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Coventry Homes, Inc.
3875 North 44th Street, #201
Phoenix, Arizona 85018

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RECORDED IN OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA	
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HELEN PURCELL, County Recorder	
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MOD RSTR (DF)

**FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM AND
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE TERRACES AT TIBURON CONDOMINIUM**

This Fifth Amendment to Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for The Terraces at Tiburon Condominium (the "Fifth Amendment") is made this ___ day of July, 1989 by Coventry Homes, Inc., an Arizona corporation ("Declarant").

RECITALS:

A. Declarant previously caused that certain Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for The Terraces at Tiburon Condominium (the "Condominium") to be recorded as Instrument No. 86-485269, and re-recorded as Instrument No. 86-567511, in the official records of Maricopa County, Arizona, thereby subjecting certain real property located in Maricopa County, Arizona and more particularly described therein to the provisions of the Arizona Condominium Act, A.R.S. §§ 33-1201 et seq. (the "Act"). The Declaration has been amended by a First Amendment recorded as Instrument No. 86-685172, and re-recorded as Instrument No. 87-004660, in the official records of Maricopa County, Arizona, and further amended by a Second Amendment recorded as Instrument No. 87-034522, records of Maricopa County, Arizona, a Third Amendment recorded as Instrument No. 87-579466, records of Maricopa County, Arizona, and a Fourth Amendment recorded as Instrument No. 88-123865, records of Maricopa County, Arizona (the "Fourth Amendment"). The Declaration, as heretofore amended, is hereinafter referred to as the "Declaration". Capitalized terms used in this Fifth Amendment without definition shall have the meanings given to such terms in the Declaration.

B. Section 12.0 of the Declaration reserves to the Declarant the right, without the consent of any other Owner, to expand the Condominium by annexing and submitting to the Declaration all or any portion of the real property described on Exhibits M through R attached to the Fourth Amendment (the "Additional Property").

C. By the Fourth Amendment, Declarant caused the Additional Property to be conditionally annexed to the Condominium and subjected to the Declaration, divided such Additional Property into separate phases ("Phases") and amended and resubdivided the Plats of the Condominium, recorded in Book 302 of Maps, Page 33, records of Maricopa County, Arizona and in Book 307 of Maps, Page 2, records of Maricopa County, Arizona (the "Plats"), to reflect such separate Phases. A resubdivided plat (the "Resubdivided Plat")

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was recorded as "The Terraces at Tiburon Condominium Amended", at Book 320 of Maps, Page 14, records of Maricopa County, Arizona.

D. No Units in any of the Phases of the Additional Property have been conveyed to any Purchaser.

E. Declarant now desires to resubdivide the Phases included in the Additional Property (as added by the Fourth Amendment) to redefine the boundaries and the dimensions of all Units contained in the Additional Property and to re-allocate the undivided fractional interests in the General Common Elements (including those added by the Fifth Amendment) among all of the Units in the Condominium (including those added by the Fifth Amendment) upon the Effective Date (defined below) of each Phase of the Additional Property.

F. In addition, Declarant wishes to exercise the Development Rights set forth in A.R.S. §§ 33-1202(14)(f) and (g) by amending the Declaration to correct certain ministerial inconsistencies currently appearing therein (and not adversely affecting the rights of any Owner) and to more fully comply with certain recently promulgated guidelines and policies of the United States Department of Housing and Urban Development relating to insured mortgage loans.

G. Simultaneously herewith, ^{Unofficial Document} Declarant is recording with the County Recorder of Maricopa County, Arizona an amendment to the Resubdivided Plat, entitled "Montage at Tiburon Condominium" (as so amended, the "Amended Plat") which, in addition to containing the matters set forth in A.R.S. §§ 33-1219(A) and (B), establishes the number of Units to be added by each of the Phases. At the present time there are 43 Units in the Condominium.

* * * * *

NOW, THEREFORE, Declarant hereby declares as follows:

1. Addition of Units. Each Phase shall result in the addition of the following Units to the Condominium:

Phase 3 = 11
 Phase 4 = 9
 Phase 5 = 10
 Phase 6 = 10
 Phase 7 = 11
 Phase 8 = 11

Each Unit's Identifying Number, boundaries and dimensions shall be as described on the Amended Plat. The "Effective Date" of a Phase shall mean the date on which the first Unit within the Phase is conveyed to a purchaser. No Phase shall be subject to the terms and provisions of the Declaration, as amended hereby, until such time as the first Unit in that Phase has been conveyed to a purchaser.

