



WHEN RECORDED, RETURN TO:

Westhill Partners
325 W Gurley Suite 201
Prescott AZ 86301

**AMENDED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WESTHILL CLUB AT FOREST TRAILS
A.K.A
HILLCREST
PROPERTY OWNERS ASSOCIATION**

As recorded # 2016-0002368

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FOR
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A.K.A
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This Declaration of Covenants, Conditions and Restrictions for HillCrest Property Owners Association (this "Declaration") is made this 8 day of December, 2016 by Prescott 44, LLC, an Arizona limited liability company (the "Declarant").

INTRODUCTION

A. The Declarant is the owner of the real property located in the City of Prescott, Arizona, legally described on Exhibit A attached hereto (the "Property") a recorded final plat name of Westhill Club at Forest Trails, also known as HillCrest at Forest Trails.

B. By executing and recording this Declaration with the County Recorder of Yavapai County, Arizona, the Declarant intends to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements to establish a flexible and reasonable procedure for the overall development, administration, maintenance, use, and preservation of the Property. Declarant intends for this Declaration to create equitable servitudes and covenants appurtenant to and running with the Property and which will be binding upon all future Owners of all or any portion of the Property and any other Person acquiring any right, title, or interest in or to all of any portion of the Property.

C. Declarant deems it desirable to provide for the creation of a nonprofit corporation under the laws of the State of Arizona to administer and maintain, repair, and replace the Areas of Association Responsibility, and to provide for the levying and collecting of Assessments and other charges by the Association for the purpose, among other things, of paying all costs and expenses incurred or to be incurred by the Association in connection with the maintenance, repair, and replacement and administration of the Areas of Association Responsibility, and the enforcement of the covenants, conditions, and restrictions contained in this Declaration.

ARTICLE 1

DEFINITIONS

Unless otherwise defined, the following words and phrases when used in this Declaration shall have the meanings set forth in this Article.

1.1 "Areas of Association Responsibility" means all Common Area.

1.2 "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

1.3 "Assessable Lot" means, during the Declarant Control Period, a Lot owned by a Person other than the Declarant or the Designated Builder. After the termination of the Declarant Control Period, all Lots shall be Assessable Lots.

1.4 "Assessment" means a Regular Assessment or Special Assessment.

1.5 "Assessment Lien" means the lien created and imposed by Article 7.

1.6 "Assessment Period" means the period set forth in Article 7.

1.7 "Association" means HillCrest Property Owners Association, an Arizona nonprofit corporation, and its successors and assigns.

1.8 "Association Rules" means the rules adopted by the Board pursuant to Article 6.

1.9 "Board" means the Board of Directors of the Association.

1.10 "Building Envelope" means that portion of each Lot within which the Residence and other improvements constructed on the Lot must be located.

1.11 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.12 "City" means the City of Prescott, Arizona, a municipal corporation.

1.13 "Common Area" means (a) common area, inclusive, HillCrest Property Owners Association, according to the WestHill Club at Forest Trails plat recorded in the records of Yavapai County, Arizona, together with all Improvements situated thereon and (b) all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest, except that Common Area shall not include any Lot the Association acquires by the foreclosure of the Assessment Lien or any deed in lieu of foreclosure.

1.14 "Common Expenses" means the actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association, including any allocations to

reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.15 "Community Documents" means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules and Design Guidelines, all as amended or restated from time to time.

1.16 "Construction" means any devegetation, excavation or grading work on a Lot or the construction, erection or installation of an Improvement on a Lot which would be Visible From Neighboring Property.

1.17 "Declarant" means Prescott 44 LLC., an Arizona limited liability company, and any Person to whom it may expressly assign any or all of its rights under this Declaration by a Recorded instrument.

1.18 "Declarant Control Period" means the period commencing upon the Recording of this Declaration and ending on the date that the Declarant conveys its last Lot so that the Declarant no longer owns any Lot in the Project or at such time prior at that the written notice of the Declarant .

1.19 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for HillCrest Property Owners Association, as amended or supplemented from time to time.

1.20 "Design Guidelines" means the procedures, standards and guidelines adopted by the Design Review Committee pursuant to Article 3, as amended or supplemented from time to time.

1.21 "Design Review Committee" means the Design Review Committee established pursuant to Section 3.1.

1.22 "Designated Builder" means an Arizona corporation, or such other Person as may be designated by the Declarant as the "Designated Builder" in a written notice given by the Declarant to the Association.

1.23 "Encroachment" means any Building, Fixture, Improvement or Personal Propoerty that is built upon, or otherwise enters Common Area.

1.24 "Encroachment Permit" means the written approval by the Board of Directors to allow Encroachment onto Common Area controlled by the Assoication.

1.25 "First Mortgage" means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same Lot.

1.26 "First Mortgagee" means the holder or beneficiary of any First Mortgage.

1.27 "Improvement" means: (a) any Residence, building, fence or wall; (b) any swimming pool, tennis court, basketball goal, backboard or apparatus, or playground equipment; (c) any road, driveway or parking area; (d) any trees, plants, shrubs, grass or other landscaping improvements of any type and kind; (e) any statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind, and (f) any other structure of any type, kind or nature.

1.28 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot, including an assignee of the lessee's or tenant's interest under a lease.

1.29 "Lot" means a parcel of land within the Project, whether improved or unimproved, intended for independent ownership and use and designated as a "lot" on the Plat and any Residence, building, structure or other Improvement situated thereon.

1.30 "Maintenance" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

1.31 "Maintenance Standard" means the standard of Maintenance of Improvements situated on Lots established from time to time by the Board or, in the absence of any standard established by the Board, the standard of Maintenance of Improvements situated on Lots generally prevailing throughout the Project.

1.32 "Member" means any Person who is a member of the Association as provided in Article 6.

1.33 "Modification" means an addition, alteration, repair, change or other work which in any way alters the exterior appearance of any Improvement located on a Lot Visible From Neighboring Property.

1.34 "Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. In the case of Lots subject to an option agreement, the optionor shall be deemed to be the Owner. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser under a recorded contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 et seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of a Lot subject to a deed of trust pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of a Lot the fee simple title to which is vested in a trustee

pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

1.35 "Person" means a natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.36 "Plat" means the plat Westhill Club at Forest Trails, recorded in the records of Yavapai County, Arizona, and all amendments, supplements and corrections thereto.

1.37 "Property" or "Project" means the real property described on Exhibit A attached to this Declaration together with all Improvements located thereon.

1.38 "Purchaser" means any Person, other than the Declarant, who becomes the Owner of a Lot.

1.39 "Recording" means placing an instrument of public record in the office of the County Recorder of Yavapai County, Arizona, and Recorded means having been so placed of public record.

1.40 "Regular Assessment" means the Assessments levied pursuant to Article 7.

1.41 "Residence" means any building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence.

1.42 "Resident" means each person occupying or residing in any Residence.

1.43 "Special Assessment" means any assessment levied pursuant to Section 7.3.

1.44 "Visible From Neighboring Property" means, with respect to any given Improvement, or Modification thereto, that such Improvement, or Modification thereto, is or would be visible to a natural person six feet tall, standing at ground level on any part of any Lot, the Common Area or any street within or adjacent to the Project.

ARTICLE 2

PROPERTY AND PERSONS BOUND BY DECLARATION

2.1 Purpose and Binding Effect.

Declarant is the record owner of fee title to the Property. Declarant intends by this Declaration to impose upon the Property covenants, conditions, restrictions, and easements to create a general plan of development for the Property and to provide a flexible and reasonable procedure for the administration, maintenance, preservation, use, and enjoyment of the Property. The Declarant declares that all of the Property shall be held, sold, used, and conveyed subject to the easements, restrictions, conditions, and covenants set forth in this Declaration which are for the purpose of protecting the value, desirability and appearance of the Property. Declarant further declares that all of easements, restrictions, conditions, and covenants in this Declaration shall run with the Property and shall be binding upon and inure to the benefit of the Declarant and all Owners, Lessees, and Residents and all other Persons having or acquiring any right, title, or interest in the Property or any part thereof, their heirs, successors, successors in title, and assigns. Each Person who acquires any right, title or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Community Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents, or as to the compliance of any of the provisions of the Community Documents with public laws, ordinances and regulations applicable thereto.

2.2 Disclaimer of Implied Covenants.

The Declarant makes no representation or warranty that the Project can or will be developed in accordance with the zoning and development plan for the Project as it exists as of the Recording of this Declaration or will be committed to or developed for any particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. Each Owner, Lessee, Resident and other Person acquiring any Lot or other real property in the Project acknowledges that the zoning and development plan may be amended from time to time by the City of Prescott. The Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Community Documents or as to the compliance of any provision of the Community Documents with public laws, ordinances, or regulations applicable to the Project. Nothing contained in this Declaration and nothing which may be represented to a purchaser by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any property subject to this Declaration.

ARTICLE 3

ARCHITECTURAL CONTROL

3.1 Design Review Committee.

A Design Review Committee may be established to perform the duties and exercise the power and authority imposed on or granted to the Design Review Committee by the Community Documents. So long as the Declarant owns one or more Lots, the Declarant shall have the sole right to determine the number of members on the Design Review Committee and to appoint and remove the members of the Design Review Committee. At such time as the Declarant no longer owns any Lot, the Board shall determine the number of members on the Design Review Committee, and the members of the Design Review Committee shall be appointed and may be removed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Design Review Committee, and in that event the Declarant may require, for so long as the Declarant owns one or more Lots, that specified actions of the Design Review Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. All approvals or disapprovals of matters by the Design Review Committee must be in writing.

The Design Review Committee may adopt, amend and repeal architectural guidelines, standards and procedures to be used in rendering its decisions. Such guidelines, standards and procedures may include, without limitation, provisions regarding : (a) the size and height of Residences or other Improvements; (b) architectural design, with particular regard to the harmony of the design with the surrounding structures and typography; (c) placement of Residences and other buildings; (d) landscaping design, content and conformance with the character of the Property and permitted and prohibited plants; (e) requirements concerning exterior color schemes, exterior finishes and materials; (f) signage; (g) perimeter and screen wall design and appearance; (h) time periods for commencement and completion of any approved Construction or Modification; and (i) rules and regulations governing construction activities; (j) encroachment and encroachment permit standards. Any adoption, amendment or repeal of the Design Guidelines after the Declarant no longer has the right to appoint the Design Review Committee must be approved by the Board.

The Design Review Committee may establish one or more subcommittees consisting of one or more members of the Design Review Committee and may delegate to such subcommittee or subcommittees the authority and power of the Design Review Committee to approve or disapprove any Construction or Modification within a specified portion of the Project.

In the event there is no Design Review Committee in existence, then the Board shall undertake the Design Review Committee's powers, duties, and responsibilities under this Declaration, including , without limitation , granting approvals required by this Declaration.

3.2 Approval Required.

No Construction or Modification shall be made or done without the prior written approval of the Design Review Committee ; provided , however, that the provisions of this Article do not apply to, and approval of the Design Review Committee shall not be required for, any Construction or Modification or any other work made by, or on behalf of, the Declarant or by, or on behalf of, any Person who controls, is controlled by or is under common control with the Declarant , or by, or on behalf of the Designated Builder. Neither the Association nor the Design Review Committee shall have any authority or control over any Construction or Modification or any other work made by, or on behalf of, the Declarant or by, or on behalf of, any Person who controls, is controlled by or is under common control with the Declarant, or by, or on behalf of the Designated Builder. Neither the Association nor

the Design Review Committee shall take any action that would restrict, impede or interfere with the development of the Project, the construction of Improvements on the Common Areas or any Construction or Modification or any other work made by, or on behalf of, the Declarant or by, or on behalf of, any Person who controls, is controlled by or is under common control with the Declarant, or by, or on behalf of the Designated Builder.

