placed anywhere other than on the ground, shall be placed or installed in such a manner that the screening or concealment thereof appears to be a part of the integrated architectural design of the apartment unit (or other building on the common area) and does not have the appearance of a separate piece or pieces of equipment. Each apartment unit also shall have an electric garbage disposal unit installed therein.

(f) Underground Service Lines: Gas, electric, power, telephone, water, sewer, cable television and other utility or service lines of every nature whatsoever (now or hereafter invented or used for the general benefit of the lot owners) shall be placed and kept underground (except to the extent, if any, such underground placement may be prohibited by law, or, by the nature of the service to be rendered, such underground placement prevents the lines from being functional). This Restriction shall apply to the service and utility lines for each and every lot, as well as to the distribution lines located in the common areas (including but not limited to the streets) in the Subdivision. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers, where required.

6. Offensive Activities: No noxious or offensive activity may be carried on or permitted on any part of the Premises, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood; nor shall any part of the Premises be used for business, professional, commercial, religious, sanitarium (or other place for the care or treatment of the mentally or physically sick or disabled), or institutional purposes.

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7. Animals; Pets: Only commonly accepted household pets may be kept on the Premises, provided that such commonly accepted household pets are not kept, bred or maintained for any commercial purposes. No other animals, fish or birds of any kind shall be raised, bred or kept on any lot or the common areas.

8. Unightly Items: All clothes lines, equipment, service areas, woodpiles, storage piles and storage areas shall be kept screened so as to conceal them from view of neighboring property and streets. Each lot shall have no less than two underground lidded twenty-gallon garbage containers located adjacent to a street lot line and driveway. To the extent feasible, all rubbish, trash or garbage shall be kept in such containers and not allowed to accumulate on the Premises; any rubbish, garbage or trash not capable of being kept in said containers shall be kept in other appropriate containers and screened from view of neighboring property and the streets until the date of pickup by a trash collection service. No rubbish, trash or garbage shall be burned on the Premises, and incinerators of every kind shall be prohibited.

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9. Trucks, Boats, Campers, Etc.: No trucks, buses, trailers, boats, campers, etc. (other than passenger automobiles) shall be permitted on any lot or common area in any year without prior written approval each year from the Company with respect to the manner of screening or concealing the same from view of neighboring property and streets.

10. Signs: Except as hereinafter set forth no sign (other than a name and address sign not exceeding nine inches by thirty inches in size) of any nature whatsoever shall be permitted on any lot or common area; provided, however, that one temporary sign of not more than five square feet may be erected or placed on a lot for the purpose of advertising the lot and apartment unit thereon for sale or for rent. Subject to the prior approval of the Company with respect to size, design, location, duration of use and character of display, a project or identification sign may be placed on the Premises by the major builder of apartment units (and after the major builder retains no interest in the Subdivision, then by the homeowners association referenced in Paragraph No. 13 hereof) in the Subdivision.

11. Renting: No portion of the Premises but for an entire lot together with the apartment unit and attendant improvements thereon may be rented, and then only to a single family.

12. Subdividing; Easements: None of the lots shall be subdivided into smaller lots or conveyed or encumbered in less than the full original dimensions as shown on the plat of this Subdivision. However, this restriction shall not prevent conveyances which combine in common ownership lots or parts of lots in such a manner that all parcels of land thereby resulting have a street frontage and area the same as or greater

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than the street frontage and area of the lots shown on said plat. Any such parcel of land resulting from such combination of lots or parts of lots thereafter shall be deemed a "lot" for the purposes of these Restrictions. Nothing herein shall prevent the dedication or conveyance of, or granting of easements over, across and/or under, portions of lots or the common areas for public or quasi-public uses or purposes which benefit the lot owners in general. However, it is understood that for the purposes of these Restrictions each lot shall have appurtenant to it an easement over a portion of an adjoining lot for an upstairs bedroom as described in Paragraph No. 1 hereof.

