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**SECOND AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION**

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**SECOND AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION**

This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Prescott Canyon Estates Homeowners Association ("Declaration") is made as of the day hereinafter set forth by the Owners and Members of Prescott Canyon Estates Homeowners Association, a non-profit corporation, ("Association").

WHEREAS, the Association recorded the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on November 1, 2006 at Book 4451, Page 154, Official Records of Yavapai County, Arizona, and the First Amendment to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on July 17, 2009 at Book 4682, Page 479, Official Records of Yavapai County, Arizona, and the Corrective First Amendment to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on August 14, 2009 at Book 4688, Page 662, Official Records of Yavapai County, Arizona, which governs the following described real property (hereinafter "Property"):

(i) Lots 1 to 182 and Lots 184 to 225 and Common Area of Prescott Canyon Estates as shown in Book 25 of Maps, Pages 5 through 7, Official Records of Yavapai County, Arizona, as modified and corrected by the map recorded in Book 25 of Maps, Pages 40 through 42, Official Records of Yavapai County, Arizona, but excluding therefrom Lot 183 and that certain area described in A.L.T.A./A.C.S.M. Land Title Survey for Lowe's HIW, Inc. recorded in Book 185 of Land Surveys, Pages 8 through 9, Official Records of Yavapai County, and (ii) Lots 1 to 38 and Common Area of Prescott Canyon Estates, Unit II, as shown in Book 27 of Maps, Page 63, Official Records of Yavapai County, Arizona.

WHEREAS, the Association, by and through its Members, wishes to amend and restate the Declaration in its entirety as set forth herein;

NOW THEREFORE, the Association hereby declares that all of the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the stated Property's improvements and is established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of said real property. All of this Declaration with subsequent amendments shall run with all of said real property for all purposes and shall be binding upon and inure to the benefit of the Association, all Owners and their heirs, successors in interest, and assigns.

ARTICLE I **DEFINITIONS**

1.01 Architectural Committee. "Architectural Committee" means the committee established by the Board pursuant to Section 5.01 of this Declaration.

1.02 Articles. "Articles" means the Articles of Incorporation of the Association which have been filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

1.03 Assessments. "Assessments" means the Annual, Special, Reserve and/or other Assessments levied and assessed against each Lot pursuant to ARTICLE 7 of this Declaration.

1.04 Association. "Association" means the Prescott Canyon Estates Homeowners Association, an Arizona non-profit corporation, and its successors and assigns.

1.05 Rules and Regulations. "Rules and Regulations" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

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

1.07 Bylaws. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

1.08 Common Area. "Common Area" means all real property and improvements, including the clubhouse facilities, tennis court, private streets, easements, and all areas within the Property as shown on the Plat of the Property, other than those areas defined herein as a "Lot" and all other real property and improvements that may now or hereinafter be owned by the Association.

1.09 Declarant. "Declarant" means the Prescott Canyon Investors, Inc. an Arizona corporation which originally developed Prescott Canyon Estates, and its successors and assigns.

1.10 Governing Documents. "Governing Documents" mean the Articles of Incorporation, the Declaration, the Bylaws, the Rules and Regulations, and statements of policies.

1.11 Home. "Home" means any permitted or approved one story modular manufactured home, with the width, length, height and type required and established by the terms of the Governing Documents.

1.12 Improvement. "Improvement" means Homes, porches, gazebos, garages, carports, buildings, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

1.13 Lot. "Lot" or "Lots" means the plot or plots of land shown on the Plats, numbered consecutively from 1 to 182 and from 184 to 225 in Prescott Canyon Estates and numbered

consecutively from Lots 1 to 38 in Prescott Canyon Estates Unit II, with the following exceptions:

- a) Lots 136, 151, 186, 205 and 225, as shown on the Plat for Prescott Canyon Estates shall not be considered "Lots" as defined herein but are part of the "Common Area" for all intents and purposes.
- b) Lots 56 and 57 as shown on the Plat for Prescott Canyon Estates shall be combined and sold, transferred and used as one (1) Lot for all purposes (including, but not limited to, for purposes of voting rights and Assessment obligations).
- c) Lots 67 and 68 as shown on the Plat for Prescott Canyon Estates shall be combined and sold, transferred and used as one (1) Lot for all purposes (including, but not limited to, for purposes of voting rights and Assessment obligations).
- d) Lot 183 as shown on the Plat for Prescott Canyon Estates is excluded from the Property and shall not constitute a Lot as defined herein or for any purposes hereunder.

The total number Lots within the Prescott Canyon Estates development is 255.

1.14 Member. "Member" means one who is an "Owner" and a member of the Association pursuant to ARTICLE II, Paragraph 2.01.

1.15 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation. In the case of Lots in which fee simple title is vested of record in a trust deed pursuant to Arizona Revised Statutes §33-801 et seq., legal title shall be deemed to be in the trustor.

1.16 Plat. "Plat" or "Plats" means the plat of Prescott Canyon Estates shown on the map recorded in Book 25 of Maps, Pages 5 through 7, Official Records of Yavapai County, Arizona, as modified and corrected by the map recorded in Book 25 of Maps, Pages 40 through 42, Official Records of Yavapai County, Arizona, and the plat of Prescott Canyon Estates Unit II shown on the map recorded in Book 27 of Maps, Page 63, all in the Official Records of Yavapai County, Arizona.

ARTICLE II **ASSOCIATION MEMBERSHIP AND VOTING**

2.01 Membership. An Owner automatically becomes a Member of the Association upon becoming the Owner of any Lot in the Property, whether or not the Owner has completely paid for his or her Lot, or has placed a Home on the Lot. An Owner shall remain a Member until such time as his or her ownership of the Lot ceases.

2.02 Acceptance of Terms. The acceptance of a deed to any Lot in the Property, the mere acquisition or rental of any Lot in the Property, or the use of the Common Area by any person shall signify that the person accepts and consents to the provisions of the Governing Documents and agrees to comply with their provisions.

2.03 Voting Rights of Members. Except as otherwise specified herein, each Member shall be entitled to one (1) vote for each Lot owned. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint 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 Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

2.04 Corporate Ownership. In the event any Lot is owned by a corporation, partnership, or other association, the corporation, partnership, or association shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote and otherwise exercise the membership rights of the corporation, partnership, or association, and in the absence of such designation and until such designation is made, the president, general partner or chief executive officer of the corporation, partnership or association shall have the power to vote and otherwise exercise the membership rights of the corporation, partnership, or association.

2.05 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Governing Documents for a period of thirty (30) days or more, such Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current. In the event any Owner is in violation of the Governing Documents said Owner's right to vote as a Member of the Association may be suspended for a period not to exceed sixty (60) days for each infraction of the Project Documents, and, once suspended, shall remain suspended until such violation has been cured.

2.06 Meetings. There shall be an annual meeting of the Owners to elect members of the Board of Directors. Special meetings may be held at other times for other specified purposes, as provided in the Bylaws, and in compliance with the statutes of the State of Arizona.

ARTICLE III **ADMINISTRATION AND MAINTENANCE**

3.01 Administration. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Governing

Documents. The administration of the Association shall be in accordance with the provisions of the statutes of the State of Arizona and the provisions of the Governing Documents. If there be any conflict, the statutes will prevail.

3.02 Board of Directors and Officers. The Association shall act by and through its Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws. The number and election of Directors on the Board of Directors shall be as provided in the Bylaws. The Board of Directors shall have all powers conferred by the Governing Documents and the statutes of the States of Arizona. Unless the Governing Documents specifically require a vote of the members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

3.03 Power of Contract. In order to perform all the duties and responsibilities of the Association in the administration and maintenance of Prescott Canyon Estates, the Board of Directors shall have the right and power to contract with third parties for legal, accounting, management, maintenance, construction and all other necessary services and materials.

3.04 Policies and Rules. The Board of Directors shall establish the policies of the Association. The Board of Directors shall establish and publish the Rules and Regulations governing the conduct of the business affairs of the Association, the use of any area by any Owner, and the conduct of the Owners of Prescott Canyon Estates. All persons entering on the Property, whether Owners, renters, visitors, guests, employees or agents, must comply with all the provisions of the Governing Documents.

3.05 Association Duties. As further provided in this Declaration, the Association shall:

- a) Common Area Repairs and Replacements. As prudently necessary, manage, operate, maintain, and repair all Common Area, including, but not limited to, private streets, common lighting facilities, clubhouse facilities, tennis courts, common sewer lines, and Common Area drainage ditches. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Common Area. The Association may delegate its maintenance duties to a manager or agent or to other persons, firms or corporations.
- b) Insurance. Purchase and maintain policies of insurance as specified in ARTICLE VIII.
- c) Taxes. Pay all federal, state and local taxes, special levies, and other assessments levied or assessed against all or any part of the Common Area, or any other legal obligation.

3.06 Limitation of Director Liability. In accordance with the provisions of the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time), each Director shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if said Director was acting in good faith and within the scope of his or her official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purpose or purposes for which it is organized) unless such damage or injury was caused by willful and wanton or grossly

negligent conduct of the Director. This provision intends to give all Directors the full extent of immunity available under the Nonprofit Corporation Act.

3.07 Indemnification of Directors, Officers, and Agents. The Association shall indemnify any person who incurs expenses or liabilities by reason of the fact that he or she is or was an officer, director, or agent of the Association. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time); provided, however, that the Association shall have the right to refuse indemnification if the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense and through counsel of its own choosing, to defend him or her in the action.