Any Owner desiring approval of the Design Review Committee for any Construction, Encroachment, or Modification shall submit to the Design Review Committee a written request for approval specifying in detail the nature and extent of the Construction or Modification which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Design Guidelines. Any Owner requesting the approval of the Design Review Committee shall also submit to the Design Review Committee any additional information, plans and specifications which the Design Review Committee may request.

In the event that the Design Review Committee fails to approve or disapprove an application for approval within thirty (30) days after the complete application, together with any fee payable pursuant to Section 3.7 and all supporting information, plans and specifications requested by the Design Review Committee, have been submitted to the Design Review Committee, the Owner submitting such plans may deliver to the Design Review Committee a demand that the Design Review Committee act on the plans submitted by the Owner. If the Design Review Committee does not disapprove the plans within thirty (30) days after receipt of the demand from the Owner, then the plans shall be deemed approved except in the case of an Encroachment Permit. The approval by the Design Review Committee of any Construction or Modification shall not be deemed a waiver of the Design Review Committee's right to withhold approval of any similar Construction or Modification subsequently submitted for approval. In the event that the Design Review Committee fails to review and act upon an Encroachment Permit the Board of Directors shall within 60 day review and act upon the written request.

3.3 Review of Plans.

In reviewing plans and specifications for any Construction, Encroachment or Modification, the Design Review Committee may consider any and all factors which the Design Review Committee, in its sole and absolute discretion, determines to be relevant including, but not limited to: (a) the harmony of the proposed Improvements with existing Improvements in the Project or with Improvements previously approved by the Design Review Committee but not yet constructed; (b) the location of the proposed Improvements in relation to existing topography, finished grade elevations, roads, Common Area and other structures; (c) the exterior design, finish materials and color of the proposed Improvements; and (d) compliance of the proposed Improvements with this Declaration and the Design Guidelines. The Design Review Committee may disapprove plans and specifications for any Construction or Modification even though the plans and specifications may be in substantial compliance with this Declaration and the Design Guidelines if the Design Review Committee, in its sole and absolute discretion, determines that the proposed Construction or Modification, or some aspect or portion thereof, is undesirable or unattractive.

The Residence and all other Improvements constructed on a Lot must be located entirely

within the Building Envelope or setbacks for the Lot. The Building Envelope for each Lot has been approved by the City's Development Review Board and is shown on the Building Envelope Exhibit on file with the City. The Building Envelope for a Lot may be changed by the Design Review Committee with the consent of the City, but the total area within the revised Building Envelope shall not be less than the total area within the initial Building Envelope for the Lot approved by the City's Development Review Board.

Encroachments into Common Area shall only be considered for non-livable improvements. Limited to Dog runs, decks, access pathways, front yard landscaping and other improvements as determined by the Design Review Committee with Board of Director Approvals. All Encroachments must be approved and are subject to terms and conditions of this document and to any and all special terms and conditions set forth by the Design Review Committee and/or Board of Directors.

Decisions of the Design Review Committee may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration ; provided , however, that after the Declarant no longer owns any Lot, any decision of the Design Review Committee may be appealed to the Board by any Owner aggrieved by the decision. Any appeal to the Board must be filed with the Board within thirty (30) days after the date of the decision being appealed.

The approval required of the Design Review Committee pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

The Design Review Committee, by resolution, may exempt certain Construction or Modifications from the application and approval requirements of this Article, provided such Construction or Modifications are undertaken in strict compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

3.4 Variances.

The Design Review Committee may authorize variances from compliance with any provision of the Design Guidelines in circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence, or when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require, and the Design Review Committee determines, in its sole discretion, that the objective of the particular requirement can still be achieved and the variance will have no substantial adverse effect on other Owners. No variance shall be effective unless in writing and signed by an authorized representative of the Design Review Committee. No variance may be contrary to this Declaration or estop the Design Review Committee from denying a variance in other circumstances including, without limitation, circumstances similar or identical to circumstances under which the Design Review Committee previously granted a variance. For purpose of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships.

3.5 Construction of Improvements.

Upon receipt of approval from the Design Review Committee for any Construction or Modification, the Owner who had requested such approval shall proceed with the Construction or Modification approved by the Design Review Committee as soon as practicable and shall diligently pursue such Construction or Modification so that it is completed within twelve (12) months from commencement of the Construction or Modification, unless otherwise approved by the Design Review Committee.

Decisions of the Design Review Committee may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration; provided, however, that after the Declarant no longer owns any Lot, any decision of the Design Review Committee may be appealed to the Board by any Owner aggrieved by the decision. Any appeal to the Board must be filed with the Board within thirty (30) days after the date of the decision being appealed.

The approval required of the Design Review Committee pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

The Design Review Committee, by resolution, may exempt certain Construction or Modifications from the application and approval requirements of this Article, provided such Construction or Modifications are undertaken in strict compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

3.6 No Changes Without Approval.

Any Construction or Modification approved by the Design Review Committee must be done or performed in accordance with the plans and specifications approved by the Design Review Committee. No change, deletion or addition to the plans and specifications approved by the Design Review Committee may be made without the prior written approval of the Design Review Committee.

3.7 Review Fee.

The Design Review Committee shall have the right to charge a fee for reviewing requests for approval of any Construction or Modification, which fee shall be payable at the time the application for approval is submitted to the Design Review Committee. The fee charged by the Design Review Committee may include the actual or estimated fees or costs incurred or anticipated to be incurred by the Design Review Committee in consulting with, or having the application reviewed by, architects, engineers or other professionals. The Association may retain architects, engineers or other persons as deemed necessary to review applications or otherwise assist the Design Review Committee.

3.8 New Construction.

Unless otherwise approved by the Design Review Committee, all Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

3.6 No Warranty.

The approval by the Design Review Committee of any Construction or Modification shall not be deemed a warranty or representation by the Design Review Committee as to the quality or suitability for intended use of such Construction or Modification or that such Construction or Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

3.7 Conditional Approval.

The Design Review Committee may condition its approval of plans and specifications upon the agreement by the Owner submitting such plans and specifications to furnish to the Association a bond or other security acceptable to the Design Review Committee in an amount determined by the Design Review Committee to be reasonably sufficient to: (a) assure the completion of the proposed Improvement s or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (b) repair any damage which might be caused to any Area of Association Responsibility as a result of such work. Provided there is no damage caused to any Area of Association Responsibility by the Owner or its agents or contractors, any such bond shall be released or security shall be fully refundable to the Owner upon the completion of the Improvements in accordance with the plans and specifications approved by the Design Review Committee and the Owner's written request to the Design Review Committee.

3.8 Improvements to Areas of Association Responsibility.

If plans and specifications submitted to the Design Review Committee pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Design Review Committee may condition its approval of the plans and specifications for the proposed Construction or Modification with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

ARTICLE 4

USE RESTRICTION

4.1 Residential Use.

All Residences shall be used, improved and devoted exclusively to residential use. No trade or

business may be conducted on any Lot or in or from any Residence, except that the Owner, Lessee or other Resident of a Residence may conduct a business activity within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity is a legal activity and conforms to all applicable zoning ordinances or requirements for the Project; (c) the business activity does not involve persons coming to the Lot to purchase goods or services or the door-to-door solicitation of Owners, Lessees or Residents in the Project; (d) the use of the Residence for trade or business in no way destroys or is incompatible with the residential character of the Residence or the surrounding neighborhood; (e) the trade or business is conducted only inside the Residence, and does not involve the viewing, purchasing or taking delivery of goods or merchandise at, to, from or in any Residence; (f) the trade or business is conducted by a Resident or Residents of the Residence with no employee working in or from such Residence who is not a Resident thereof; (g) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion and/or is not in excess of what is customary in a residential neighborhood; (h) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; (i) the use of the Residence for a trade or business does not violate any other provision of the Community Documents; and (j) does not constitute a nuisance or a hazardous or offensive use, and does not threaten the security or safety or other Owners or Residents, as may be determined by the Board in its sole discretion.

The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.2 Temporary Occupancy and Temporary Buildings.

No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Design Review Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Design Review Committee. This Section shall not prevent the use of a sales trailer by the Declarant or the Designated Builder on the Common Area or on any Lot owned by the Declarant or the Designated Builder.

4.3 Nuisances; Construction Activities.

No rubbish or debris of any kind shall be placed or permitted to accumulate on any Lot or other property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the Residents of such other

property. No condition shall be permitted to exist or operate upon any Lot or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its Residents. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot so as to be Visible From Neighboring Property. No Person shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Design Review Committee. In addition, any construction equipment and building materials stored or kept on any Lot during the construction of Improvements may be kept only in areas approved in writing by the Design Review Committee, which may also require screening of the storage areas. The provisions of this Section shall not apply to construction activities of the Declarant or the Designated Builder or their respective employees, affiliates, contractors, or subcontractors during the course of construction activities or sales activities upon or about the Property. The Board shall have the right, but not the obligation, to determine whether or not the provisions of this Section have been violated.

4.4 Antennas.

Except for antennas, satellite dishes and other over-the-air receiving devices covered by the FCC rules governing Over-the-Air Reception Devices; Television Broadcast Service and Multi-channel Multipoint Distribution Service (the "FCC Rule"), no antenna for the transmission or reception of television or radio signals or for access to the internet shall be installed on any Lot unless approved by the Board of Directors. Any antenna, satellite dish or other receiving device covered by the FCC Rule may be installed on a Lot without the prior approval of the Board of Directors provided the antenna, satellite dish or receiving device is placed inside a Residence or other Building or is placed on the portion of the Lot which is the least Visible From Neighboring Property and does not interfere with the viewer's ability to install, maintain or use the antenna, satellite dish or receiving device. The Board shall have the right to adopt rules and regulations with respect to the installation and placement of antennas, satellite dishes and other receiving devices: provided, however, that the Board shall not impose or enforce any rule or regulation which is inconsistent with or prohibited by the FCC Rule.

4.5 Trash Containers and Collection.

No rubbish, debris, garbage or trash shall be placed or kept on any Lot except in sanitary covered containers of a type, size and style which are provided by a private refuse collection company or by the city or county in which the Project is located. In no event shall such containers be kept or placed on a Lot so as to be Visible From Neighboring Property except on days of collection. All rubbish, trash, debris or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

4.6 Utility Service.

No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved in writing by the Design Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved in writing by the Design Review Committee.

4.7 Fences, Party Walls, Interferences and Obstructions.

Unless otherwise shown on the Plat, no fence, wall, hedge, shrub or other plant which obstructs sight lines at elevations between two (2) feet and six (6) feet above adjacent public streets shall be permitted on any corner lot within the triangular area formed by the streets and a straight line connecting those property lines at points twenty-five (25) feet from the intersection of those property lines (or, in the case of a rounded Lot corner, from the intersection of those property lines as extended). No trees should be permitted to remain within such area unless the foliage line is maintained a sufficient height to prevent obstruction of such sight lines.

4.8 Animals.

No animal, bird, fowl, poultry, reptile or livestock may be kept on any Lot, except that a reasonable number of generally recognized household pets may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes; provided, however, that no more than four (4) dogs shall be kept on any Lot. The Board shall have the authority to determine what is a reasonable number of generally recognized household pets for any particular Lot, and the Board's determination shall be final. All household pets permitted under this Section shall be confined to an Owner's Lot, except that a dog may be permitted to leave an Owner's Lot if such dog is at all times kept on a leash and is not permitted to enter upon any other Lot. Any person bringing a dog onto the Common Area shall immediately remove any feces deposited on the Common Area by the dog. The Board may restrict the portions of the Common Area on which dogs are permitted.