13. Homeowners Association; Party Walls: Prior to the conveyance of the first lot by the Declarant to a bona fide purchaser, a homeowners association (i.e., a non-profit corporation, hereinafter referred to in this Paragraph as the "association") shall be organized under the laws of the State of Arizona in order to provide for the proper repair, maintenance, management and upkeep of the Subdivision. The Declaration of Covenants and Restrictions setting forth the provisions pertaining to said association shall first have been approved by the Company, and then the same shall be recorded prior to the conveyance of the first lot in the Subdivision to a bona fide purchaser. In addition to the common areas and lots designated on the plat of the Subdivision, the association shall maintain the median strip between the southerly boundary of the Subdivision and the curb of Villa Nueva Drive, and the association also shall maintain (unless the Company, or the Litchfield Park Association referenced in Paragraph 16 hereof, for any reason demands the association to cease maintenance of) such area now owned by the Litchfield Park Association located between the westerly and northerly boundaries of the Subdivision and the waters edge of Tierra Verde Lake (in Tract "A", Litchfield Park Subdivision No. 15-B, Unit One). It is expressly understood that none of the lot owners or the association at any time hereafter shall have any right, title or interest whatsoever (but may have a license to use said strip for such purposes as are permitted by, and for such periods of time as are permitted by, the Litchfield Park Association) with respect to said strip of land lying between the water's edge and the westerly and northerly boundaries of the Subdivision. The association shall have (but not be limited to) the following rights, powers, duties and obligations:

(i) To plant, protect, maintain and otherwise manage the landscaping in the Subdivision, and extending beyond the Subdivision as indicated above;

(ii) To provide for the construction, repair, maintenance, replacement, management, and regulation of the use, of any private streets, pathways, walks, trails, walls (other than party walls as defined herein), fences, berms, gateways, entrances, entrance markers, ornamental features, playgrounds, irrigation systems, parks, recreational areas, lighting systems and/or other facilities of any nature in the areas

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described above to which all owners in the Sub-division have access or which are for the common enjoyment or use and inure to the general benefit of the property owners, residents and their guests.

(iii) To carry out its obligations set forth in this Paragraph No. 13, with the expenses and costs thereof to be paid out of the funds of the association.

(iv) To acquire and own such real estate together with any improvements located thereon, as may be reasonably necessary in order to carry out the purposes of the association; and pay taxes on such real estate and improvements as may be owned by it; and pay all premiums for property, hazard and public liability insurance;

(v) To levy and collect the assessments which shall be necessary to perform its obligations.

In order to provide funds to enable the association to perform the obligations and maintain the improvements and render the services herein mentioned, all lots within the Sub-division shall be subject to a <sup>Unofficial Document</sup> semi-annual assessment which shall be fixed and levied in advance by the association from year to year and shall be paid to the association by the owners of record of each lot in the Subdivision. The owners of each lot shall be members of the association and shall be personally liable for the assessment.

With respect to party walls, and the easement over an adjoining lot for an upstairs bedroom as described in Paragraph No. 1 hereof, the rights and duties of the owners of the apartment units constructed on the lots shall be governed by provisions in the Declaration of Covenants and Restrictions pertaining to the homeowners association referenced above in this Paragraph No. 13.

14. Binding Effect; Term; Extensions: These Restrictions shall run with the land and shall be binding upon the Premises and upon all owners of record, their heirs, executors, administrators, successors and assigns, and all persons having or claiming any right, title or interest in and to said Premises until December 31, 2020. After said date, said Restrictions, as amended from time to time, shall be automatically extended for successive periods of ten (10) years each, unless revoked pursuant to Paragraph No. 15 hereof.

15. Amendments: These Restrictions may be revoked or amended at any time during the initial term, or any extensions thereof, by recording in the office of the County Recorder of Maricopa County, Arizona, an instrument in writing reciting said revocation or amendments bearing the signed and acknowledged concurrence of the then owners of record of two-thirds (2/3) of the lots in the Subdivision; provided, however, that during the initial term no such written instrument reciting said amendment

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shall be valid or effective unless and until it contains the signed and acknowledged concurrence of the Company.