ARTICLE IV **OWNERS' PROPERTY RIGHTS**

4.01 Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot.

4.02 Limitations on Easement. Every Owner's right and easement of enjoyment in and to the Common Area shall be subject to the following:

- a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area;
- b) The right of the Association to suspend Common Area use rights as provided ARTICLE II, Section 2.05; and
- c) The right of the Association to dedicate, sell, or transfer Common Area for such purposes and subject to such conditions as may be agreed upon by the Members, provided that any such dedication, sale, or transfer shall have the prior approval of the Owners of at least two-thirds of the Lots.

4.03 Use and Maintenance of Driveways.

- a) Exclusive Use. Each Owner shall have the exclusive right to use that portion of the Common Area which connects such Owner's Lot to the private streets within the property. Such portions of the Common Area are referred to as a "Driveway."
- b) Surface and Maintenance. The Association shall not be responsible for surfacing or maintaining the driveways. Such responsibilities shall be those of the Owner or Owners.
- c) Dimensions. Driveways shall be no less than ten (10) feet wide and no more than the width of the carport or garage except for that portion adjoining the street to allow for safe ingress/egress to/from the driveway. Driveways must be of concrete or blacktop. All driveway installations or modifications require prior written approval by the Architectural Control Committee.

- d) Common Driveway. Where one driveway serves two or more Lots, the Owners of each Lot served by the driveway shall have the right to use the driveway, which right shall be non-exclusive as among benefited Owners. The benefited Owners shall have collective responsibility to surface and maintain the driveway.
- e) Failure to Maintain. In the event the Owners fail to surface or maintain the driveway, the un-surfaced or unmaintained driveway shall be deemed to be an unmaintained Lot as specified in ARTICLE VI, Section 6.17. The Association shall have the remedies provided in this Declaration and at law.
- f) Non-Denial of Use. Notwithstanding the liability to the Association for maintenance performed, neither the Association nor any Owner shall have the right to deny an Owner the right to use such Owner's driveway for ingress or egress to and from such Owner's Lot.
- g) Running With the Lot. The rights and obligations with regards to driveways shall run with the benefitted Lot and shall benefit and bind future and successive Owners

ARTICLE V **ARCHITECTURAL CONTROL OF IMPROVEMENTS AND ALTERATIONS**

5.01 Architectural Committee. The Board of Directors shall appoint a committee of not less than three (3) members to serve as the Architectural Committee which shall include at least one (1) member of the Board of Directors who shall serve as chairperson of the Architectural Committee. The right to appoint and remove all members of the Architectural Committee at any time, shall be and is hereby vested solely in the Board. All members of the Architectural Committee must be Owners of the Association but shall not be required to be an architect or to meet any other particular qualifications for membership. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of members, at a meeting or otherwise, shall constitute the act of the Committee. Members of the Architectural Committee shall not be entitled to compensation for their services.

5.02 Improvements and Alterations. Except as otherwise provided in this Declaration, no Improvements shall be commenced, erected, repaired structurally, replaced, or altered, and no changes to exterior colors, or the removal or planting of trees or shrubs of any of the foregoing shall be made until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, and location of same shall have been submitted to and approved in writing by the Architectural Committee. Any Owner requesting the approval of the Architectural Committee shall also submit to the Board any additional information, plans, and specifications which the Board may request. Any attempted construction, modification, alteration, or replacement of an Improvement without the approval of the Committee must be removed at the expense of the Owner and the owner fined.

- a) Homes. No Home may be placed on any Lot until plans are approved in writing by the Architectural Committee as to location, size, condition, and appearance, including compatible decks, steps, skirting, siding, carport or garage, street lights. All Homes must conform to the front yard, rear yard, and sideline requirements of

the Plat, as well as the zoning requirements of Yavapai County. Foundations must conform to Yavapai County specifications. The Architectural Committee will determine the exact placement of the home on the Lot. Under no circumstances shall any home be less than fourteen (14) feet wide. This size restriction shall run with the land and be applicable to all resales of the Lot. No Home may have a basement. Each Home must have complete sanitary facilities, including among other things, a lavatory, toilet, wash basin, tub or shower and kitchen sink. The Home must be connected to water and sewer lines in conformity with the State and Yavapai County health requirements.

- b) Age of Home. Each Home must be registered with the required Federal, State, and/or local governmental authorities and, at the time the Home is placed on the Lot, no more than two (2) years shall have elapsed since it was first registered with such governmental authorities.
- c) Coloring Requirements. All Homes must be of earth tone to include off white that is compatible with the surrounding areas and approved by the Architectural Committee.
- d) Roofs. All Homes shall have “non-glare” roofs causing no offensive sunlight reflection which would affect Homes located at a different elevation. All roofs must have full length rain gutters and downspouts with drainage hose attached.
- e) Skirting and Siding. All hitches must be removed to install the skirting. All Homes must have skirting which matches the Home. All skirting must be approved by the Architectural Committee, must be installed professionally, and must completely envelope the home, covering the gap between the home and the ground. The exterior of all Homes must be wood or approved home shiplap, painted aluminum or vinyl siding.
- f) Carports and Garages. All Homes must have a covered carport or enclosed garage for not less than one car. The carport or garage must be compatible with the Home’s appearance, conform to the zoning requirements of Yavapai County, and must be approved by the Architectural Committee.
- g) Porches, Decks and Steps. All porches and decks including steps, railings, and handrails must be compatible with the appearance of the home and be approved by the Architectural Committee. Floors must be of wood or an alternate material of wood-like appearance and may be covered by carpet or other covering material as approved by the Architectural Committee.
- h) Air Conditioning. All air conditioning or evaporative cooling unit installations or modifications require prior approval by the Architectural Committee. No duct work shall be allowed on roofs. Ground mounted evaporative coolers and air conditioners must be screened from view of neighboring Lots and Common Area to the maximum extent possible, as determined by the Architectural Committee.

5.03 Landscaping. The front, rear, and side yards of the Lot must be landscaped in a manner acceptable to the Architectural Committee. Minimal landscaping for each Lot must be a covering of crushed rock or gravel. Larger, special-effects display of rock, shrubs, and/or trees may be included in the plans as appropriate and approved by the Architectural Committee.

- a) Original Landscaping. Within thirty (30) days after installation of the Home, the Owner of the Lot must submit landscaping plans to the Architectural Committee for approval. The landscaping approved by the Architectural Committee must be installed within sixty (60) days after approval, weather permitting.
- b) Common Area. Upon application to the Architectural Committee, the Owner of a Lot may obtain permission to landscape and use a part of the Common Area which adjoins and abuts his or her Lot. Such application must have a written approval of the Architectural Committee for the proposed use of such contiguous Common Area. No permanent Improvements or construction of any kind, such as use of concrete, will be permitted on such contiguous Common Area. The Common Area remains the property of the Association, and the Association retains the right to reclaim control of such landscaping at any time.
- c) Responsibility. If an Owner is permitted to landscape, improve, and use any contiguous part of the Common Area, the Owner thereafter shall be responsible for the continued proper maintenance of that area and any failure to maintain shall cause such area to be deemed to be an unmaintained Lot as specified in ARTICLE VI, Section 6.17. Prior to making any changes to the landscaping in the Common Area, the Owner must obtain the prior written approval of the Architectural Committee. Furthermore, if the Owner wishes to make any changes to the irrigation system in the Common Area, the Owner must obtain the prior written approval of the Architectural Committee and the landscaping company for the Association. The Owner shall be responsible for any damage caused to the irrigation system by the Owner, or the Owner's agent. If an Owner who has been maintaining any portion of the landscaping in the Common Area wishes for the Association to resume maintenance of the area, the Owner must first notify the Board and make any repairs or replacements required by the Board prior to the Association resuming maintenance responsibilities.

5.04 Variances. The Committee may allow variances in and adjustments to the restrictions in this ARTICLE 5 in extenuating circumstances if such are necessary to overcome significant practical difficulties or to prevent substantial hardships; provided, however, that such variance or adjustment is granted in conformity with the intent and purpose of this ARTICLE 5; and, provided that in every instance such variance or adjustment will not have a substantial adverse effect on the Property or the Owners and residents of Lots.

5.05 Re-grading and Drainage. No Lot surface or tract in the Property shall be re-graded without prior consent of the Architectural Committee. It shall be the responsibility of each Owner to maintain and protect the drainage and flood control devices located on his or her Lot. Under no circumstances may an Owner divert water from his Lot onto another Lot or to any Common Area which would adversely affect the other Lots or the Common Area.

5.06 Records. The Architectural Committee shall establish and maintain a file of the original and all subsequent plans and specifications for each Lot and Home, and all approved contiguous and abutting landscaping and improvements to any part of the Common Area. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise.

These records shall be in addition to the files of the Plats of the Property as recorded in the Official Records of Yavapai County.

5.07 Approval. The Architectural Committee shall have the right to refuse to approve any such plans and specifications which are not suitable or desirable in their opinion for aesthetic or other reasons and in so passing upon such plans and specifications, it shall have the right to take into consideration the suitability of the proposed Improvements or other structure or alteration, and of the material (including type and color) of which it is to be built, the site (including location, topography, finished grade elevation) upon which it is proposed to be erected, the harmony thereof with the surroundings (including color and quality of materials and workmanship) and the effect of the improvements or other structure or alteration as planned on the adjacent or neighboring property including visibility and view. Approval of plans and specifications shall not be unreasonably withheld and rejection of any proposal reflected in plans or specifications must be based on reasonable judgment as to the effect said construction, installation, or alteration will have on the Project as a whole. Failure of the Architectural Committee to approve or disapprove the plans and specifications within forty-five (45) days of their submittal shall be deemed affirmative approval, provided such plans and specifications are consistent with the provisions contained in this Declaration and any Rules and Regulations.