No permitted household pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any permitted household pet shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular permitted household pet is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

4.9 Machinery and Equipment.

No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot so as to be Visible From Neighboring property, except (a) such machinery or

equipment as is usual and customary in connection with residential use of property or machinery or equipment necessary for the construction of a Residence, building, structure, or other Improvement on the Lot; and (b) machinery and equipment used by the Declarant or the Designated Builder or their respective agents, employees, contractors or subcontractors in connection with the construction or repair of Residences or other Improvements on the Lots or the Common Area.

4.10 Signs.

No signs of whatever nature shall be erected, posted or displayed on any Lot in a location that is Visible From Neighboring Property, except (a) signs required by legal proceedings; (b) signs erected or posted on the Common Area by the Association; and (c) signs used by the Declarant or the Designated Builder.

4.11 Further Subdivision, Property Restrictions, Rezoning and Timeshares.

Without the prior written approval of the Design Review Committee and the Board, no Owner other than the Declarant shall do any of the following: (a) further subdivide a Lot or separate the Lot into smaller lots or parcels; (b) convey or transfer less than all of a Lot; or (c) replat the Lot or combine the Lot with other Lots. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person other than the Declarant against any Lot without the provisions thereof having been first approved in writing by the Design Review Committee and the Board. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been approved by the Design Review Committee and the Board and the proposed use otherwise complies with this Declaration. No Lot shall be subjected to or used for any timesharing, cooperative, weekly, monthly or any other type of revolving or periodic occupancy by multiple owners, cooperators, licensees, or timesharing participants.

4.12 Vehicles and Parking.

As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, motorcycle, all terrain vehicle, pickup truck or other motor vehicle; and (b) "Street" means each public or street shown on the Plat.

No bus, mobile home, motor home, travel trailer, tent trailer, trailer, camper, camper shell, boat, boat trailer, personal watercraft, recreational vehicle, or other similar equipment or vehicle may be parked, kept or stored on the Common Area. No bus, mobile home, motor home, travel trailer, tent trailer, trailer, camper, camper shell, boat, boat trailer, personal watercraft, recreational vehicle, or other similar equipment may be parked, kept or stored on any Lot so as to be Visible From Neighboring Property.

No Motor Vehicle which exceeds eight feet (8') in height or exceeds twenty-four feet (24') in length or which is designed or used for carrying merchandise, supplies or equipment for commercial purposes shall be parked on a Street or on a driveway or any other part of a Lot so as to be Visible

From Neighboring Property, except for: (a) the temporary parking of the Motor Vehicles of contractors, subcontractors, suppliers or vendors of the Association or of an Owner, Lessee or Resident, and (b) the parking for not more than seventy-two (72) hours with in any seven (7) day period of recreational vehicles, motor homes and similar vehicles owned or leased by an Owner, Lessee or Resident in the driveway on a Lot for the purpose of loading or unloading, subject to such limitations as may be established by the Board. No Motor Vehicle of a contractor, subcontractor, supplier or vendor of an Owner, Lessee or Resident shall be parked overnight on a Lot, a Street or the Common Area. No Motor Vehicle shall be parked on any part of the Common Area other than a Street or designated parking spaces.

All terrain vehicles must be kept in garages or in another part of the Lot which is not Visible From Neighboring Property. No Motor Vehicle owned or leased by an Owner, Lessee or Resident of a Lot or their guests may be parked on a Street if space for the parking of the Motor Vehicle is available in any of the following areas: (a) the garage or carport situated on the Lot of the Owner, Lessee or Resident; (b) the driveway on the Lot constructed as part of the initial construction of Improvements on the Lot by the Declarant; or (c) a driveway expansion constructed on the Lot with the written approval of the Design Review Committee.

No Motor Vehicle of any kind may be stored on a Lot except in a garage, and no Motor Vehicle of any kind may be stored on the Common Area. Motor Vehicles owned by guests of an Owner, Lessee or other Resident may be parked in the driveway on a Lot.

No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot in such a manner as to be Visible From Neighboring Property, and no inoperable Motor Vehicle may be stored or parked on any Lot in such a manner as to be Visible From Neighboring Property, except for emergency repairs, no Motor Vehicle shall be constructed, reconstructed or repaired on the Streets or any other part of the Common Area. No inoperable Motor Vehicle may be stored or parked on the Streets or any other part of the Common Area.

Notwithstanding any other provision of this Section to the contrary, no Motor Vehicle may be parked on a driveway if the length of the Motor Vehicle exceeds the length of the driveway or if the Motor Vehicle encroaches upon or obstructs access across the sidewalk or curb adjacent to the driveway.

The Board shall have the right and power to adopt rules and regulations governing and further restricting the parking of Motor Vehicles on Lots or the Streets and implementing the provisions of this Section. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board of Directors, the provisions of this Section shall control.

4.13 Drainage.

No Residence, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the approved drainage plans on file with the municipality in which the

Project is located. In addition, no Owner or other Person shall change the grade or elevation of a Lot in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the approved drainage plans.

4.14 Garages.

No garage shall be converted to living space or altered or used for storage of material or other purposes which would prevent the use of the garage for the parking of at least two motor vehicles, except that the Declarant may use a garage in one or more model homes for a sales office and/or a construction office. Garage doors shall be kept closed except when the opening of the door is reasonably necessary to permit ingress or egress.

4.15 Rooftop HVAC Equipment Prohibited.

No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residence or other building so as to be Visible From Neighboring Property.

4.16 Basketball Goals and Backboards.

Permanent or portable basketball goals or backboards may be constructed, installed, maintained or kept on a Lot provided they are kept and used in accordance with the Design Guidelines which govern their size, design, color, material , location and hours of use.

4.17 Exterior Lights.

Except as initially installed by the Declarant, no spotlights, floodlights or other lights shall be installed on the exterior of a Residence or on the ground or on any wall situated on any Lot without the prior written approval of the Design Review Committee.

4.18 Window Cover Materials.

Within ninety (90) days of the initial conveyance of a Lot, with a Residence constructed thereon, to an Owner from the Declarant or the Designated Builder, the Owner or Resident of the Lot shall install permanent window coverings. All window coverings Visible From Neighboring Property must show beige colors unless otherwise approved in writing by the Design Review Committee. No reflective material s (including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar items) shall be installed or placed upon the outside or inside of any windows of a Residence without the prior written approval of the Design Review Committee. No drapes, blinds, shades, screens or other items affecting the exterior appearance of a Residence shall be installed or placed on the inside or outside of the windows of a Residence which are Visible From Neighboring Property without the prior written consent of the Design Review Committee. In no event shall windows be covered with the paper, bed sheets or other temporary coverings. No metal bars or security shutters shall be installed on the outside of windows.

4.19 Dust Control.

After the conveyance of a Lot by Declarant or the Designated Builder to a Person other than the Designated Builder, the areas on each Lot that are not improved with buildings (the "Clear Areas") shall be maintained in a neat and attractive condition, free of weeds and debris, and the Owner thereof shall take necessary and appropriate measures to prevent and control the emanation of dust and dirt from the Clear Areas, which may include the use of gravel, ground cover or the sealing of the ground surface. After landscaping has been installed, each Owner shall continue and maintain the Lot in a manner that minimizes the possibility of dust being transmitted into the air or over adjacent properties. Nothing in this Section shall be interpreted to require Declarant to landscape a Lot prior to the conveyance of the Lot to the Designated Builder or other Person.

ARTICLE 5

EASEMENTS

5.1 Easements for Use of Common Area.

Every Owner, Lessee and Resident and their guests shall have a right and easement of enjoyment in and to the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot, subject to:

- (a) The right of the Association to dedicate, convey, transfer, lease or encumber the Common Area as provided in Section 6.10; provided, however, that if the only access to a Lot is over any part of the Common Area, any conveyance, lease or encumbrance of such Common Area shall be subject to an easement for ingress and egress in favor of the Owner and Residents of the Lot and their guests and invitees.
- (b) The right of the Board to adopt rules, regulations or policies regulating the use of the Common Area including rules, regulations and policies limiting the number of guests who may use the Common Area and restricting or prohibiting access to such portions of the Common Area (such as landscaped areas) not intended for use by the Owners, Lessees or Residents.
- (c) The right of the Association to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area (other than the right of an Owner and such Owner's family, tenants and guests to use any streets which are part of the Common Area for ingress or egress to the Owner's Lot if such street is the only access to

the Owner 's Lot) if such Owner is more than fifteen (15) days delinquent in the payment of Assessments or other amounts due to the Association or if the Owner has violated any other provisions of the Community Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation.

(d) The rights and easements reserved by or granted to the Declarant by this Declaration.

(e) The rights and easements, if any, reserved or granted to the Declarant or any other Person in the deed conveying the Common Area to the Association.

(f) The right of the Declarant or the Association to convey certain portions of the Common Areas to Owners of adjoining Lots in connection with the correction or adjustment of the boundary between the Common Area and adjoining Lots.

(g) The easements granted by the Plat to the City of Prescott.

The right of easement and enjoyment of the Common Area may not be transferred or Assigned, except upon the conveyance or transfer of the Lot to which such right is appurtenant.

The Owner shall submit a written request for an Encorachment permit to the Design Review Committee.

5.2 Utility and Development Easements.

Subject to such approvals of the Declarant or the Board required by this Section , a non - exclusive, perpetual blanket easement is hereby granted over and through the Common Area for the purpose of: (a) installing, constructing, operating, maintaining, repairing or replacing equipment used to provide to any portion of the Property or adjacent land any utilities, including, without limitation, water, sewer, drainage, gas, electricity, telephone and television service, whether public or private ; and (b) ingress and egress to install, construct, operate, maintain, repair and replace such equipment and (c) storm water management and storm water drainage, as necessary or desirable for the orderly development of the Property . Such easement is hereby granted to any Person providing the aforesaid utilities or installing, constructing, maintaining, repairing or replacing equipment related thereto. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed or relocated only where permitted by the Declarant , where contemplated on any site plan approved by the Declarant or where approved by resolution of the Board. Equipment used to provide or meter such utilities or services may be installed above ground during periods of construction if approved by the Declarant. The Person providing a service or installing a utility pursuant to this easement shall install, construct, maintain, repair or replace the

equipment used to provide or meter the utility as promptly and expeditiously as possible, and shall restore the surface of the land and the surrounding vegetation and improvements to their original condition as soon as possible.

The Declarant hereby reserves the right to grant and reserve easements, rights-of-way and licenses over and through the Common Area for the purposes set forth in this Section or for any other purpose necessary or desirable for the orderly development of the Property. If the Person installing the utility or providing a service requests a specific easement by separate recordable documents, then the Declarant or the Association shall have the power to record a document locating such easements.

5.3 Easements to Facilitate Development.

The Declarant hereby reserves to itself and its successors and assigns and to its contractors, subcontractors, suppliers, engineers, architects and agents a non-exclusive blanket easement over and through the Property for all purposes reasonably related to the development and completion of Improvements on the Property, including without limitation: (a) the construction of all Improvements on the Common Area which Declarant deems necessary; (b) the construction of Residences and other Improvements on the Lots and the performance any warranty work with respect to the construction of Residences and other Improvements on the Lots; and (c) the storage of supplies of building materials and equipment necessary to construct Improvements on the Common Area and the Lots.

The Declarant hereby reserves to itself, its successors and assigns the right to: (a) use any Lots owned or leased by the Declarant, any other Lot with written consent of the Owner thereof or any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas; and (b) install and maintain on the Common Area, any Lot owned or leased by the Declarant or any other Lot with the consent of the Owner thereof, such marketing, promotional or other signs which the Declarant deems necessary for the development, sale or lease of the Property or any other property owned by the Declarant. So long as the Declarant is selling and/or marketing the Property the Declarant shall have the right to restrict the use of parking spaces situated on the Common Area and to reserve such parking spaces for use by prospective purchasers of Lots, the Declarant's contractors, subcontractors, suppliers, agents or employees or other Persons engaged in sales, marketing or construction activities for or on behalf of the Declarant.