16. Enforcement: Violation of any one or more of the Restrictions herein may be restrained or enforced by any court of competent jurisdiction and/or damages may be awarded against any such violator. Nothing herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought. Such action may be prosecuted by the Company, any property owner(s) of record in the Subdivision, the homeowners association referenced in Paragraph No. 13 hereof, and/or any other property or homeowners association (as agent and representative of the property owners in the Subdivision) having jurisdiction over the Subdivision (including but not limited to the Litchfield Park Association provided for in that certain Certificate of Amendment of Declaration of Covenants, Assessments, Charges, Liens, Reservations and Easements recorded in Docket 7218, pages 719 to 764 inclusive, records of Maricopa County, Arizona, and any amendments thereof). It is understood that the Company is developing the planned community of Litchfield Park and, therefore, has, and until complete development of the community will have, a continuing interest in this Subdivision (since any violation of the provisions herein might, Unofficial Document or will impede, hinder or adversely affect the Company's overall development of all or any part of the Litchfield Park community). Thus, as long as the Company owns or has an interest in or is developing any part of the community of Litchfield Park, of which this Subdivision is a part, the Company shall have a right to enforce these Restrictions as aforesaid. Any of said persons, or Company or Association, who employs an attorney to enforce compliance with or specific performance of any of the Restrictions, and prevails in such action, shall be entitled to recover from the violator(s) his (or its) costs incurred in bringing such action, including reasonable attorneys' fees.

17. Conveyances Subject to Restrictions: Deeds of conveyance of the Premises, or any part thereof, may contain the foregoing Restrictions by reference to this document, but whether or not such reference is made in such deeds, each and all of said Restrictions shall be valid and binding upon the respective owners, grantees, and their heirs, executors, administrators, successors and assigns.

18. Severability: Invalidation of any one of the Restrictions or any part or parts thereof, by judgment, order or decree of a court of competent jurisdiction shall not affect any of the other Restrictions, or parts thereof, which shall remain in full force and effect.

19. Waiver of Abandonment: The waiver of, or failure to enforce, any breach or violation of any Restriction shall not be deemed to be a waiver of the right to enforce any subsequent breach or violation of such Restriction or any of the Restrictions. The foregoing shall apply regardless of whether any persons affected hereby (or having the right to



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enforce these Restrictions) had knowledge of the breach or violation. No Restrictions contained herein shall be deemed to have been waived or abandoned unless this Declaration of Restrictions is amended to delete such Restriction, or the entire Declaration of Restrictions is revoked, pursuant to Paragraph No. 15 hereof.

20. Miscellaneous: It is specifically understood and declared that (a) any reference herein to "Litchfield Park Properties" or the "Company" shall include the successors and assigns of the Company; (b) a successor or assign of the Company may include any property or homeowners association, including but not limited to the Litchfield Park Association specifically mentioned in the Certificate of Amendment described in Paragraph No. 16; and (c) any reference herein to the "plat" shall include the recorded plat of LAGUNA ROYALE and any recorded replat(s) thereof.

IN WITNESS WHEREOF, TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA, an Arizona corporation, as Trustee, has hereunto caused its corporate name to be signed and its corporate seal to be affixed and the same to be attested by the signatures of its duly authorized officers this 9th day of October, 1970.

IN WITNESS WHEREOF, the TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA, as Trustee has caused its corporate name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this day of \_\_\_\_\_, A.D., 19\_\_\_\_.

TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA,  
as Trustee  
By Alfred Cantese  
Trust Officer

STATE OF ARIZONA  
County of Maricopa ss.

Before me this 9th day of October, 1970, personally appeared Alfred Cantese who acknowledged himself to be a Trust Officer of the TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as Trustee, by himself as such officer.

Kathleen Bease  
Notary Public

My commission will expire:  
FORM C-128

STATE OF ARIZONA }  
County of Maricopa } ss

I hereby certify that the within instrument was filed and recorded at request of

Havill Engineering Co.

IN 2 10-3 00  
in Docket 8384  
on page 158-166

Witness my hand and official seal the day and year aforesaid.

Paul H. Alston

Council Recorder  
By Alyce Ketcher  
Deputy Recorder