5.08 Appeal. Any Owner whose architectural submission has been denied may appeal the decision to the Board in accordance with procedures to be established by the Board. In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board and, for purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Committee.

ARTICLE VI **USE AND OCCUPANCY RESTRICTIONS**

6.01 Residential Use and Commercial Activities. Except as otherwise provided herein, all Lots shall be improved and used only for single family residential use. No trade or business of any kind may be conducted in or from any Lot or any part of the Common Area except that an Owner may conduct a business activity within a Home located on a Lot so long as the existence or operation of the business activity:

- a) is not apparent or detectable by sight, sound, or smell from the exterior of the Home;
- b) does not involve persons coming onto the Lot or the door-to-door solicitation of Owners or other residents in the Property;
- c) does not increase the liability or casualty insurance obligation or premium of the Association; and
- d) is consistent with the residential character of the Association Land and does not constitute a nuisance or a hazardous or offensive use as may be determined in the sole discretion of the Board.

Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Common Areas regarding the business activity. 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: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity.

6.02 Housing for Older Persons; Age Restriction. The Property is intended and operated for occupancy by persons fifty-five (55) years of age or older in accordance with The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601 et seq.), and Arizona law regarding fair housing (A.R.S. 541-1491 et. seq.) (collectively, the "Fair Housing Acts"), which exempt "housing for older persons" from the prohibitions against discrimination based on familial status. Except as otherwise provided herein, each Home, if occupied, must be occupied by at least one (1) person fifty-five (55) years of age or older and no person under the age of thirty-five (35) years of age shall reside in a Home.

- a) **Age.** At least eighty percent (80%) of all occupied Homes will have at least one person fifty-five (55) years of age or older occupying the Home. Accordingly, the Board, upon application, shall have the right and option, but without obligation, at the Board's sole and absolute discretion, to permit a Home to be occupied by persons all of whom are under the age of fifty-five (55) but at least thirty-five (35) years of age, unless the granting of permission would result in fewer than eighty percent (80%) of the occupied Homes being occupied by one person fifty-five (55) years of age or older, or considering other factors deemed appropriate by the Board, may jeopardize (whether at the time of the request or in the future) the Property's status as "housing for older persons" under the Fair Housing Acts. The Board shall exercise its sole and absolute discretion based upon criteria that the Board shall determine as appropriate, including information then known to the Board concerning potential or pending changes in occupancy of other Homes within the Property, the ages of the persons requesting such permission, and any other information known to and deemed relevant by the Board in its sole discretion. Any request submitted to the Board pursuant to this Subsection shall be a written request setting forth the names and ages of all proposed residents of the Home and such other information as the Board reasonably may require.
- b) **Hardships.** The Board, upon application by a person, because of undue hardship on such person or other residents of the Home or extraordinary circumstances, in its sole and absolute discretion (unless the granting of permission would jeopardize the Property's status as "housing for older persons" under the Fair Housing Acts), shall have the right and option, but not the obligation, to permit a Home to be occupied by a person under thirty-five (35) years of age. Any person requesting permission to have a Home occupied pursuant to the provisions of this Subsection shall submit a written request to the Board setting forth the reason for the request and such other information as the Board reasonably may require.

- c) Policies. The Board shall publish and adhere to policies and procedures to demonstrate the intent that the Project is intended and operated for occupancy by persons fifty-five (55) years of age or older. Furthermore, the Board shall comply with any rules issued by the Secretary of Housing and Urban Development for verification of occupancy. The policies and procedures shall provide for verification of residents of Homes by reliable surveys and affidavits or other means as permitted by the Fair Housing Acts.
- d) Visitors. The Board of Directors shall have the authority to establish separate rules concerning the maximum period during any calendar year that persons under the age of thirty-five (35) may visit on the Property. The Rules and Regulations shall govern the conditions and ages under which such visitors will be permitted to use the Common Area, including the clubhouse, pool, tennis court and other facilities. Such restrictions are solely for the benefit of the Owners and occupants of the Property, and are meant to protect the rights and interests of the Owners and occupants in maintaining their community as "housing for older persons."

6.03 Pets. No animals, livestock, or poultry shall be raised, bred, or kept on any Lot except that a reasonable number and size of customary household pets such as dogs, cats, and household birds maybe kept solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance or disturb the health, safety, welfare or quiet enjoyment of the Lots by the Owners. No structure for the care, housing or confinement of any animal shall be maintained so as to be visible from neighboring Lots or Common Area. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal is a generally recognized household pet, or a nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained. All animals shall be kept under reasonable control at all times and in accordance with applicable laws and whenever an animal is allowed to leave a Lot, it shall be either on a leash within the control of its owner or in a cage. All pet litter must be picked up immediately wherever deposited, and placed in the trash at the Owner's Lot.

6.04 Garbage and Trash. All garbage and trash shall not be allowed to accumulate on Lots and shall be placed in properly covered containers on the Lot so as to be least visible from neighboring Lots and Common Area. Garbage shall be placed on the street for collection on the days designated for pickup and garbage containers must be removed from the street promptly after pick-up. At no time shall there be piles of refuse or junk on any Lot or the adjacent Common Area except for trimmings awaiting pickup by the landscaping contractor as permitted by the Board.

6.05 Inoperable Vehicles. No vehicle, trailer, camper, mobile home, recreational vehicle, or boat of any type which is abandoned or inoperable shall be stored or kept on any Lot or Common Area so as to be visible from neighboring Lots, Common Area, or any street within or adjacent to the Property. For purposes of this Section a vehicle is abandoned or inoperable if it is not running, has a flat tire for ten (10) or more days, is up on blocks, or is not properly licensed and registered.

6.06 Recreational Vehicles. Recreational vehicles may be parked or stored on Lots only if they can be parked under the carport. Notwithstanding the foregoing, recreational vehicles owned by residents of Lots may be parked on their Lot or driveway for no more than twenty-four (24) hours in any seven (7) day period to load or unload them in conjunction with their use. The recreational vehicles of guests may be parked for a maximum of seven (7) days in designated areas near the RV storage area. At no time may recreational vehicles on the Property be occupied or used for sleeping or residential quarters.

6.07 Vehicle Repairs and Restoration. No major vehicle repairs, maintenance, or restoration shall be done on any Lot so as to be visible from neighboring Lots and Common Area. Major repairs, maintenance, and restoration are defined as any procedure that requires more than one-half (1/2) day to complete.

6.08 Subdivision of Lots. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner and no portion less than all of any such Lot shall be conveyed or transferred by any Owner.

6.09 Antennas. Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors within the Property, whether attached to a building or structure or otherwise, unless approved by the Board. Any device covered by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall comply with the applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be visible from neighboring Lots or Common Area. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration are as follows: (i) Direct Broadcast Satellite ("DBS") antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite; (ii) Multi-point Distribution Service ("MDS") antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; (iii) Antennas designed to receive local television broadcast signals ("TVBS"); and (iv) Antennas designed to receive and/or transmit data services, including Internet access. If the FCC expands the types of antennas that fall under the FCC Rule, this Section 6.09 shall encompass those antennas as well.

6.10 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom, so as to render Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to the neighborhood or to the Owners and tenants of their respective Lots and Homes. No Owner or resident shall permit any thing or condition to exist upon a Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. No noxious, offensive, or illegal activity shall be allowed on the Lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective Lots and residences. Without limiting the generality of the foregoing, no speakers, horns, sirens or other sound devices, except security

devices used exclusively for security purposes, shall be located or used on a Lot. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

6.11 Laundry. Drying or airing clothes, linens, rugs or similar items outside the Home so as to be visible from neighboring Lots and Common Area is prohibited. No clothes lines may be erected on the Property.

6.12 Wood Storage. All firewood stored on any Lot shall be stacked neatly and stored in such manner so as to be least visible from neighboring Lots and Common Area.

6.13 Decks and Carports. Decks and carports shall be kept clear of all items except recreational lounge chairs, small serving tables, and grills. No refrigerators or unsightly materials are permitted on decks, in carports, or anywhere visible on the Lot. Storage structures permitted only with ACC approval.

6.14 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a Home, appurtenant structures, or other Improvements approved by the Architectural Committee.

6.15 Signs. No signs shall be displayed on any Lot except the following:

- a) a "For Sale" sign and a temporary "Open House" sign, each no larger than eighteen by twenty-four inches (18" x 24") and a "For Sale" sign rider no larger than six by twenty-four inches (6" x 24"), while the Lot is for sale;
- b) a "For Lease" or "For Rent" sign and a temporary "Open House" sign, each no larger than eighteen by twenty-four inches (18" x 24"), while the Lot is for lease or rent;
- c) up to seventy-one (71) days before an election and up to three (3) days after an election, political signs as permitted by the City of Prescott and Yavapai County may be placed on the Lot (or, if no such laws exist, the maximum aggregate total dimensions of all political signs displayed on a Lot shall not exceed nine (9) square feet);
- d) such signs as may be required by law;
- e) one residential identification sign with a total face area of eighty square inches or less; and
- f) signs approved by the Architectural Committee.