5.4 Dedications and Easements Required by Governmental Authority.

The Declarant hereby reserves to itself and its successors and assigns, the right to make any dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area and the Lots.

5.5 Further Assurances.

The easements granted and reservations made to the Declarant in this Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of all the Property by the Declarant. Upon written request of the Declarant, the Association and each Owner shall from time to time sign, acknowledge and deliver to

the Declarant such documents or instruments deemed necessary by the Declarant to evidence or confirm the reservation or grant of right s and easements to the Declarant under this Declaration.

5.6 Assignment of Development Rights.

The Declarant may make limited temporary assignments of its easement rights under this Declaration to any Person performing construction, installation or Maintenance on any portion of the Property. Any such assignment s shall be in writing.

5.7 Easement for Maintenance and Enforcement.

The Association and its directors, officers, agents, contractors and employees, the Design Review Committee and any other Person s authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior of any Residence) for: (a) the exercise and discharge of their respective powers and responsibilities under the Community Documents; (b) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Design Review Committee and that all Improvements are being properly maintained as required by the Community Documents; (c) correcting any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area; (d) performing installations or Maintenance of utilities, landscaping or other Improvements located on the Lots for which the Association is responsible for Maintenance; or (e) correcting any condition which violates the Community Documents.

5.8 Easements for Encroachments.

If any Improvements on any Lot or portion of the Common Area now or hereafter encroach on any other portion of the Property by reason of: (a) the original construction thereof; (b) deviations within normal construction tolerance s in the Maintenance of any Improvement; or (c) the settling or shifting of any land or Improvement, an easement may be granted by the Design Review Committee with Approval of the Board of Directors to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching Improvement shall also have an easement for the limited purpose of Maintenance of the encroaching Improvement. This easement does not relieve any Owner or any other Person from liability for such Owner's or other Person's negligence or willful misconduct.

5.9 Rights of Designated Builder.

Notwithstanding any other provision of this Declaration to the contrary, the Designated Builder shall have the right to maintain model homes, sales offices and construction offices or trailers on the Common Areas or on Lots owned or leased by the Designated Builder and to construct and maintain parking areas for the purpose of accommodating persons visiting such model homes and sales offices. Notwithstanding any other provision of this Declaration to the contrary, the Designated Builder may store supplies of brick , block, lumber and other building materials on a Lot or Parcel owned or leased by the Designated Builder during the course of construction of Improvements on Lots. Normal construction activities of the Designated Builder in connection with the construction of Residences and

other Improvements shall not be considered a nuisance or otherwise prohibited by this Declaration. The Designated Builder may install and maintain on the Common Area, any Lot owned or leased by the Designated Builder or any other Lot with the consent of the Owner thereof, such marketing, promotional or other signs which the Designated Builder deems necessary for the development, sale or lease of the Property or any other property owned by the Designated Builder.

ARTICLE 6

THE ASSOCIATION; ORGANIZATION; MEMBERSHIP AND VOTING RIGHTS

6.1 Formation of Association.

The Association shall be a nonprofit Arizona corporation. The Association shall have all of the common law and statutory powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable to perform the Association's duties and obligations and to exercise the rights and powers of the Association set forth in the Community Documents. The Association shall not be dissolved unless another entity has agreed to assume the obligations of the Association under this Declaration with respect to the operation and maintenance of the Areas of Association Responsibility.

6.2 Board of Directors and Officers.

The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The initial directors and officers of the Association shall be designated in the Articles, and such persons shall serve until their death, resignation or removal from office. Until the termination of the Declarant Control Period, the Declarant shall have the right to appoint and remove the members of the Board. After the termination of the Declarant Control Period, the Board shall be elected by the members as provided in the Bylaws. Unless the Community Documents specifically require the vote or consent of the Members, the Board may do or cause to be done any act on behalf of the Association.

6.3 The Association Rules.

The Board may adopt, amend and repeal rules and regulations pertaining to: (a) the management , operation and use of the Areas of Association Responsibility including, but not limited to, any recreational facilities situated upon the Areas of Association Responsibility; (b) minimum standards for the Maintenance of Lots; or (c) restrictions on the use of Lots. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. The Association Rules shall be enforceable in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration.

6.4 Personal Liability.

No director or officer of the Association, no member of the Design Review Committee or of any committee of the Association , no managing agent, and no other person acting on behalf of the

Board shall be personally liable to any Member , or to any other Person for any damage, costs, fees (including, without limitation, attorney fees), loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence in the discharge of such person's duties and responsibilities under the Community Documents provided such person acted in good faith.

6.5 Implied Rights.

The Association may exercise any right or privilege given to the Association expressly by the Community Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Community Documents or reasonably necessary to effectuate any such right or privilege.

6.6 Identity of Members.

The members of the Association shall be the Owners of the Lots. All Owners of Lots shall be mandatory members of the Association. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his or her ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

6.7 Classes of Members and Voting Rights.

The Association shall have the following two classes of voting membership:

Class A. Class A members are all Owners, with the exception of the Declarant and the Designated Builder, of Lots. Each Class A member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B members shall be the Declarant and the Designated Builder. The Declarant and the Designated Builder shall be entitled to three (3) votes for each Lot owned.

6.8 Voting Procedures.

No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or she was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made in writing at or prior to the time the vote is cast. In the event more than

one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership.

The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of his purchase within ten (10) days after he becomes the Owner of a Lot. The Association or the Association's management company may charge a reasonable fee in amounts established or approved by the Board for each such statement.

6.10 Conveyance, Lease or Encumbrance of Common Area.

The Association may grant permits, licenses and easements on, over, under and through the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Property. In addition, the Association may convey portions of the Common Areas to make adjustments in the boundary lines between the Common Areas and adjoining Lots or public rights-of-way. Except as expressly permitted by this Section, the Common Area shall not be mortgaged or conveyed without the prior written consent or affirmative vote of the Declarant so long as the Declarant owns one or more Lots and the total affirmative vote or written consent of the Owners holding at least two-thirds (2/3) of the votes in the Association.

6.11 Suspension of Voting Rights.

If any Owner fails to pay any Assessments or other amounts due to the Association under the Community Documents within fifteen (15) days after such payment is due or if any Owner violates any other provision of the Community Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner in writing of the violation, the Board, in accordance with the procedures set forth in the Bylaws, shall have the right to suspend such Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Community Documents are corrected.

ARTICLE 7

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation of Assessments.

Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree to pay

Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges, demand fees, lien fees and all costs (including but not limited to reasonable attorneys' fees) incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. During the Declarant Control Period, no Regular Assessment or Special Assessment shall be levied against any Lot owned by the Declarant or the Designated Builder.

Each Assessment, together with interest and all costs, including but not limited to, demand fees, lien fees, reasonable attorneys' fees incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessment s shall not pass to the successors in title of the Owner unless expressly assumed by them.

No Owner shall be exempt from liability for Assessments because of such Owner's non- use of the Common Area, abandonment of such Owner's Lot or other circumstance. The obligation to pay Assessments is a separate and independent obligation on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association, the Board or the Design Review Committee to take some action or perform some function required of it.

7.2 Regular Assessments.

At least thirty (30) days prior to the commencement of each Assessment Period, the Board shall prepare and adopt a budget of the estimated Common Expenses for the next Assessment Period, including any contribution to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such Common Expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments are the amount to be generated through Assessments against the Lots. Based on the budget adopted by the Board, the Board shall assess against each Assessable Lot a Regular Assessment. The Regular Assessment shall be the same for each Assessable Lot. The amount of increase, if any, in the Regular Assessment from one Assessment Period to the next Assessment Period shall be subject to such limitations as may be imposed by Arizona Jaw.

The Board shall give notice of the Regular Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period , but the failure to give such notice shall not affect the validity of the Regular Assessment established by the Board nor relieve any Owner from its obligation to pay the Regular Assessment. If the Board fails to adopt a budget for any Assessment Period, then until and unless such budget is adopted and a Regular Assessment is levied by the Board for such Assessment Period, the amount of the Regular Assessment for the immediately preceding Assessment Period shall remain in effect. Unless approval or ratification of the budget or the Regular Assessment for any Assessment Period is required by law, neither the budget nor the Regular Assessment shall be required to be ratified or approved by the Members.

If the Board determines during any Assessment Period that the funds budgeted for that

Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessment by Members, the Board may amend the budget and increase the Regular Assessment for that Assessment Period (subject to such limitations as may be imposed by Arizona Law) and the revised Regular Assessment shall commence on the date designated by the Board.

7.3 Special Assessments.

The Association may levy against each Assessable Lot a Special Assessment for the purpose of obtaining funds to pay the cost of any construction, reconstruction, repair or replacement of an Improvement upon the Common Area (including fixtures and personal property related thereto), or to pay unbudgeted expenses or expenses in excess of the amount budgeted. Any Special Assessment must be approved by two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. So long as the Declarant owns any Lot, any Special Assessment must be approved in writing by the Declarant. Any Special Assessment shall be levied in an equal amount for each Assessable Lot.

7.4 Assessment Period.

The period for which the Regular Assessment is to be levied shall be the calendar year, except that the first Assessment Period shall commence on the date the Board sets as the date that Regular Assessments shall commence as to all Assessable Lots and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

7.5 Obligation of Declarant for Deficiencies.

During the Declarant Control Period, the Declarant shall pay and contribute to the Association such funds as may be necessary, when added to the Assessments levied by the Association, to pay all Common Expenses of the Association as they become due. The Board may require the contribution of funds by the Declarant from time to time as the Board deems necessary by giving written notice thereof to the Declarant. Each such notice shall state the total amount of funds required and the calculation of the pro rata share of such funds to be paid by the Declarant. In no event shall the Declarant be obligated to contribute funds to the Association in excess of the amount of Assessments that would have been payable by the Declarant if the Lots owned by the Declarant had been assessed as Assessable Lots.

7.6 Rules Regarding Billing and Collection Procedures.

Regular Assessments shall be collected on a quarterly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of such Member's liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore shall not be foreclosed until the Member has been given not less than thirty (30) days written notice prior to such foreclosure that the Assessment or any

installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payment s received by it even though the ownership of a Lot changes during an Assessment Period, but successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. Assessments shall be deemed "paid" when actually received by the Association or by its designated manager or agent (but if any Assessments are paid by check and the bank or other institution upon which such check is drawn thereafter dishonors and refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due).

7.7 Effect of Nonpayment of Assessments; Remedies of the Association.

Any Assessment, or any installment of an Assessment, not paid within fifteen (15) days after the Assessment , or the installment of the Assessment, first became due shall bear interest from the due date at the rate of interest set from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within fifteen (15) days after such payment was due.

The Association shall have a lien on each Lot for any Assessment levied against that Lot from the time the Assessment becomes due and for charges for late payment of those Assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those Assessments. The Association's lien for Assessments, for charges for late payment of those Assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those Assessments may be foreclosed in the same manner as a mortgage on real estate. Fees, charges, late charges, monetary penalties and interest charged pursuant to Section 33- 1803 of the Arizona Revised Statutes, other than charges for late payment of Assessments, are not enforceable as Assessments under this Section 7.7. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment of the Assessment becomes due. The Association has a lien for fees, charges, late charges (other than charges for late payment of Assessments), monetary penalties or interest charged pursuant to Section 33-1803 of the Arizona Revised Statutes after the entry of a judgment in a civil suit for those fees, charges, late charges, monetary penalties or interest from a court of competent jurisdiction and the recording of that judgment in the records of the County Recorder of Yavapai County, Arizona, as otherwise provided by law. The Association 's lien for monies other than for Assessments, for charges for late payment of those Assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those Assessments may not be foreclosed and is effective only on conveyance of any interest in the Lot. The recording of this Declaration constitutes record notice and perfection of the Association's lien for Assessments, for charges for late payment of those Assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those Assessments, and no further recordation of any claim of lien shall be required. Although not required in order to perfect the Association's lien, the Association shall have the right but not the obligation, to record a notice setting forth the amount of any delinquent Assessments, for charges for late payment of those Assessment s, for reasonable collection fees and for reasonable attorney fees and costs incurred with

respect to those Assessments which are secured by the Association's lien. If the Association records a notice of lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount established from time to time by the Board.