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2. General Common Elements. All of the Additional Property, except for the Units contained therein, shall be General Common Elements.

3. Limited Common Elements. Each Unit in the Additional Property shall have the exclusive use of the same type of Limited Common Elements, and under the same terms and conditions, as are specified in Section 2.5 of the Declaration.

4. Allocation of Undivided Interests in General Common Elements. Upon the Effective Date for each Phase, the undivided interest in the General Common Elements (including those added by such Phase) and liability for assessments made by the Association shall be allocated equally among all of the Units then subject to the Declaration (including those added by such Phase) so that each Unit's undivided interest in the General Common Elements and in the liability for assessments made by the Association shall be a fraction, the numerator of which is one (1) and the denominator of which is the number of all Units then subject to the Declaration. In addition, upon the Effective Date for each Phase, the number of votes in the Association shall be increased so that all Units then subject to the Declaration (including those added by such Phase) shall each have one (1) vote.

5. Reservation of Development and Special Declarant Rights. All Development and Special Declarant Rights, including the right to annex and to wit, Unofficial Document real property, granted to or reserved by the Declarant in the Declaration shall also apply to the Additional Property.

6. References to "Plat". From and after the date hereof, all references in the Declaration to the "Plat" shall be deemed to refer to the Amended Plat.

7. Definition of "Improvements". The words "fixtures and other improvements which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance," are hereby added after the word "structures," in line 2 of Section 1.16 of the Declaration.

8. Increase in Number of Units. Notwithstanding anything contained in the Declaration to the contrary (including, without limitation, the provisions of Sections 2.0 and 12.0 thereof), the number of Units in the Condominium shall not be increased until the Effective Date of any Phase, and then only by the number of Units shown on the Amended Plat as being in such Phase.

9. Fractional Interests. The words "one thirty-second (1/32)" appearing in line 2 of Section 2.4 of the Declaration are hereby amended to read "one thirty-first (1/31)".

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10. Association Right of Access. The final sentence of Section 5.3 of the Declaration is hereby deleted and replaced by the following:

"Each Owner hereby further grants to the Association, and its employees, agents and contractors, the right to enter upon its Unit and Limited Common Elements for the purpose of making emergency repairs, as well as the reasonable right of entry thereupon to effect other repairs, improvements, replacements and/or maintenance deemed necessary."

11. Property Insurance Coverage. Clause (a) of Section 10.0 of the Declaration is hereby amended to read as follows:

(a) Property insurance on the General Common Elements and Limited Common Elements (exclusive of land, excavations, foundations and other items normally excluded from property policies), building service equipment and supplies, and other personal property belonging to the Association, in a "master" or "blanket" type form, insuring against loss or damage by reason of fire and other perils normally covered by the standard extended coverage form of endorsement obtained by condominiums similar in construction, location and use in an amount equal to 100% of the current replacement cost of the condominium, Unofficial Document as determined by the Board.

12. Liability Insurance Coverage. Clause (b) of Section 10.0 of the Declaration is hereby amended to read as follows:

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership, operation or maintenance of the General Common Elements, legal liability arising out of lawsuits related to employment contracts of the Association, and shall also include hired automobile and non-owned automobile coverages with cross liability endorsements to cover liabilities of the Owners as a group to an Owner.

13. Approval Required for Amendment. Section 13.2(b) of the Declaration is hereby amended by adding the following new clauses (11) and (12):

(11) Boundaries of any Unit; and

(12) Convertibility of Units into General Common Elements or Limited Common Elements, or convertibility of General Common Elements or Limited Common Elements into Units.

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14. No Other Amendments. Except as modified hereby, the Declaration shall continue in full force and effect and is hereby ratified and affirmed.

IN WITNESS WHEREOF, the Declarant has executed this Fifth Amendment on the day and year first above written.

COVENTRY HOMES, INC.,
an Arizona corporation,


Joseph F. Contadino, President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing was acknowledged before me this 12 day of July, 1989, by Joseph F. Contadino, the President of Coventry Homes, Inc., an Arizona corp^{Unofficial Document}, on behalf of the corporation.


Notary Public

My Commission Expires:
My Commission Expires Jan. 9, 1991

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