6.16 Leasing Restrictions. Any lease or rental agreement must be in writing and shall be subject to the Declaration. All leases must be for an entire Home and Lot and must have a minimum term of thirty (30) days. No subleases are allowed. The occupants of the Home must satisfy the "housing for older persons" restrictions in Section 6.02. Before the commencement of each lease term, the Owner of the Lot shall provide the Board with written notice to the Board of the name and contact information for any adults occupying the Home and Lot, the time period of the lease, including the beginning and ending dates of the tenancy, and a description and the license plate numbers of the tenants' vehicles. In addition, if the Board of Directors creates

and/or adopts a "rental registration form", the Owner shall submit such form to the Association for every rental. The Association may charge a reasonable review and processing fee for the review of the tenant information provided by the Owner or a tenant registration form. Any agreement for the lease of a Single Family residence must be expressly subject to this Declaration, the Articles, the Bylaws, the Rules and Regulations, and any other documents governing the Association. The lease must contain a provision that any violation of the Declaration, the Articles of Incorporation, the Bylaws, Rules and Regulations, or any other documents governing the Association shall be a default under the lease and is grounds for eviction.

If an Owner enters into a lease for less than thirty (30) days, enters into a lease that does not comply with this Section, or fails to provide the required forms and/or information to the Association in a timely manner as determined by the Board, the Association may impose reasonable monetary penalties as determined by the Board, and any other remedies available under the Declaration and Arizona law. Any continuing violation or repeated violations (violation occurring three or more times) of the Declaration shall be a default under the lease. The Owner shall remain liable for compliance with the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association, and shall be responsible for any violations thereof by his or her tenant or the tenant's family and guests. Each Owner shall provide a copy of the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association to each tenant of the Lot. By becoming a tenant, each tenant agrees to be bound by the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association and recognizes that any continuing violation or repeated violations of the Declaration is grounds for eviction from the Lot. If a tenant commits violations that are grounds for eviction, the Association may provide notice to the Owner of the tenant's violations, and require that the Owner evict the tenant for the violations. If the Owner fails to make a good faith effort to evict the tenant, the Association may impose reasonable monetary penalties against the Owner as determined by the Board, and may exercise any other remedies available under the Declaration and Arizona law.

6.17 Maintenance of Lots. Each Owner shall be solely responsible for the maintenance, repair and replacement of his or her Lot and the Home and all Improvements located thereon in good condition and repair and in a neat and attractive manner. In the event any Lot is not so maintained, the Association may give the Owner written notice of the condition on the Lot in violation of this Declaration, a description of the work needed to bring the Lot into a good condition, and a time frame for the Owner's completion of the work. If the Owner fails to take the described corrective action within the time frame set by the Association, the Association shall have the right to furnish the labor and/or materials necessary to bring the Lot into a good condition as determined by the Board of Directors. In such event, the Owner shall pay the Association for all direct and indirect costs and expenses incurred by the Association in furnishing such labor and/or materials. The amount the Owner is obligated to pay for such costs shall constitute an Assessment on such Lot, payable ten (10) days after the Owner is notified of the amount due. In the event of non-payment, the amount due shall be secured by the Assessment lien on such Owner's Lot.

6.18 Damage to Common Area. The Owner of each Lot shall be liable to the Association for all damage to the Common Area or improvements thereon or to other areas to be maintained by the Association or improvements thereon caused by such Owner or any occupant, guest or invitee of or to his Lot. The cost of such maintenance or repair shall be added to and become a part of the Assessment to which such Owner's Lot is subject and shall be secured by the Assessment lien on such Owner's Lot.

ARTICLE VII **BUDGET AND ASSESSMENTS**

7.01 Assessment Obligations. Each Owner of any Lot, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, (c) Reserve Assessments and (d) other charges made or levied by the Association against the Owner or Lot pursuant to this Declaration, such Assessments and charges to be established and collected as provided herein. The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

7.02 Purpose of Assessments. The Assessments by the Association shall be used to promote the recreation, health, safety, and welfare of all the residents in the Property, for the improvement and maintenance of the Common Area as provided herein, payment of taxes on the Common Area, and for the common good of the Property. Annual Assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Area and other improvements which the Association is responsible for maintaining.

7.03 Budget and Annual Assessments. The Board shall annually determine and fix the amount of the Annual Assessment against each Lot in accordance with the budget. The Board of Directors shall prepare an annual budget reflecting the estimated costs for the operating expenses necessary and desirable to administer and manage the Association, costs prudent and necessary to maintain, operate, and repair the Common Area, and the sum needed to provide adequate reserves for the items of major repair, replacements and additions to the Common Area. Not less than thirty (30) days before the beginning of the calendar year the Board shall distribute the budget and notify the Owner of each Lot in writing as to the amount of the Annual Assessment; however, failure to send the budget and written notice shall not eliminate an Owner's obligation to pay Assessments. In the event Board fails to adopt the budget, fix the amount of the Annual Assessment for a new fiscal year, notify the Owners of such amount, the Owners shall pay to the Association the amount of the previous year's Annual Assessment until receipt of written notice of the Annual Assessment.

7.04 Adjustment of Budget and Assessments. If the Board of Directors determines that the Annual Assessment is inadequate to defray all Association expenses and/or insufficient to carry

out all the purposes of the Governing Documents, the Board of Directors may prepare and distribute a supplemental budget and increase the amount of the Annual Assessment for the remaining months of the calendar year to sufficiently to meet the Association's needs.

7.05 Limitation in Increases in Annual Assessments. Notwithstanding any provision contained herein to the contrary, the Annual Assessment for any fiscal year may not be increased more than twenty percent (20%) above the assessments levied for the immediately preceding fiscal year, without the approval of a majority of the Owners of the Association.

7.06 Special Assessments. In addition to the Annual Assessments authorized above, the Board may levy a Special Assessment for any proper Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by members who are voting in person or by absentee ballot at a meeting duly called for such purpose. Written notice of any meeting called for this purpose shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members, in person or by absentee ballot, entitled to cast sixty percent (60%) of all the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall half the quorum required at the prior meeting. No such subsequent meeting may be held more than sixty (60) days following the preceding meeting.

7.07 Uniform Rate of Annual and Special Assessments. The Annual and Special Assessments shall be levied uniformly against each of the 255 Lots. Reserve Assessments need not be uniform.

7.08 Due Dates for Assessments. The Assessments at such regular intervals as may be fixed by the Board of Directors. Notice shall be given to each Lot Owner at least thirty (30) days prior to due date of the Assessment or the first installment of the Assessment. If the Assessment is due in installments, the notice shall set forth the amount and due date for each installment.

7.09 Time of Liability; Non-Waiver. Each Owner's liability for Assessments shall commence with the recording of the deed to his or her Lot. It shall be applicable regardless of whether a Home has been placed on the Lot and regardless of whether the Owner is receiving any of the services or benefits for which the Assessment is levied. An Owner may not exempt himself from liability for any Assessment by waiver or abandonment of the use and enjoyment of his Lot or the Common Area.

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

- a) 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 be deemed delinquent. The Board of Directors may charge interest on delinquent Assessments from the due date at any commercially reasonable rate. In addition, the Board of Directors may establish a late fee, not to exceed the greater of \$15.00 or ten percent (10%) of the amount of the delinquent

Assessment. Any amounts paid by a Member shall be applied first to unpaid principal and then to interest, late charges, and fees, if any.

- b) Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. Recording of this Declaration perfects the Association's assessment lien. Nevertheless, the Association may record a "Notice of Claim of Lien" which shall set forth (a) the name of the delinquent Owner as shown on the records of the Association, (b) the legal description or street address of the Lot against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (d) the name and address of the Association. The Association shall not be obligated to release the assessment lien until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.
- c) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, late fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, the following procedures (and the exercise of one remedy shall not prevent the Association from thereafter exercising any other remedy available): (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving any lien securing any such delinquent Assessments or (ii) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage or deed of Trust. 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 purchases at such sale.

7.11 Discontinuance of Services. In addition to any and all available legal and equitable remedies provided to the Association under the Governing Documents, the Association may, to the extent permitted by law, discontinue furnishing services to the Lot and may deny the Owner, other occupants and guests of such Lot for so long as such Owner shall not remedy his default. This paragraph shall not affect or diminish the Owner's obligation to pay the Assessment after discontinuance of any such services.

7.12 Subordination of the Lien to Mortgages. The lien of the Association for delinquent Assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

7.13 Reserve Assessments. Each person or entity who/that purchases or otherwise becomes the Owner of a Lot, whether by deed, by a trustee's deed upon sale, by a deed in lieu of foreclosure,

or any similar means, shall pay to the Association immediately upon becoming an Owner of the Lot a Reserve Contribution Assessment (“Reserve Assessment”) in such amount as determined from time to time by the Board of Directors pursuant to this Section 7.13. All Reserve Assessments shall be deposited in the Association reserve account and shall be used to fund reserve expenditures of the Association. The Reserve Assessment for calendar fiscal year 2017 shall be \$300.00. The Board may from time to time increase or decrease the amount of the Reserve Assessment, provided that the Board shall not be entitled to increase the amount of the Reserve Assessment in any fiscal year by more than twenty percent (20%) of the amount of the Reserve Assessment for the previous fiscal year without first obtaining the approval of a majority of the Members who are voting at a duly called and held meeting of the Members. Reserve Assessments 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. Reserve Assessments shall be secured by a lien against the related Lot as provided in Article VII of this Declaration. No Reserve Assessment shall 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 for estate planning purposes; (c) a transfer or conveyance to a corporation, partnership or other entity in which the grantor owns a majority interest; or (d) a conveyance of an undivided interest in a Lot to the then-existing co-owners of the Lot, unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment for the Reserve Assessment in which event the Reserve Assessment shall be payable with respect to such transfer or conveyance.