The Association's Lien for Assessments, for charges for late payment of those Assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those Assessments shall have priority over all liens, other interests and encumbrances except for: (a) liens and encumbrances Recorded before the recording of this Declaration; (b) liens for real estate taxes and other governmental assessments and charges; and (c) the lien of any First Mortgage or seller's interest in a first contract for sale recorded prior to the Assessment Lien. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner.

The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessment s and such action may be brought without waiving the Assessment Lien or (b) bringing an action to foreclose the Assessment Lien in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

7.8 Purposes for which Association's Funds May Be Used.

The Association may use the funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the purpose of: (a) discharging and performing the Association's duties and obligations under the Community Documents or applicable law; (b) exercising the rights and powers granted to the Association by the Community Documents or applicable law; (c) providing or promoting activities and services the Board deems appropriate, necessary or desirable to foster or promote the common good and general welfare of the Project and the Owners, Lessees and Residents; (d) contracting for services (including, without limitation, cable television) to be provided to Owners, Lessees and Residents; and (e) taking such other action as the Board deems necessary, appropriate or desirable for the management and administration of the Association or the benefit of the Association or the Project.

7.9 Surplus Funds.

The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Regular Assessment in the succeeding year if a

surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

7.10 Working Capital Contribution.

Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a sum equal to one-fourth (1/4th) of the then current annual Regular Assessment for an Assessable Lot. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Community Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. Payments made pursuant to this Section shall be deemed a contribution to the capital of the Association. Payment of Working Capital Contribution s pursuant to this Section are secured by the Assessment Lien and are in addition to any other fees payable pursuant to the Community Document s and any other fees payable at the close of escrow.

No Working Capital Contribution shall be payable with respect to: (a) the transfer or conveyance of a Lot by devise or intestate succession ; (b) a transfer or conveyance of a Lot to a family trust, family limited partnership or other Person for bon-a-fide estate planning purposes; (c) a transfer or conveyance of a Lot to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Working Capital Contribution in which event a Working Capital Contribution shall be payable with respect to such transfer or conveyance; (d) the conveyance of a Lot by a trustee's deed following a trustee's sale under a deed of trust; or (e) a conveyance of a Lot as a result of the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a Recorded contract for the conveyance of real property subject to A.R.S. § 33-741, et seq.

7.11 Transfer Fee.

Each Person who purchases a Lot from a Person other than the Declarant or the Designated Builder shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board to compensate the Association for the administrative costs resulting from the transfer of a Lot. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail to deliver to a purchaser under A.R.S. § 33-1806A and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806C . Fees payable pursuant to this Section are secured by the Assessment Lien and are in addition to any other fees payable pursuant to the Community Documents and any other fees payable at the close of escrow.

7.12 Reserve Contribution.

Except as otherwise provided in this Section, each Purchaser shall pay to the Association,

immediately upon becoming the Owner of the Lot, a contribution to the reserves of the Association for the periodic maintenance, repair and replacement of the major components of the Areas of Association Responsibility (the "Reserve Contribution"). The amount of the initial Reserve Contribution shall be \$2,500 per Lot. The Board may from time to time increase or decrease the amount of the Reserve Contribution, but the amount of the Reserve Contribution may not be increased by the Board by more than twenty percent (20%) during any year without the approval of Members holding more than fifty percent (50%) of the votes in the Association.

No Reserve Contribution shall be payable with respect to: (a) the transfer or conveyance of a Lot by devise or intestate succession; (b) a transfer or conveyance of a Lot to a family trust, family limited partnership or other Person for bon-a-fide estate planning purposes; (c) a transfer or conveyance of a Lot to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Reserve Contribution in which event a Reserve Contribution shall be payable with respect to such transfer or conveyance; (d) the conveyance of a Lot by a trustee's deed following a trustee's sale under a deed of trust; or (e) a conveyance of a Lot as a result of the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a Recorded contract for the conveyance of real property subject to A.R.S. § 33-741, et seq.

All Reserve Contributions shall be deposited in the Reserve Account established pursuant to Section 7.13. Reserve Contributions shall be non-refundable and shall not be considered as an advance payment of Assessments. Reserve Contributions payable pursuant to this Section are secured by the Assessment Lien and are in addition to any other fees provided for in the Community Documents and any other fees to be paid at the close of escrow.

7.13 Reserves.

The Board shall establish reserves for the future periodic maintenance, repair or replacement of the major components of the Areas of the Association Responsibility. The reserves may be funded from Regular Assessments, the Working Capital Contributions paid pursuant to Section 7.10, the Reserve Contributions paid pursuant to Section 7.12 or any other revenue of the Association. All amounts designated as reserves shall be deposited by the Board in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Unless the Association is exempt from Federal or State taxes, all reserves shall be accounted for as contributions to the capital of the Association and segregated from the regular income of the Association or in any other manner authorized by law or regulation of the Internal Revenue Service that will prevent such funds from being taxed as income of the Association. Funds in the Reserve Account may only be used to pay costs and expenses related to the periodic maintenance, repair and replacement of the Areas of Association Responsibility, unless the expenditure of any or all of the funds in the Reserve Account for other purposes is approved by the vote of Owners holding at least two-thirds (2/3) of the votes in the Association. Notwithstanding any other provision of this Section to the contrary, any funds held in the Reserve Account which are in excess of the funds reasonably necessary for the future repair and replacement of the major components of the Areas of Association Responsibility, as determined by the Board in its sole discretion, may be used for the construction of new improvements on the Common Area.

7.14 Borrowing Power.

The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as the Board deems necessary or appropriate and may utilize Association funds to repay any such loans; provided, however, that no portion of the Common Areas shall be mortgaged or otherwise encumbered, except with the approval of Owners holding at least sixty-seven percent (67%) of the votes in the Association and by the Declarant and each Designated Builder.

ARTICLE 8

MAINTENANCE

8.1 Areas of Association Responsibility.

The Association shall be responsible for the management and Maintenance of the Areas of Association Responsibility, and all Improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Association shall use a reasonably high standard of care in providing for the repair, management and maintenance of the Common Areas so that the Project will reflect a high degree of pride of ownership. The Board, however, shall be the sole judge as to the appropriate level of maintenance of all Common Areas by the Association.

No Owner, Resident or other Person shall construct or install any Improvements on the Areas of Association Responsibility or alter, modify or remove any Improvements situated on the Areas of Association Responsibility without the written approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's management or Maintenance of the Areas of Association Responsibility, and the Improvements located thereon.

8.2 Lot Owner's Responsibility.

Each Owner of a Lot shall be responsible for the Maintenance of his Lot, and all buildings, Residences, landscaping or other Improvements situated thereon, except for any portion of the Lot, or any Improvement situated thereon, which is an Area of Association Responsibility. All buildings, Residences, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants and grass which die shall be promptly removed and replaced with living foliage of like kind, unless different foliage is approved in writing by the Design Review Committee. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property or streets. All Lots upon which no Residences, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a weed free and attractive manner.

8.3 Assessment of Certain Costs of Maintenance and Repair.

In the event that the need for Maintenance of an Area of Association Responsibility is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

8.4 Improper Maintenance and Use of Lots.

In the event (a) any portion of any Lot is so maintained as to present a public or private nuisance or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, (b) any portion of a Lot is being used in a manner which violates this Declaration, or (c) the Owner of any Lot is failing to perform any of its obligations under the Community Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fifteen (15) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fifteen (15) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken at the Owner's cost. The costs thereof, including an administrative fee equal to ten percent (10%) of the amount of the costs incurred by the Association, together with all damages resulting from such Owner's failure to take the required corrective action, shall be paid by such Owner to the Association within ten (10) days after demand for such payment is made in writing to the Owner. Any amounts that become due and payable to the Association by an Owner pursuant to this Section which are not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the due date until all such amounts are paid in full. All amounts have become payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien.

ARTICLE 9

INSURANCE

9.1 Scope of Coverage.

Commencing not later than the time of the first conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

- (a) 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 or maintenance of the Areas of Association Responsibility and all other portions of the Project which the Association is obligated to

maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

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

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(d) Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;

(e) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners; (v) statement of the name of the insured as the Association; and (vi) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

The premiums for any insurance obtained by the Association pursuant to this Section shall be included in the budget of the Association and shall be paid by the Association.

9.2 Certificates of Insurance.

An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or

beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates of insurance have been issued.

9.3 Payment of Insurance Proceeds.

With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 9.4, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility. The Association is irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board shall have full and complete power to act for the Association in this regard and may, in its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the Trustee shall have authority, to negotiate losses under any policy purchased by the Association.

9.4 Repair and Replacement of Damaged or Destroyed Property.

Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or Owners representing at least eighty percent (80%) of the total authorized votes in the Association vote not to repair or replace the damaged or destroyed Improvements. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association.

If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be retained by the Association as an additional capital reserve.

9.5 Individual Responsibility; Disclaimer of Liability.

It shall be the responsibility of each Owner and Resident to provide insurance for himself on his real or personal property interests on or within the Property, including, but not limited to, additions and Improvements thereto, furnishings and personal property thereon, and for his personal liability. No Person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the insurance maintained by the Association in the event of damage to the improvements or fixtures on the Areas of Association Responsibility. The Association, any Board member, and Declarant shall not be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or the amount of such insurance is not adequate.

Article 10 Continued on Following Page

ARTICLE 10

DISPUTE RESOLUTION

10.1 Defined Terms. As used in this Article 10, the following terms shall the meaning set forth below :

- (a) "Alleged Defect" means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the of the Common Area or any Lot, or the buildings, Residences and other structures or improvement s located thereon, by a Declarant Party including, without limitation, any failure to comply with applicable building codes or federal, state or local laws, ordinances or regulations or any failure to comply with any express or implied warranty or standard of workmanship.
- (b) "Declarant Party" means: (i) the Declarant and its members, managers, officers and employees; (ii) the Designated Builder and its members, managers, officers and employees; (iii) the entity which platted the Project if different from but affiliated with Declarant; (iv) the general contractor for the Project; (v) the subcontractors, material suppliers, labor suppliers, architects, engineers and consult ants of any of the said contractors, including but not limited to their respective members, managers, directors, officers, partners, employees, agents and independent contractors; or (vi) any employee or other representative of the Declarant who serves as a director or officer of the Association.
- (c) "Claim" means: (i) any claim or cause of action by a Claimant against a Declarant Party arising out of or related in any way to an Alleged Defect, including, without limitation, any claim or cause of action for breach of express or implied warranties or that a Declarant Party was negligent in the planning, design, engineering, grading, construction or development of the Project; or (ii) any claim or cause of action against a Declarant Party arising out of or in any way related to the development of the Project or the management or operation of the Association, including, without limitation, any claim for negligence, fraud , intentional misconduct or breach of fiduciary duty.

10.2 Agreement to Resolve Certain Disputes Without Litigation.

The Association, all Owners and all Declarant Parties agree that it is in the best interests of the Association, the Owners and the Declarant Parties to encourage the amicable resolution of Claims and to resolve Claims without the emotional and financial costs of litigation. Therefore, the Association, all Owners and all Declarant Parties agree that all Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Article 10.