ARTICLE VIII **INSURANCE REQUIREMENTS**

8.01 Scope of Coverage. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

A. Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, 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;

B. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$2,000,000.00. 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 Common Area and all other portions of the Property which the Association is obligated to maintain under this Declaration or for which the Association has accepted responsibility to maintain;

C. Worker's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

D. Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners, including, if applicable, insurance on portions of the Lot maintained by the Association;

E. "Agreed Amount" and "Inflation Guard" endorsements.

8.02 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or 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.

8.03 Fidelity Insurance. The Association shall maintain fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity insurance coverage shall be based upon the business judgment of the Board.

8.04 Payment of Premiums and Deductible. The premiums and deductibles for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association. Notwithstanding the foregoing, if damage is caused by the act or neglect of an Owner, such Owners shall be responsible for the payment of the insurance deductible, and such amount, if unpaid, shall become a lien on the Owner's Lot and collectible in the same manner as Assessments.

8.05 Insurance Obtained by Owners. Each Owner shall be responsible for obtaining insurance for his or her own benefit and at his or her own expense covering the Owner's Lot (including any easements thereon), all Improvements located thereon, including the Home, and the Owner's personal property. Each Owner shall also be responsible for obtaining at his or her expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of the Owner's Lot.

8.06 Payment of Insurance Proceeds. With respect to any loss to the Common Area 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 7 of this Article VIII, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

8.07 Repair and Replacement of Damaged or Destroyed Common Area. Any portion of the Common Area 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 owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the damaged Common Area is not repaired or replaced, insurance proceeds

attributable to the damaged Common Area 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 in its reserves.

ARTICLE IX **EASEMENTS**

9.01 Reservation of Easements. The Association expressly reserves easements and rights-of-way for all public utilities within the area of each of the private streets, and within the areas of the public utility easements shown on the Plat for the purpose of constructing and placing within and on wires, conduits, transformers and related necessary equipment for the underground transmission of electricity, and for the construction, installation, operation and maintenance of gas lines, water lines, sewer lines, water pipes, drains, telephone lines, television cable, or conduits under the surface of the private streets and easements for any and all lawful purposes.

9.02 Drainage Easements. No structures shall be placed or permitted within the drainage easements, nor shall anything be done that may change or alter the direction or flow of drainage easements, or which may obstruct or retard the flow of surface water through drainage channels or easements.

9.03 Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Owners and their family, guests, tenants and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

ARTICLE X **GENERAL PROVISIONS**

10.01 Enforcement. In the event of any violation of threatened violation of any of the Governing Documents, the Association or any Owner may enforce the provisions of the Governing Documents in any manner provided for in this Declaration or at law or in equity including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with Governing Documents, or to recover damages for violations of the Governing Documents.

10.02 Costs of Enforcement. In the event that the Association, by and through the Board of Directors, acts to enforce the terms of this Declaration regardless of whether suit is filed, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith, including, but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be a lien against said Owner's Lot. If, however, a lawsuit is filed, and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the

Association's attorney's fees, court costs, costs of investigation and other related expenses incurred therewith.

10.03 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner of any restriction or other provision of the Governing Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner violating, or responsible for the violation of the Governing Documents; (ii) the legal description of the Lot against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and any subsequent purchaser of the Lot, that there is such a violation. If, after the recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, and the recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or that the violation did not exist. 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 Governing Documents.

10.04 Penalties. In addition to the penalties provided herein, the Board of Directors may establish and publish all penalties for violations of any provisions of any of these Governing Documents, including, but not limited to, monetary penalties, discontinuance of services, or suspension of privileges and uses.

10.05 Violations and Nuisance. Every act or omissions whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association or any Owner.

10.06 Violations of Law. 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 the enforcement procedures set forth herein.

10.07 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

10.08 Waiver. The failure by the Association or any Owner to enforce any covenant, condition or restriction contained in this Declaration shall not be deemed as a waiver of the right to do so thereafter. Such failure shall not give rise to any claim or cause of action against the Association or any Owner. No waiver of a breach shall be construed to be a waiver of any other breach of the same or other provisions, nor shall the failure to enforce any one of the provisions be construed as a waiver of any other provision.

10.09 Future Instruments. All instruments conveying or assigning any interest in all or part of the Property shall refer to this Declaration and shall be subject to the covenants, conditions, restrictions, and reservations contained in this Declaration as fully as though this Declaration were set forth in full in the instrument. However, the terms and conditions of this Declaration shall be binding upon all persons affected by its terms regardless whether express reference is made to this Declaration in any such instrument.

10.10 Amendment. This Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of Owners of two-thirds (2/3) of the Lots. Notwithstanding the foregoing, the Board may amend this Declaration without a vote of the Owners solely for the purpose of complying with the law. An amendment instrument setting for the approved amendment(s) must be recorded in the official records, Yavapai County Recorder.

10.11 Severability. If any provision contained in this Declaration, or any portion is invalid or void, such invalidity or voidness shall not affect any other provision.

10.12 Gender. As used in this Declaration, the masculine gender shall include the feminine gender and the neuter gender.

10.13 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or this Declaration.

10.14 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, or Rules and Regulations, the provisions of this Declaration shall prevail over all others, the Articles shall prevail over the Bylaws, and the Bylaws shall prevail over the Rules and Regulations.

10.15 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of the Governing Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Governing Documents.

10.16 Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration shall be joint and several.

10.17 Attorneys' Fees. In the event the Association incurs legal expenses and costs, including but not limited to attorney's fees, in bringing claims against Owners or defending claims brought by Owners in an administrative action or proceeding, including but not limited to, proceedings before an Administrative Law Judge, the Association shall be entitled to recover its attorney fees and costs from the Owner involved in the administrative proceeding.

IN WITNESS WHEREOF, the President of the Association hereby certifies that the provisions contained with this Amended and Restated Declaration have been approved by the required percentage of the Owners.

DATED this 23rd day of October, 2017

PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION

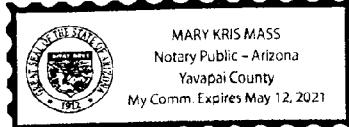
By Patricia M. Hamm
President

STATE OF ARIZONA)
)
) ss.
County of Yavapai)

On this 23 day of October, 2017, before me personally appeared
Patricia Hamm, whose identity was proved to me on the basis of satisfactory evidence
to be the person whose name is subscribed to this document, and who acknowledged that he/she
signed this document.

Mary Kris Mass
Notary Public

Notary Seal:





When recorded, return to:

HOAMCO
PO Box 10000
Prescott, AZ 86304

**SECOND AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION**

**RE-RECORDED TO ADD MISSING SECTION IN TABLE OF CONTENTS
AND TO REPLACE PAGE 8 THAT WAS MISSING A WORD IN THE ORIGINAL
RECORDING**

Correct Instrument #2017-00589614

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**SECOND AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION**

This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Prescott Canyon Estates Homeowners Association (“Declaration”) is made as of the day hereinafter set forth by the Owners and Members of Prescott Canyon Estates Homeowners Association, a non-profit corporation, (“Association”).

WHEREAS, the Association recorded the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on November 1, 2006 at Book 4451, Page 154, Official Records of Yavapai County, Arizona, and the First Amendment to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on July 17, 2009 at Book 4682, Page 479, Official Records of Yavapai County, Arizona, and the Corrective First Amendment to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions on August 14, 2009 at Book 4688, Page 662, Official Records of Yavapai County, Arizona, which governs the following described real property (hereinafter “Property”):

(i) Lots 1 to 182 and Lots 184 to 225 and Common Area of Prescott Canyon Estates as shown in Book 25 of Maps, Pages 5 through 7, Official Records of Yavapai County, Arizona, as modified and corrected by the map recorded in Book 25 of Maps, Pages 40 through 42, Official Records of Yavapai County, Arizona, but excluding therefrom Lot 183 and that certain area described in A.L.T.A./A.C.S.M. Land Title Survey for Lowe's HIW, Inc. recorded in Book 185 of Land Surveys, Pages 8 through 9, Official Records of Yavapai County, and (ii) Lots 1 to 38 and Common Area of Prescott Canyon Estates, Unit II, as shown in Book 27 of Maps, Page 63, Official Records of Yavapai County, Arizona.

WHEREAS, the Association, by and through its Members, wishes to amend and restate the Declaration in its entirety as set forth herein;

NOW THEREFORE, the Association hereby declares that all of the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the stated Property's improvements and is established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of said real property. All of this Declaration with subsequent amendments shall run with all of said real property for all purposes and shall be binding upon and inure to the benefit of the Association, all Owners and their heirs, successors in interest, and assigns.

ARTICLE I **DEFINITIONS**

1.01 Architectural Committee. "Architectural Committee" means the committee established by the Board pursuant to Section 5.01 of this Declaration.

1.02 Articles. "Articles" means the Articles of Incorporation of the Association which have been filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

1.03 Assessments. "Assessments" means the Annual, Special, Reserve and/or other Assessments levied and assessed against each Lot pursuant to ARTICLE 7 of this Declaration.

1.04 Association. "Association" means the Prescott Canyon Estates Homeowners Association, an Arizona non-profit corporation, and its successors and assigns.

1.05 Rules and Regulations. "Rules and Regulations" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

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

1.07 Bylaws. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

1.08 Common Area. "Common Area" means all real property and improvements, including the clubhouse facilities, tennis court, private streets, easements, and all areas within the Property as shown on the Plat of the Property, other than those areas defined herein as a "Lot" and all other real property and improvements that may now or hereinafter be owned by the Association.

1.09 Declarant. "Declarant" means the Prescott Canyon Investors, Inc. an Arizona corporation which originally developed Prescott Canyon Estates, and its successors and assigns.

1.10 Governing Documents. "Governing Documents" mean the Articles of Incorporation, the Declaration, the Bylaws, the Rules and Regulations, and statements of policies.

1.11 Home. "Home" means any permitted or approved one story modular manufactured home, with the width, length, height and type required and established by the terms of the Governing Documents.

1.12 Improvement. "Improvement" means Homes, porches, gazebos, garages, carports, buildings, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

1.13 Lot. "Lot" or "Lots" means the plot or plots of land shown on the Plats, numbered consecutively from 1 to 182 and from 184 to 225 in Prescott Canyon Estates and numbered

consecutively from Lots 1 to 38 in Prescott Canyon Estates Unit II, with the following exceptions:

- a) Lots 136, 151, 186, 205 and 225, as shown on the Plat for Prescott Canyon Estates shall not be considered "Lots" as defined herein but are part of the "Common Area" for all intents and purposes.
- b) Lots 56 and 57 as shown on the Plat for Prescott Canyon Estates shall be combined and sold, transferred and used as one (1) Lot for all purposes (including, but not limited to, for purposes of voting rights and Assessment obligations).
- c) Lots 67 and 68 as shown on the Plat for Prescott Canyon Estates shall be combined and sold, transferred and used as one (1) Lot for all purposes (including, but not limited to, for purposes of voting rights and Assessment obligations).
- d) Lot 183 as shown on the Plat for Prescott Canyon Estates is excluded from the Property and shall not constitute a Lot as defined herein or for any purposes hereunder.

The total number Lots within the Prescott Canyon Estates development is 255.

1.14 Member. "Member" means one who is an "Owner" and a member of the Association pursuant to ARTICLE II, Paragraph 2.01.

1.15 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation. In the case of Lots in which fee simple title is vested of record in a trust deed pursuant to Arizona Revised Statutes §33-801 et seq., legal title shall be deemed to be in the trustor.

1.16 Plat. "Plat" or "Plats" means the plat of Prescott Canyon Estates shown on the map recorded in Book 25 of Maps, Pages 5 through 7, Official Records of Yavapai County, Arizona, as modified and corrected by the map recorded in Book 25 of Maps, Pages 40 through 42, Official Records of Yavapai County, Arizona, and the plat of Prescott Canyon Estates Unit II shown on the map recorded in Book 27 of Maps, Page 63, all in the Official Records of Yavapai County, Arizona.

ARTICLE II ASSOCIATION MEMBERSHIP AND VOTING

2.01 Membership. An Owner automatically becomes a Member of the Association upon becoming the Owner of any Lot in the Property, whether or not the Owner has completely paid for his or her Lot, or has placed a Home on the Lot. An Owner shall remain a Member until such time as his or her ownership of the Lot ceases.

2.02 Acceptance of Terms. The acceptance of a deed to any Lot in the Property, the mere acquisition or rental of any Lot in the Property, or the use of the Common Area by any person shall signify that the person accepts and consents to the provisions of the Governing Documents and agrees to comply with their provisions.

2.03 Voting Rights of Members. Except as otherwise specified herein, each Member shall be entitled to one (1) vote for each Lot owned. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint 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 Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

2.04 Corporate Ownership. In the event any Lot is owned by a corporation, partnership, or other association, the corporation, partnership, or association shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote and otherwise exercise the membership rights of the corporation, partnership, or association, and in the absence of such designation and until such designation is made, the president, general partner or chief executive officer of the corporation, partnership or association shall have the power to vote and otherwise exercise the membership rights of the corporation, partnership, or association.

2.05 Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Governing Documents for a period of thirty (30) days or more, such Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current. In the event any Owner is in violation of the Governing Documents said Owner's right to vote as a Member of the Association may be suspended for a period not to exceed sixty (60) days for each infraction of the Project Documents, and, once suspended, shall remain suspended until such violation has been cured.

2.06 Meetings. There shall be an annual meeting of the Owners to elect members of the Board of Directors. Special meetings may be held at other times for other specified purposes, as provided in the Bylaws, and in compliance with the statutes of the State of Arizona.

ARTICLE III **ADMINISTRATION AND MAINTENANCE**

3.01 Administration. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Governing

Documents. The administration of the Association shall be in accordance with the provisions of the statutes of the State of Arizona and the provisions of the Governing Documents. If there be any conflict, the statutes will prevail.

3.02 Board of Directors and Officers. The Association shall act by and through its Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws. The number and election of Directors on the Board of Directors shall be as provided in the Bylaws. The Board of Directors shall have all powers conferred by the Governing Documents and the statutes of the States of Arizona. Unless the Governing Documents specifically require a vote of the members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

3.03 Power of Contract. In order to perform all the duties and responsibilities of the Association in the administration and maintenance of Prescott Canyon Estates, the Board of Directors shall have the right and power to contract with third parties for legal, accounting, management, maintenance, construction and all other necessary services and materials.

3.04 Policies and Rules. The Board of Directors shall establish the policies of the Association. The Board of Directors shall establish and publish the Rules and Regulations governing the conduct of the business affairs of the Association, the use of any area by any Owner, and the conduct of the Owners of Prescott Canyon Estates. All persons entering on the Property, whether Owners, renters, visitors, guests, employees or agents, must comply with all the provisions of the Governing Documents.

3.05 Association Duties. As further provided in this Declaration, the Association shall:

- a) Common Area Repairs and Replacements. As prudently necessary, manage, operate, maintain, and repair all Common Area, including, but not limited to, private streets, common lighting facilities, clubhouse facilities, tennis courts, common sewer lines, and Common Area drainage ditches. The Board of Directors shall be the sole judge as to the appropriate maintenance of the Common Area. The Association may delegate its maintenance duties to a manager or agent or to other persons, firms or corporations.
- b) Insurance. Purchase and maintain policies of insurance as specified in ARTICLE VIII.
- c) Taxes. Pay all federal, state and local taxes, special levies, and other assessments levied or assessed against all or any part of the Common Area, or any other legal obligation.

3.06 Limitation of Director Liability. In accordance with the provisions of the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time), each Director shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if said Director was acting in good faith and within the scope of his or her official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purpose or purposes for which it is organized) unless such damage or injury was caused by willful and wanton or grossly

negligent conduct of the Director. This provision intends to give all Directors the full extent of immunity available under the Nonprofit Corporation Act.

3.07 Indemnification of Directors, Officers, and Agents. The Association shall indemnify any person who incurs expenses or liabilities by reason of the fact that he or she is or was an officer, director, or agent of the Association. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time); provided, however, that the Association shall have the right to refuse indemnification if the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense and through counsel of its own choosing, to defend him or her in the action.

ARTICLE IV **OWNERS' PROPERTY RIGHTS**

4.01 Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot.

4.02 Limitations on Easement. Every Owner's right and easement of enjoyment in and to the Common Area shall be subject to the following:

- a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area;
- b) The right of the Association to suspend Common Area use rights as provided ARTICLE II, Section 2.05; and
- c) The right of the Association to dedicate, sell, or transfer Common Area for such purposes and subject to such conditions as may be agreed upon by the Members, provided that any such dedication, sale, or transfer shall have the prior approval of the Owners of at least two-thirds of the Lots.

4.03 Use and Maintenance of Driveways.

- a) Exclusive Use. Each Owner shall have the exclusive right to use that portion of the Common Area which connects such Owner's Lot to the private streets within the property. Such portions of the Common Area are referred to as a "Driveway."
- b) Surface and Maintenance. The Association shall not be responsible for surfacing or maintaining the driveways. Such responsibilities shall be those of the Owner or Owners.
- c) Dimensions. Driveways shall be no less than ten (10) feet wide and no more than the width of the carport or garage except for that portion adjoining the street to allow for safe ingress/egress to/from the driveway. Driveways must be of concrete or blacktop. All driveway installations or modifications require prior written approval by the Architectural Control Committee.

- d) Common Driveway. Where one driveway serves two or more Lots, the Owners of each Lot served by the driveway shall have the right to use the driveway, which right shall be non-exclusive as among benefited Owners. The benefited Owners shall have collective responsibility to surface and maintain the driveway.
- e) Failure to Maintain. In the event the Owners fail to surface or maintain the driveway, the un-surfaced or unmaintained driveway shall be deemed to be an unmaintained Lot as specified in ARTICLE VI, Section 6.17. The Association shall have the remedies provided in this Declaration and at law.
- f) Non-Denial of Use. Notwithstanding the liability to the Association for maintenance performed, neither the Association nor any Owner shall have the right to deny an Owner the right to use such Owner's driveway for ingress or egress to and from such Owner's Lot.
- g) Running With the Lot. The rights and obligations with regards to driveways shall run with the benefitted Lot and shall benefit and bind future and successive Owners

ARTICLE V **ARCHITECTURAL CONTROL OF IMPROVEMENTS AND ALTERATIONS**

5.01 Architectural Committee. The Board of Directors shall appoint a committee of not less than three (3) members to serve as the Architectural Committee which shall include at least one (1) member of the Board of Directors who shall serve as chairperson of the Architectural Committee. The right to appoint and remove all members of the Architectural Committee at any time, shall be and is hereby vested solely in the Board. All members of the Architectural Committee must be Owners of the Association but shall not be required to be an architect or to meet any other particular qualifications for membership. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of members, at a meeting or otherwise, shall constitute the act of the Committee. Members of the Architectural Committee shall not be entitled to compensation for their services.