10.3 Notice of Alleged Defect.

The Association or any Owner who becomes aware of any Alleged Defect which could be the basis for a Claim against any Declarant Party shall give written notice (the "Notice of Alleged Defect") promptly to each Declarant Party who could be responsible for the Alleged Defect. The Notice of Alleged Defect shall state plainly and concisely: (a) the nature and location of the Alleged Defect; (b) the date on which the Association or Owner giving the Notice of Alleged Defect first became aware of the Alleged Defect; and (c) whether the Alleged Defect has caused any damage to any persons or property. Following the receipt by a Declarant Party of a Notice of Alleged Defect, the Declarant Party and any of its employees, agents, contractors, subcontractors and consultants shall have the right, upon reasonable notice to the Association or Owner giving the Notice of Alleged Defect to enter onto or into, as applicable, the Common Area or any Lot for the purposes of inspecting and/or conducting testing to determine the existence, nature and extent of the Alleged Defect and, if deemed necessary by the Declarant Party, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Declarant Party shall be entitled to take any actions it deems reasonable and necessary under the circumstances. Nothing set forth in this Section 10.3 shall be construed to impose any obligation on any Declarant Party to inspect, test, repair or replace any item or Alleged Defect for which the Declarant Party is not otherwise obligated under applicable law or any warranty provided by the Declarant or any other Declarant Party. The right of a Declarant Party and its employees, agents, contractors and consultants to enter, inspect, test, repair and/or replace under this Section shall be irrevocable and may not be waived or otherwise terminated, except by written document, in recordable form, executed and recorded by the Declarant Party. In no event shall any statute of limitation be tolled during the period in which a Declarant Party conducts any inspection, testing, repair or replacement of the Alleged Defect. If the Alleged Defect is not repaired or replaced to the satisfaction of the Association or Owner giving the Notice of Alleged Defect within sixty (60) days after the Notice of Alleged Defect is given to the Declarant Party, then the Association or Owner may proceed with the preparation of the delivery of a Notice of Claim as provided in Section 10.4.

10.4 Notice of Claim.

The Association or any Owner who contends or alleges to have a Claim (a "Claimant") against any Declarant Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim. In the event the Claimant is the Association and the Claim involves an Alleged Defect, the Association must provide written notice to all Members prior to delivering a Claim Notice to a Declarant Party or initiating any legal action, cause of action, proceeding, or arbitration against any Declarant Party which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or any other

Declarant Party to correct such Alleged Defect and the opportunities provided to Declarant or any other Declarant Party to correct such Alleged Defect; (c) a certification from an engineer licensed in the State of Arizona that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such engineer; (d) the estimated cost to repair such Alleged Defect; (e) the name and professional background of the attorney retained by the Association to pursue the Claim and a description of the relationship between such attorney and member(s) of the Board of Directors (if any); (f) a description of the fee arrangement between such attorney and the Association; (g) the estimated attorneys' fees and expert fees and costs necessary to pursue the, Claim and the source of the funds which will be used to pay such fees and expenses; (h) the estimated time necessary to conclude the action; and (i) an affirmative statement from the Board of Directors that the action is in the best interests of the Association and its Members. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a "Licensed Professional"), then the Claim Notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-26028 of the Arizona Revised Statutes.

10.5 Mediation.

The Claimant and the Respondent shall negotiate in good faith in an attempt to resolve the claim. If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation by the American Arbitration Association ("AAA") or such other independent mediation service selected by mutual agreement of the Claimant and the Respondent. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim . If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

10.6 Binding Arbitration.

In the event a Claim is not resolved by mediation, the Claimant shall have ninety (90) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section 10.6. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. A Claimant may only submit a Claim in arbitration on its own behalf. No Claimant may submit a Claim in arbitration as a representative or member of a class, and no Claim may be arbitrated as a class action. The Association, the Owners and all Declarant Parties agree that all Claims that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration conducted in accordance with this Section 10.6. The Association, the Owners and all

Declarant Parties waive their right to have a Claim resolved by a court, including, without limitation, the right to file a legal action as the representative or member of a class or in any other representative capacity. The Claimant and Respondent shall cooperate in good faith to assure that all Declarant Parties who may be liable to the Claimant or Respondent with respect to the Claim are made parties to the arbitration. If the Claimant submits the Claim to binding arbitration in accordance with this Section 10.6, the arbitration shall be conducted in accordance with the following rules:

- (a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules or such other rules as the AAA may determine to be applicable (the "AAA Rules").
- (b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, *et seq.* In the event of a conflict between the AAA Rules and this Section 10.6, the provisions of this Section 10.6 shall govern.
- (c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 10.6 as the "Arbitrator".
- (d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges from acting as the Arbitrator.
- (e) **Disclosure.** Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection 10.6 (c).
- (f) **Compensation.** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally

by the parties.

(g) **Preliminary Hearing.** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Rules, the following : (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(h) **Management of the Arbitration.** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) **Confidentiality.** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings .** Hearings may be held at any place within Yavapai County, Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award.** The Arbitrator shall promptly (but , in no event later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors.

The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

10.7 Right to Enter, Inspect, Repair and/or Replace.

Following the receipt by a Declarant Party of a Notice of Alleged Defect, the Declarant Party and its employees, agents, contractors, subcontractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Area and any Lot for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Declarant Party, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Declarant Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. Nothing set forth in this Section 10.7 shall be construed to impose any obligation on any Declarant Party to inspect, test, repair, or replace any item or Alleged Defect for which the Declarant Party is not otherwise obligated. The right of a Declarant Party and its employees, agents, contractors and consultants to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a written document, in recordable form, executed and Recorded by the Declarant Party. In no event shall any statutes of limitations be tolled during the period in which a Declarant Party conducts any inspection, testing, repair or replacement of any Alleged Defects.

10.8 Use of Funds.

Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and/or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. If the Claimant receiving the judgment, award or settlement is the Association, any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

10.9 Approval of Members.

The Association shall not deliver a Claim Notice to any Declarant Party or commence any legal action or arbitration proceeding or incur legal expenses (including without limitation, attorneys' fees) in connection with any Claim without the written approval of Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association, excluding the votes of any Owner who would be a defendant in such proceedings. The Association must pay for any such legal action or mediation or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Owners must notify prospective purchasers of their Lot of

such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 10.4.

10.10 Statute of Limitations.

All statutes of limitations applicable to Claims shall apply to the commencement of arbitration proceedings under Section 11.6. If the arbitration proceedings are not initiated within the time period provided by Arizona Law for the filing of a legal action with respect to the Claim, the Claim shall forever be barred.

10.11 Federal Arbitration Act.

Because many of the materials and products incorporated into the Project are manufactured in other states, the development and conveyance of the Lots evidences a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect or as it may be hereafter amended, will govern the interpretation and enforcement of the arbitration provisions of this Declaration.

10.12 Conflicts. In the event of any conflict between this Article 10 and any other provision of the Condominium Documents, this Article 10 shall control. In the event of any conflict between the provisions of this Article 10 and the terms of any express warranty provided to a Purchaser by the Declarant, the Designated Builder or any third party home warranty company in connection with the purchase of a Lot from the Declarant or the Designated Builder, the provisions of the express warranty shall control; provided, however, that if the Claim is being asserted by the Association, the approval of the members of the Association required by Section 10.8 must be obtained prior to the Association demanding arbitration of the Claim or filing any legal action with respect to the Claim.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE FEDERAL ARBITRATION ACT, THE ARIZONA REVISED STATUTES PERTAINING TO THE ARBITRATION OF DISPUTES TO THE EXTENT NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT AND THE PROVISIONS OF THIS ARTICLE 10 AND WAIVES THE RIGHT TO PURSUE ANY DECLARANT PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN ARTICLE 10. THE ASSOCIATION, EACH LOT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE 10, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION, EACH LOT OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A LOT, EACH LOT OWNER VOLUNTARILY ACKNOWLEDGES THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM.

IF AN OWNER OR THE ASSOCIATION FILES A CIVIL ACTION ASSERTING ANY CLAIM

AGAINST ANY DECLARANT PARTY INSTEAD OF COMPLYING WITH THE DISPUTE RESOLUTION PROVISIONS OF THIS ARTICLE 10 (OR THE OTHER DISPUTE RESOLUTION PROVISIONS, AS APPLICABLE), THE PARTY AGGRIEVED BY THE FILING MAY APPLY TO THE YAVAPAI COUNTY SUPERIOR COURT FOR AN ORDER DISMISSING THE CIVIL ACTION AND COMPELLING THE FILING PARTY TO SUBMIT THE CLAIM TO THE DISPUTE RESOLUTION PROVISIONS APPLICABLE THERETO. THE APPLYING PARTY SHALL BE ENTITLED TO IMMEDIATE ENTRY OF AN ORDER OF DISMISSAL AND A MANDATORY AWARD OF ATTORNEY'S FEES AND TAXABLE COSTS INCURRED IN COMPELLING COMPLIANCE WITH THE APPLICABLE DISPUTE RESOLUTION PROVISION.

IN THE EVENT THE ARBITRATION PROVISIONS OF THIS ARTICLE 10 ARE HELD NOT TO APPLY OR ARE HELD INVALID OR UNENFORCEABLE FOR ANY REASON, ALL DISPUTES SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION WITHOUT A JURY. EACH OWNER IN THE ASSOCIATION, BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, HEREBY WAIVE AND COVENANT NOT TO ASSERT THEIR CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTES, INCLUDING, BUT NOT LIMITED TO, DISPUTES RELATING TO CONSTRUCTION DEFECTS, MISREPRESENTATION OR DECLARANT'S FAILURE TO DISCLOSE MATERIAL FACTS. THIS MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON THE RESPECTIVE SUCCESSOR AND ASSIGNS OF SUCH PARTIES AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF DECLARANT, ANY OWNER, THE ASSOCIATION OR THE RESPECTIVE SUCCESSORS AND ASSIGNS.

ARTICLE 11

GENERAL PROVISIONS

11.1 Enforcement.

The Association may enforce the Community Document s in any manner provided for in the Community Documents or by law or in equity, including, but not limited to:

- (a) imposing reasonable monetary fines after notice and an opportunity to be heard is given to the Owner or other violator. An Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Resident of the Owner's Lot or by any guest or invitee of the Owner or any Lessee or Resident;
- (b) suspending an Owner's right to vote;
- (c) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

- (d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 15 days delinquent in paying any assessment or other charge owed to the Association;
- (e) exercising self-help or taking action to abate any violation of the Community Documents in a non-emergency situation;
- (f) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;
- (g) without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration or the Design Guidelines from continuing or performing any further activities in the Project;
- (h) towing vehicles which are parked in violation of this Declaration or the Association Rules; and
- (i) filing a suit at law or in equity to enjoin a violation of the Community Documents, to compel compliance with the Community Documents, to recover fines or money damages or to obtain such other relief as to which the Association may be entitled.
- (j) recording a written notice of violation by any Owner, Lessee or Resident of any restriction or other provision of the Community Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner, Lessee or Resident violating, or responsible for the violation of, the Community Documents; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. Failure by the Association to Record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to a particular Lot

or constitute a waiver of any right of the Association to enforce the Community Documents.

The Association shall not be obligated to take any enforcement action if the Board determines, in its sole discretion, that because of the strength of the Association's possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

Any Owner shall also have the right, but not the obligation, to enforce this Declaration in any manner available at law or in equity. All rights and remedies of the Association under the Community Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Community Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Community Documents in the future. If any lawsuit is filed by the Declarant, the Association or any Owner to enforce the provisions of the Community Documents or in any other manner arising out of the Community Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action.

11.2 Duration; Termination.

This Declaration, as it may be amended pursuant to Section 11.3, shall run with the land and bind the Property and be in full force and effect in perpetuity unless terminated as provided in this Section. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Following the Recording of a Certificate of Termination, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles. So long as the Declarant owns one or more Lots, no termination of this Declaration shall be effective unless approved in writing by the Declarant.