5.02 Improvements and Alterations. Except as otherwise provided in this Declaration, no Improvements shall be commenced, erected, repaired structurally, replaced, or altered, and no changes to exterior colors, or the removal or planting of trees or shrubs of any of the foregoing shall be made until the plans and specifications showing the nature, kind, shape, size, height, color, material, floor plan, and location of same shall have been submitted to and approved in writing by the Architectural Committee. Any Owner requesting the approval of the Architectural Committee shall also submit to the Board any additional information, plans, and specifications which the Board may request. Any attempted construction, modification, alteration, or replacement of an Improvement without the approval of the Committee must be removed at the expense of the Owner and the owner fined.

- a) Homes. No Home may be placed on any Lot until plans are approved in writing by the Architectural Committee as to location, size, condition, and appearance, including compatible decks, steps, skirting, siding, carport or garage, street lights. All Homes must conform to the front yard, rear yard, and sideline requirements of

the Plat, as well as the zoning requirements of Yavapai County. Foundations must conform to Yavapai County specifications. The Architectural Committee will determine the exact placement of the home on the Lot. Under no circumstances shall any home be less than fourteen (14) feet wide. This size restriction shall run with the land and be applicable to all resales of the Lot. No Home may have a basement. Each Home must have complete sanitary facilities, including among other things, a lavatory, toilet, wash basin, tub or shower and kitchen sink. The Home must be connected to water and sewer lines in conformity with the State and Yavapai County health requirements.

- b) Age of Home. Each Home must be registered with the required Federal, State, and/or local governmental authorities and, at the time the Home is placed on the Lot, no more than two (2) years shall have elapsed since it was first registered with such governmental authorities.
- c) Coloring Requirements. All Homes must be of pastel or earth tone to include off white that is compatible with the surrounding areas and approved by the Architectural Committee.
- d) Roofs. All Homes shall have “non-glare” roofs causing no offensive sunlight reflection which would affect Homes located at a different elevation. All roofs must have full length rain gutters and downspouts with drainage hose attached.
- e) Skirting and Siding. All hitches must be removed to install the skirting. All Homes must have skirting which matches the Home. All skirting must be approved by the Architectural Committee, must be installed professionally, and must completely envelope the home, covering the gap between the home and the ground. The exterior of all Homes must be wood or approved home shiplap, painted aluminum or vinyl siding.
- f) Carports and Garages. All Homes must have a covered carport or enclosed garage for not less than one car. The carport or garage must be compatible with the Home’s appearance, conform to the zoning requirements of Yavapai County, and must be approved by the Architectural Committee.
- g) Porches, Decks and Steps. All porches and decks including steps, railings, and handrails must be compatible with the appearance of the home and be approved by the Architectural Committee. Floors must be of wood or an alternate material of wood-like appearance and may be covered by carpet or other covering material as approved by the Architectural Committee.
- h) Air Conditioning. All air conditioning or evaporative cooling unit installations or modifications require prior approval by the Architectural Committee. No duct work shall be allowed on roofs. Ground mounted evaporative coolers and air conditioners must be screened from view of neighboring Lots and Common Area to the maximum extent possible, as determined by the Architectural Committee.

5.03 Landscaping. The front, rear, and side yards of the Lot must be landscaped in a manner acceptable to the Architectural Committee. Minimal landscaping for each Lot must be a covering of crushed rock or gravel. Larger, special-effects display of rock, shrubs, and/or trees may be included in the plans as appropriate and approved by the Architectural Committee.

- a) Original Landscaping. Within thirty (30) days after installation of the Home, the Owner of the Lot must submit landscaping plans to the Architectural Committee for approval. The landscaping approved by the Architectural Committee must be installed within sixty (60) days after approval, weather permitting.
- b) Common Area. Upon application to the Architectural Committee, the Owner of a Lot may obtain permission to landscape and use a part of the Common Area which adjoins and abuts his or her Lot. Such application must have a written approval of the Architectural Committee for the proposed use of such contiguous Common Area. No permanent Improvements or construction of any kind, such as use of concrete, will be permitted on such contiguous Common Area. The Common Area remains the property of the Association, and the Association retains the right to reclaim control of such landscaping at any time.
- c) Responsibility. If an Owner is permitted to landscape, improve, and use any contiguous part of the Common Area, the Owner thereafter shall be responsible for the continued proper maintenance of that area and any failure to maintain shall cause such area to be deemed to be an unmaintained Lot as specified in ARTICLE VI, Section 6.17. Prior to making any changes to the landscaping in the Common Area, the Owner must obtain the prior written approval of the Architectural Committee. Furthermore, if the Owner wishes to make any changes to the irrigation system in the Common Area, the Owner must obtain the prior written approval of the Architectural Committee and the landscaping company for the Association. The Owner shall be responsible for any damage caused to the irrigation system by the Owner, or the Owner's agent. If an Owner who has been maintaining any portion of the landscaping in the Common Area wishes for the Association to resume maintenance of the area, the Owner must first notify the Board and make any repairs or replacements required by the Board prior to the Association resuming maintenance responsibilities.

5.04 Variances. The Committee may allow variances in and adjustments to the restrictions in this ARTICLE 5 in extenuating circumstances if such are necessary to overcome significant practical difficulties or to prevent substantial hardships; provided, however, that such variance or adjustment is granted in conformity with the intent and purpose of this ARTICLE 5; and, provided that in every instance such variance or adjustment will not have a substantial adverse effect on the Property or the Owners and residents of Lots.

5.05 Re-grading and Drainage. No Lot surface or tract in the Property shall be re-graded without prior consent of the Architectural Committee. It shall be the responsibility of each Owner to maintain and protect the drainage and flood control devices located on his or her Lot. Under no circumstances may an Owner divert water from his Lot onto another Lot or to any Common Area which would adversely affect the other Lots or the Common Area.

5.06 Records. The Architectural Committee shall establish and maintain a file of the original and all subsequent plans and specifications for each Lot and Home, and all approved contiguous and abutting landscaping and improvements to any part of the Common Area. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise.

These records shall be in addition to the files of the Plats of the Property as recorded in the Official Records of Yavapai County.

5.07 Approval. The Architectural Committee shall have the right to refuse to approve any such plans and specifications which are not suitable or desirable in their opinion for aesthetic or other reasons and in so passing upon such plans and specifications, it shall have the right to take into consideration the suitability of the proposed Improvements or other structure or alteration, and of the material (including type and color) of which it is to be built, the site (including location, topography, finished grade elevation) upon which it is proposed to be erected, the harmony thereof with the surroundings (including color and quality of materials and workmanship) and the effect of the improvements or other structure or alteration as planned on the adjacent or neighboring property including visibility and view. Approval of plans and specifications shall not be unreasonably withheld and rejection of any proposal reflected in plans or specifications must be based on reasonable judgment as to the effect said construction, installation, or alteration will have on the Project as a whole. Failure of the Architectural Committee to approve or disapprove the plans and specifications within forty-five (45) days of their submittal shall be deemed affirmative approval, provided such plans and specifications are consistent with the provisions contained in this Declaration and any Rules and Regulations.

5.08 Appeal. Any Owner whose architectural submission has been denied may appeal the decision to the Board in accordance with procedures to be established by the Board. In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board and, for purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Committee.

ARTICLE VI **USE AND OCCUPANCY RESTRICTIONS**

6.01 Residential Use and Commercial Activities. Except as otherwise provided herein, all Lots shall be improved and used only for single family residential use. No trade or business of any kind may be conducted in or from any Lot or any part of the Common Area except that an Owner may conduct a business activity within a Home located on a Lot so long as the existence or operation of the business activity:

- a) is not apparent or detectable by sight, sound, or smell from the exterior of the Home;
- b) does not involve persons coming onto the Lot or the door-to-door solicitation of Owners or other residents in the Property;
- c) does not increase the liability or casualty insurance obligation or premium of the Association; and
- d) is consistent with the residential character of the Association Land and does not constitute a nuisance or a hazardous or offensive use as may be determined in the sole discretion of the Board.

Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Common Areas regarding the business activity. 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: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity.

6.02 Housing for Older Persons; Age Restriction. The Property is intended and operated for occupancy by persons fifty-five (55) years of age or older in accordance with The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601 et seq.), and Arizona law regarding fair housing (A.R.S. 541-1491 et. seq.) (collectively, the "Fair Housing Acts"), which exempt "housing for older persons" from the prohibitions against discrimination based on familial status. Except as otherwise provided herein, each Home, if occupied, must be occupied by at least one (1) person fifty-five (55) years of age or older and no person under the age of thirty-five (35) years of age shall reside in a Home.