11.3 Amendments.

This Declaration may be amended at any time by the affirmative vote of Owners of not less than two-thirds (2/3) of the Lots. So long as the Declarant owns one or more Lots, any amendment to this Declaration must be approved in writing by the Declarant. In addition, the provisions of Article 10 shall not be amended without the prior written consent of the Declarant even if the Declarant no longer owns any Lot at the time the amendment is adopted by the Owners. Notwithstanding any other provision of this Section to the contrary, so long as the Declarant owns one or more Lots, the Declarant shall have the right to unilaterally amend this Declaration to: (a) comply with or make the Declaration consistent with any applicable federal, state or local law, ordinance or regulation, whether existing at the time the Declaration was Recorded or enacted after the Declaration was Recorded; (b) correct any error or inconsistency or resolve any ambiguity in the Declaration; or (c) to comply with the requirements or

guidelines of the United States Department of Veterans Affairs, the United States Department of Housing and Urban Development, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

Any amendment approved by the Owners shall be signed by the President or Vice President of the Association and shall be Recorded. Unless a later effective date is provided for in the amendment, any amendment to this Declaration shall be effective upon the Recording of the amendment.

Any challenge to an amendment to this Declaration for the reason that the amendment was not adopted by the required number of Owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment.

11.4 Condemnation of Common Area.

If all or any part of the Common Area is taken or condemned, or conveyed by the Association in lieu of or under threat of such condemnation, by or to any authority having the power of condemnation or eminent domain, the award or other compensation paid as a result of such taking or conveyance shall be paid to the Association and used for such purposes as may be determined by the Board.

11.5 Interpretation.

Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws, Association Rules or Design Guidelines, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules or the Design Guidelines, the Bylaws shall control.

11.6 Severability.

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

11.7 Change of Circumstances.

Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

11.8 Laws, Ordinances and Regulations.

The covenants, conditions and restriction s set forth in this Declaration and the provisions requiring Owners and other persons to obtain the approval of the Declarant, the Board or the Design

Review Committee with respect to certain actions are independent of the obligation of the Owners and other persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other person from the obligation to also comply with all applicable laws, ordinances and regulations.

Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

11.9 References to this Declaration in Deeds .

Deeds to and instrument s affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the provisions of this Declaration shall be binding upon the Grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assignees.

11.10 Gender and Number.

Wherever the context of this Declaration so requires, words used in the masculine, feminine, or neuter genders, or the singular or plural number, shall include the others.

11.11 Captions and Titles.

All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provision s hereof or to be used in determining the intent of context thereof. Unless otherwise specified, all references in this Declaration to Articles or Sections refer to Articles and Section of this Declaration.

11.12 Notices. All notices, demands, statements or other communications required to be given to or served on an Owner under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Owner, at the address which the Owner shall designate in writing and file with the Association, or if no such address is designated, at the address of the Lot of such Owner. An Owner may change address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this Section. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the Person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Lot is owned by more than one person, notice to one of the Owners shall constitute notice to all Owners of the same Lot. Each Owner shall file his correct mailing address with the Association and shall promptly notify the Association in writing of any subsequent change of address.

11.13 Binding Effect.

By acceptance of a deed or by acquiring any ownership interest in a Lot, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, agrees to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Community Documents and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that the Community Documents set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the Community Documents shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Community Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

11.14 Survival of Liability.

The termination of membership in the Association shall not relieve or release any such former Owner or Member from any liability or obligation incurred under, or in any way connection with, such former Owner or Member's membership, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

11.15 Joint and Several Liability.

In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Lot Owners set forth in or imposed by the Community Documents shall be joint and several.

11.16 Guests and Tenants.

Each Owner shall be responsible for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents and employees with the provisions of the Community Documents. An Owner's failure to insure compliance by such Person shall be grounds for the same action available to the Association or any other Owner by reason of such Owner's own noncompliance.

11.17 Number of Days.

In computing the number of days for purposes of any provision of the Community Documents, all days shall be counted, including Saturdays, Sundays and holidays: provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the next day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

11.18 Declarant's Right to Use Similar Name.

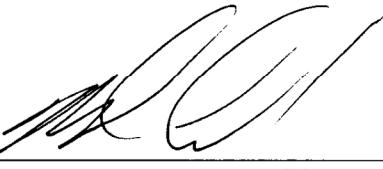
The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively

similar to the name of the Association, provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by Declarant, the Association shall sign such letters, documents or other writings as may be required the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

IN WHITNESS WHEREOF, Declarant Developer has executed this Amended Declaration as of
the 8th August, 2016

December 2016

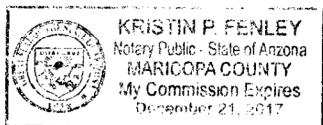
Prescott 44 LLC,
An Arizona Limited Liability Company

By: 
, Manager

STATE OF ARIZONA

County of Maricopa

On this 8th December 2016 ~~8th~~, before me, the undersigned Notary Public, personally
appeared Michael C. Anderson who acknowledged himself to be a Member of the Prescott 44 LLC, an
Arizona Limited Liability Company, and that he, as a member being authorized to do so, executed the foregoing
instrument for the purpose therein contained.




Notary Public

My Commission Expires:

12/21/17

When recorded mail to:
Carpenter Hazlewood Delgado & Bolen, LLP
1550 Plaza West Drive
Prescott, AZ 86303

**FIRST AMENDMENT TO AMENDED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WESTHILL CLUB AT FOREST TRAILS A.K.A HILLCREST PROPERTY OWNERS
ASSOCIATION**

THIS FIRST AMENDMENT TO AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WESTHILL CLUB AT FOREST TRAILS A.K.A. HILLCREST PROPERTY OWNERS ASSOCIATION (the "First Amendment to Amended Declaration") is made effective as of the date of the recording hereof in the Office of the Yavapai County Recorder.

WITNESSETH

WHEREAS, on December 12, 2016, Prescott 44, LLC (the "Declarant") recorded the Amended Declaration of Covenants, Conditions and Restrictions for Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association (the "Amended Declaration") as Document No. 2016-0062508 in the Official Records of Yavapai County, Arizona, which imposed certain covenants, conditions and restrictions on the real property located in Yavapai County, Arizona described therein. Except as otherwise defined herein, capitalized terms used herein shall have the meanings as defined in the Amended Declaration.

WHEREAS, pursuant to Section 11.3 of Article 11 of the Amended Declaration, the Amended Declaration may be amended at any time by the affirmative vote of Owners of not less than two-thirds (2/3) of the Lots in Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association.

WHEREAS, Owners owning not less than two-thirds (2/3) of the Lots in Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association have executed and delivered to the Association written ballots voting for the approval of the amendments to the Amended Declaration set forth in this First Amendment to Amended Declaration.

WHEREAS, the Declarant has approved this First Amendment to Amended Declaration.

NOW, THEREFORE, the Amended Declaration is hereby amended as follows:

1. Section 1.1 of Article 1 of the Amended Declaration is hereby amended in its entirety to provide as follows:

“Areas of Association Responsibility” means all Common Area, provided that any portion of the Common Area that is subject to an Encroachment Easement and the Improvements located thereon shall not be an Area of Association Responsibility during the term of such Encroachment Easement.

2. Section 1.16 of Article 1 of the Amended Declaration is hereby amended in its entirety to provide as follows:

“Construction” means any devegetation, excavation or grading work on a Lot or in a portion of the Common Area subject to an Encroachment Easement or the construction, erection or installation of an Improvement on a Lot or on a portion of the Common Area subject to an Encroachment Easement which would, in either case, be Visible from Neighboring Property.

3. Section 1.16 of Article 1 of the Amended Declaration is hereby amended in its entirety to provide as follows:

“Designated Builder” means any Person or Persons as may be designated from time to time by the Declarant as a “Designated Builder” in a written notice given by the Declarant to the Association.

4. Section 1.33 of Article 1 of the Amended Declaration is hereby amended in its entirety to provide as follows:

“Modification” means an addition, alteration, repair, change or other work which in any way alters the exterior of any Improvement located on a Lot or on a portion of the Common Area subject to an Encroachment Easement which would, in either case, be Visible from Neighboring Property.

5. Article 1 of the Amended Declaration is hereby amended to add a new section numbered Section 1.45 which shall provide as follows:

“Temporary Easement and Indemnification Agreement” means a written easement agreement in the form and substance determined from time to time by

the Board in its sole discretion pursuant to which a Temporary Encroachment Easement is granted by the Association to a Lot Owner.

6. Article 1 of the Amended Declaration is hereby amended to add a new section numbered Section 1.46 which shall provide as follows:

“Temporary Encroachment Easement” means an easement granted by the Association to a Lot Owner over a portion of the Common Area as to which the Board has granted to such Lot Owner an Encroachment Permit.

7. The third paragraph of Section 3.3 of Article 3 of the Amended Declaration is hereby amended in its entirety to provide as follows:

Encroachment Permits may be granted by the Board in its sole discretion subject to the provisions of this Declaration. Encroachment Permits for Encroachments into Common Area shall only be granted for Improvements in which no Persons may reside. The types of Improvements that will be considered by the Board for the issuance of an Encroachment Permit include, but are not limited to, fences, patios, decks, stairways, dog runs, access pathways, and landscaping. Encroachment Permits issued by the Board shall authorize the granting of an Encroachment Easement by the Association pursuant to a Temporary Easement and Indemnification Agreement including such terms and conditions as are determined appropriate by the Board from time to time in its sole discretion. The Temporary Easement and Indemnification Agreement shall be signed by an officer of the Association and by the Lot Owner and shall be recorded in the official records of the Yavapai County Recorder’s Office.

8. The third sentence of the first paragraph of Section 4.8 of Article 4 of the Amended Declaration is hereby amended in its entirety to provide as follows:

All household pets permitted under this Section shall be confined to the Owner’s Lot, except that a dog may be permitted to leave the Owner’s Lot if such dog is at all times kept on a leash or kept in an approved Encroachment, and is not permitted to enter upon any other Lot.

9. Article 4 of the Amended Declaration is hereby amended to add a new section numbered 4.20 and titled “Leasing of Lots and Residences; Restrictions and Limitations” to provide as follows:

4.20 Leasing of Lots and Residences; Restrictions and Limitations

The leasing of Lots and Residences shall be subject to the following restrictions and limitations:

- (a) "Lease" defined. As used herein, the term "Lease" is defined to include all agreements, contracts, grants, memorandums, conveyances, lets, assignments, or rents that give a non-Owner of a Lot or Residence access to or right to use a Lot or a Residence. A Lease may exist whether it is in writing, or not, and regardless of the amount or nature of consideration exchanged to enjoy the benefit of a Lease. The Board's determination of what constitutes a Lease and what constitutes the leasing or subleasing of a Lot or a Residence shall be conclusive and binding on the Owner of the Lot or Residence.
- (b) Minimum Lease Term. No Owner shall lease a Lot or a Residence for a Lease term of less than thirty (30) days.
- (c) Lease of Entire Lot and Residence. No Owner may lease less than the Owner's entire Lot and Residence.
- (d) Lease to Single Family. An Owner may lease his Lot or Residence only to a Single Family. As used herein, "Single Family" means a group of one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not so related, who maintains a common household on a Lot.
- (e) No Sublease. No Lot, Residence or any portion thereof may be subleased.
- (f) Owner Responsibilities. The Owner of the leased Lot or Residence shall remain responsible for compliance by the Owner's tenants and the tenants' family and guests with the Declaration, the Bylaws, the Association Rules and all applicable federal, state and local statutes, ordinances and regulations and shall be responsible for any violations thereof by his tenants or by his tenants' family or guests.
- (g) Leasing Rules and Regulations. Subject to the provisions of this Declaration, the Board shall be entitled to adopt, amend and repeal rules governing the leasing of Lots and Residence.

10. Section 5.1 of Article 5 of the Amended Declaration is hereby amended to add a new subsection (h) which shall provide as follows:

(h) The rights of Lot Owners under Encroachment Easements granted by the Association pursuant to Section 3.3 of Article 3 of this Declaration.

11. Section 5.1 of Article 5 of the Amended Declaration is hereby amended to add a new subsection (i) which shall provide as follows:

(i) The rights of each Lot Owner to exercise the easements granted pursuant to Section 5.10 of this Declaration over and through the portions of the Common Area on which the driveway and the entrance walkway serving the Residence on the Owner's Lot is located.

12. Section 5.8 of Article 5 of the Amended Declaration is hereby amended to add the following sentence to the end thereof:

The easements for encroachments granted pursuant to this Section 5.8 are in addition to the Encroachment Easements granted to Lot Owners pursuant to Section 3.3 of Article 3 this Declaration.

13. Article 5 of the Amended Declaration is hereby amended to add a new section numbered 5.10 and titled "Easements for Driveways and Walkways" to provide as follows:

5.10 Easements for Driveways and Walkways.

Subject to the provisions of this Section 5.10, each Lot Owner shall have an exclusive easement for the purposes of ingress/egress and for the construction, keeping, maintenance, use, removal and replacement of the driveway and walkway over and through those portions of the Common Area on which the driveway and the entrance walkway serving the Residence on the Owner's Lot are constructed in accordance with plans therefor approved by the Design Review Committee as provided in this Declaration (the "Driveway and Walkway Easement Areas"). Notwithstanding the provisions of Section 1.23 of this Declaration, such driveways and walkways do not constitute Encroachments nor shall an Encroachment Permit be required as a condition to the construction thereof. Notwithstanding any provision to the contrary that may be set forth in any instrument binding upon all or any portion of the Lot or the Common Area, including, without limitation, this Declaration, the Lot Owner and its successors in interest shall be obligated at its or their sole cost to perform, or to have performed by its agents, the Maintenance on the Driveway and Walkway Easement Areas in accordance with the Community Documents. The Lot Owner and the successor Owners of the Lot

shall use the Driveway and Walkway Easement Area in accordance with the Community Documents. The installation of a driveway and a walkway in the Driveway and Walkway Easement Area and the Maintenance thereof by a Lot Owner grants to the Lot Owner and to the successor Owners of the Lot no ownership or other property rights as to the Driveway and Walkway Easement Area now or at any time in the future due the passage of time or to any other event or thing. In no event shall the Association be responsible for any damage to a driveway or a walkway on a Driveway and Walkway Easement Area due to any cause or thing

14. Section 6.10 of Article 6 of the Amended Declaration is hereby amended to add the following sentence to the end thereof:

Notwithstanding anything to the contrary contained in this Section 6.10 or in any other provision of this Declaration, the Board may grant Encroachment Permits and the Association may grant Encroachment Easements to Lot Owners without having to obtain the prior written consent or affirmative vote of the Declarant, the Owners or any First Mortgagees.

15. The last sentence of the first paragraph of Section 7.1 of Article 7 of the Amended Declaration is amended in its entirety to provide as follows:

Notwithstanding anything to the contrary contained in this Declaration, during the Declarant Control Period, no Regular Assessment or Special Assessment shall be levied against any Lot owned by the Declarant or by a Designated Builder.

16. The first sentence of the first paragraph of Section 7.10 of the Amended Declaration is hereby deleted and is replaced with the following:

Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a Working Capital Contribution. The amount of the initial Working Capital Contribution shall be \$300.00. The Board may from time to time increase or decrease the amount of the Working Capital Contribution, but the amount of the Working Capital Contribution may not be increased by the Board more than twenty percent (20%) during any year without the approval of Members holding more than fifty percent (50%) of the votes in the Association.

17. The second sentence of the first paragraph of Section 7.12 of Article 7 of the Amended Declaration is amended in its entirety to provide as follows

The amount of the initial Reserve Contribution shall be \$750.00.

18. The first sentence of Section 8.2 of Article 8 of the Amended Declaration is hereby amended in its entirety to provide as follows:

Each Owner of a Lot shall be responsible for the Maintenance of his Lot and the Improvements located thereon and for the Maintenance of all portions of the Common Area subject to an Encroachment Easement granted to such Owner or to such Owner's predecessor in interest and the Improvements located thereon.

19. The first sentence of Section 8.4 of Article 8 of the Amended Declaration is hereby amended in its entirety to provide as follows:

In the event (a) any portion of any Lot or any portion of the Common Area subject to an Encroachment Easement is so maintained as to present a public or private nuisance or as to substantially detract from the appearance or quality or the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, (b) any portion of a Lot or any portion of the Common Area subject to an Encroachment Easement is being used in a manner which violates this Declaration, or (c) the Owner of any Lot or the Owner holding an Encroachment Easement related to such Owner's Lot is failing to perform any of its obligations under the Community Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fifteen (15) days, the Board may cause such action to be taken at said Owner's cost.

20. The first sentence of Section 9.5 of Article 9 of the Amended Declaration is hereby amended in its entirety to provide as follows:

It shall be the responsibility of each Owner and Resident to provide insurance for himself on his real and personal property interests on or within the Property, including such Owner's Lot and any portion of the Common Area as to which the Owner holds an Encroachment Easement, including, but not limited to, additions and Improvements thereto, furnishings and personal property thereon, and for his personal liability.

21. Section 11.3 of Article 11 of the Amended Declaration is hereby in its entirety to provide as follows:

11.3 Amendments.

11.3.1 Until the termination of the Declarant Control Period, this Declaration and any Plat may only be amended by the Declarant which may amend this Declaration and the Plat without the consent or approval of any other Owner or First Mortgagee.

11.3.2 After the termination of the Declarant Control Period, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners representing more than sixty-seven percent (67%) of the total votes in the Association, except for amendments made pursuant to Section 11.3.3 of this Declaration.

11.3.3 Until the termination of the Declarant Control Period, the Declarant, and thereafter, the Board, may amend this Declaration and the Plat, without obtaining the approval or consent of any Owner or First Mortgagee, in order to conform this Declaration or the Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the development of the Property, the Plat or this Declaration, the Articles or the Bylaws is required by law or is requested by the Declarant or the Board.

11.3.4 Any amendment approved pursuant to Section 11.3.2 of this Declaration or by the Board pursuant to Section 11.3.3 of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Yavapai County, Arizona. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Section 11.3.1 or 11.3.3 of this Declaration shall be executed by the Declarant and shall be recorded with the County Recorder of Yavapai County, Arizona. Unless a later effective date is provided for in the amendment, any such amendment shall be effective upon the Recording of the amendment.

11.3.5 Any challenge to an amendment to this Declaration for the reasons that the amendment was not adopted by the required number of owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment.

22. Article 11 of the Amended Declaration is hereby amended to add a new section numbered 11.19 titled “Declarant’s Exemptions” to provide as follows:

11.19 Declarant’s Exemptions.

11.19.1 Nothing contained in this Declaration shall be construed to prevent, restrict or otherwise limit the construction, installation or maintenance by Declarant or Declarant’s agents during the period of development and construction on the Property of improvements, landscaping or signs deemed necessary or convenient by Declarant, in Declarant’s sole discretion, to the development or sale of property within the Property. Declarant may assign, in whole or in part, its rights and privileges under this Section, and Declarant may grant, in its sole discretion, any similar rights and privileges to any Designated Builder.

11.19.2 The provisions of this Declaration shall not prohibit the construction, leasing or maintenance of homes or other buildings on the Property to be used as sales offices by the Declarant or Declarant’s agents or, with the prior written consent of the Declarant by any Designated Builder, or the parking incidental to the operation of such sales offices, or the signage associated therewith. The Declarant may also permit Common Area to be used for parking and signage in connection with the operation of any sales office.

23. The Amended Declaration is hereby amended to attach Exhibit “A” in the form of Exhibit “A” attached hereto and incorporated herein by this reference to correct the failure to attach such Exhibit “A” to the Amended Declaration when it was recorded on December 12, 2016 as Instrument No. 2016-0062508 of the Official Records of the County Recorder of Yavapai County, Arizona. Said Exhibit “A” describes the Property.

24. Each Owner approving this First Amendment to Amended Declaration is conclusively presumed to have the authority to grant such approval, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such approval of this First Amendment to Amended Declaration.

25. Except as specifically modified by this First Amendment to Amended Declaration, the Amended Declaration shall remain in full force and effect in accordance with its terms. In the event of any conflict or inconsistency between the terms of this First Amendment to Amended Declaration and the Amended Declaration, the terms of this First Amendment to Amended Declaration shall control.

EXHIBIT "A"

TO

FIRST AMENDMENT TO AMENDED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WESTHILL CLUB AT FOREST TRAILS A.K.A HILLCREST PROPERTY OWNERS
ASSOCIATION

EXHIBIT "A"

THE PROPERTY

Lots 1 through 44, and Tracts A, B, C and D, WESTHILL CLUB AT FOREST TRAILS, according to the plat thereof recorded as Instrument 2016-0002369-1 of the official records of the Yavapai County, Arizona Recorder's office.

CERTIFICATION OF FIRST AMENDMENT

The undersigned executes this Certification of First Amendment for the purpose of certifying that (i) the Owners owning not less than two-thirds (2/3) of the Lots in the Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association have executed and delivered to the Association written ballots voting for the approval of the amendments to the Amended Declaration of Covenants, Conditions and Restrictions for Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association (the "Amended Declaration") set forth in this First Amendment to Amended Declaration of Covenants, Conditions and Restrictions for Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association (the "First Amendment") in compliance with Section 11.3 of Article 11 of the Amended Declaration and (ii) the Declarant has approved this First Amendment in writing.

Hillcrest Property Owners Association,
an Arizona nonprofit corporation

By: Charles C. Arnold
Name: Charles C. Arnold
Its: President
Dated: June 23rd, 2017

STATE OF ARIZONA)
) ss:
COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this 23rd day of June,
2017 by Charles C. Arnold, the President of Hillcrest Property Owners
Association, an Arizona nonprofit corporation, the person to me known as the person described
in and who executed the foregoing instrument and acknowledged before me that (s)he executed
the same on behalf of said association.

Witness my hand and official seal

Sarah A. Jacobs
NOTARY PUBLIC

My Commission will expire Sept 23rd 2020



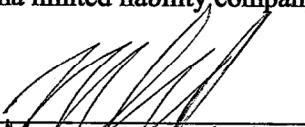
First Amendment to Amended Declaration

11

APPROVAL OF FIRST AMENDMENT

The undersigned executes this Approval of First Amendment for the purpose of evidencing its approval of the amendments to the Amended Declaration of Covenants, Conditions and Restrictions for Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association (the "Amended Declaration") set forth in this First Amendment to Amended Declaration of Covenants, Conditions and Restrictions for Westhill Club at Forest Trails a.k.a Hillcrest Property Owners Association (the "First Amendment") in accordance with Section 11.3 of Article 11 of the Amended Declaration.

Prescott 44, LLC,
an Arizona limited liability company

By: 

Name: Michael C. Anderson, Trustee of The Anderson Family Trust dated December 1, 1991
Its: Manager
Dated: June 27, 2017

STATE OF ARIZONA)
) ss:
COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this 27th day of June
2017 by Michael C. Anderson, the Manager of Prescott 44, LLC, an
Arizona limited liability company, the person to me known as the person described in and who
executed the foregoing instrument and acknowledged before me that (s)he executed the same on
behalf of said company.

Witness my hand and official seal

Sarah A. Jacobs
NOTARY PUBLIC

My Commission will expire Sept. 23, 2020



First Amendment to Amended Declaration