- a) **Age.** At least eighty percent (80%) of all occupied Homes will have at least one person fifty-five (55) years of age or older occupying the Home. Accordingly, the Board, upon application, shall have the right and option, but without obligation, at the Board's sole and absolute discretion, to permit a Home to be occupied by persons all of whom are under the age of fifty-five (55) but at least thirty-five (35) years of age, unless the granting of permission would result in fewer than eighty percent (80%) of the occupied Homes being occupied by one person fifty-five (55) years of age or older, or considering other factors deemed appropriate by the Board, may jeopardize (whether at the time of the request or in the future) the Property's status as "housing for older persons" under the Fair Housing Acts. The Board shall exercise its sole and absolute discretion based upon criteria that the Board shall determine as appropriate, including information then known to the Board concerning potential or pending changes in occupancy of other Homes within the Property, the ages of the persons requesting such permission, and any other information known to and deemed relevant by the Board in its sole discretion. Any request submitted to the Board pursuant to this Subsection shall be a written request setting forth the names and ages of all proposed residents of the Home and such other information as the Board reasonably may require.
- b) **Hardships.** The Board, upon application by a person, because of undue hardship on such person or other residents of the Home or extraordinary circumstances, in its sole and absolute discretion (unless the granting of permission would jeopardize the Property's status as "housing for older persons" under the Fair Housing Acts), shall have the right and option, but not the obligation, to permit a Home to be occupied by a person under thirty-five (35) years of age. Any person requesting permission to have a Home occupied pursuant to the provisions of this Subsection shall submit a written request to the Board setting forth the reason for the request and such other information as the Board reasonably may require.

- c) Policies. The Board shall publish and adhere to policies and procedures to demonstrate the intent that the Project is intended and operated for occupancy by persons fifty-five (55) years of age or older. Furthermore, the Board shall comply with any rules issued by the Secretary of Housing and Urban Development for verification of occupancy. The policies and procedures shall provide for verification of residents of Homes by reliable surveys and affidavits or other means as permitted by the Fair Housing Acts.
- d) Visitors. The Board of Directors shall have the authority to establish separate rules concerning the maximum period during any calendar year that persons under the age of thirty-five (35) may visit on the Property. The Rules and Regulations shall govern the conditions and ages under which such visitors will be permitted to use the Common Area, including the clubhouse, pool, tennis court and other facilities. Such restrictions are solely for the benefit of the Owners and occupants of the Property, and are meant to protect the rights and interests of the Owners and occupants in maintaining their community as "housing for older persons."

6.03 Pets. No animals, livestock, or poultry shall be raised, bred, or kept on any Lot except that a reasonable number and size of customary household pets such as dogs, cats, and household birds maybe kept solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance or disturb the health, safety, welfare or quiet enjoyment of the Lots by the Owners. No structure for the care, housing or confinement of any animal shall be maintained so as to be visible from neighboring Lots or Common Area. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal is a generally recognized household pet, or a nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained. All animals shall be kept under reasonable control at all times and in accordance with applicable laws and whenever an animal is allowed to leave a Lot, it shall be either on a leash within the control of its owner or in a cage. All pet litter must be picked up immediately wherever deposited, and placed in the trash at the Owner's Lot.

6.04 Garbage and Trash. All garbage and trash shall not be allowed to accumulate on Lots and shall be placed in properly covered containers on the Lot so as to be least visible from neighboring Lots and Common Area. Garbage shall be placed on the street for collection on the days designated for pickup and garbage containers must be removed from the street promptly after pick-up. At no time shall there be piles of refuse or junk on any Lot or the adjacent Common Area except for trimmings awaiting pickup by the landscaping contractor as permitted by the Board.

6.05 Inoperable Vehicles. No vehicle, trailer, camper, mobile home, recreational vehicle, or boat of any type which is abandoned or inoperable shall be stored or kept on any Lot or Common Area so as to be visible from neighboring Lots, Common Area, or any street within or adjacent to the Property. For purposes of this Section a vehicle is abandoned or inoperable if it is not running, has a flat tire for ten (10) or more days, is up on blocks, or is not properly licensed and registered.

6.06 Recreational Vehicles. Recreational vehicles may be parked or stored on Lots only if they can be parked under the carport. Notwithstanding the foregoing, recreational vehicles owned by residents of Lots may be parked on their Lot or driveway for no more than twenty-four (24) hours in any seven (7) day period to load or unload them in conjunction with their use. The recreational vehicles of guests may be parked for a maximum of seven (7) days in designated areas near the RV storage area. At no time may recreational vehicles on the Property be occupied or used for sleeping or residential quarters.

6.07 Vehicle Repairs and Restoration. No major vehicle repairs, maintenance, or restoration shall be done on any Lot so as to be visible from neighboring Lots and Common Area. Major repairs, maintenance, and restoration are defined as any procedure that requires more than one-half (1/2) day to complete.

6.08 Subdivision of Lots. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner and no portion less than all of any such Lot shall be conveyed or transferred by any Owner.

6.09 Antennas. Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors within the Property, whether attached to a building or structure or otherwise, unless approved by the Board. Any device covered by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall comply with the applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be visible from neighboring Lots or Common Area. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration are as follows: (i) Direct Broadcast Satellite ("DBS") antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite; (ii) Multi-point Distribution Service ("MDS") antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; (iii) Antennas designed to receive local television broadcast signals ("TVBS"); and (iv) Antennas designed to receive and/or transmit data services, including Internet access. If the FCC expands the types of antennas that fall under the FCC Rule, this Section 6.09 shall encompass those antennas as well.

6.10 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom, so as to render Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to the neighborhood or to the Owners and tenants of their respective Lots and Homes. No Owner or resident shall permit any thing or condition to exist upon a Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. No noxious, offensive, or illegal activity shall be allowed on the Lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective Lots and residences. Without limiting the generality of the foregoing, no speakers, horns, sirens or other sound devices, except security

devices used exclusively for security purposes, shall be located or used on a Lot. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

6.11 Laundry. Drying or airing clothes, linens, rugs or similar items outside the Home so as to be visible from neighboring Lots and Common Area is prohibited. No clothes lines may be erected on the Property.

6.12 Wood Storage. All firewood stored on any Lot shall be stacked neatly and stored in such manner so as to be least visible from neighboring Lots and Common Area.

6.13 Decks and Carports. Decks and carports shall be kept clear of all items except recreational lounge chairs, small serving tables, and grills. No refrigerators or unsightly materials are permitted on decks, in carports, or anywhere visible on the Lot. Storage structures permitted only with ACC approval.

6.14 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or repair of a Home, appurtenant structures, or other Improvements approved by the Architectural Committee.

6.15 Signs. No signs shall be displayed on any Lot except the following:

- a) a "For Sale" sign and a temporary "Open House" sign, each no larger than eighteen by twenty-four inches (18" x 24") and a "For Sale" sign rider no larger than six by twenty-four inches (6" x 24"), while the Lot is for sale;
- b) a "For Lease" or "For Rent" sign and a temporary "Open House" sign, each no larger than eighteen by twenty-four inches (18" x 24"), while the Lot is for lease or rent;
- c) up to seventy-one (71) days before an election and up to three (3) days after an election, political signs as permitted by the City of Prescott and Yavapai County may be placed on the Lot (or, if no such laws exist, the maximum aggregate total dimensions of all political signs displayed on a Lot shall not exceed nine (9) square feet);
- d) such signs as may be required by law;
- e) one residential identification sign with a total face area of eighty square inches or less; and
- f) signs approved by the Architectural Committee.

6.16 Leasing Restrictions. Any lease or rental agreement must be in writing and shall be subject to the Declaration. All leases must be for an entire Home and Lot and must have a minimum term of thirty (30) days. No subleases are allowed. The occupants of the Home must satisfy the "housing for older persons" restrictions in Section 6.02. Before the commencement of each lease term, the Owner of the Lot shall provide the Board with written notice to the Board of the name and contact information for any adults occupying the Home and Lot, the time period of the lease, including the beginning and ending dates of the tenancy, and a description and the license plate numbers of the tenants' vehicles. In addition, if the Board of Directors creates

and/or adopts a "rental registration form", the Owner shall submit such form to the Association for every rental. The Association may charge a reasonable review and processing fee for the review of the tenant information provided by the Owner or a tenant registration form. Any agreement for the lease of a Single Family residence must be expressly subject to this Declaration, the Articles, the Bylaws, the Rules and Regulations, and any other documents governing the Association. The lease must contain a provision that any violation of the Declaration, the Articles of Incorporation, the Bylaws, Rules and Regulations, or any other documents governing the Association shall be a default under the lease and is grounds for eviction.

If an Owner enters into a lease for less than thirty (30) days, enters into a lease that does not comply with this Section, or fails to provide the required forms and/or information to the Association in a timely manner as determined by the Board, the Association may impose reasonable monetary penalties as determined by the Board, and any other remedies available under the Declaration and Arizona law. Any continuing violation or repeated violations (violation occurring three or more times) of the Declaration shall be a default under the lease. The Owner shall remain liable for compliance with the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association, and shall be responsible for any violations thereof by his or her tenant or the tenant's family and guests. Each Owner shall provide a copy of the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association to each tenant of the Lot. By becoming a tenant, each tenant agrees to be bound by the Declaration, Articles, Bylaws, Rules and Regulations, and any other documents governing the Association and recognizes that any continuing violation or repeated violations of the Declaration is grounds for eviction from the Lot. If a tenant commits violations that are grounds for eviction, the Association may provide notice to the Owner of the tenant's violations, and require that the Owner evict the tenant for the violations. If the Owner fails to make a good faith effort to evict the tenant, the Association may impose reasonable monetary penalties against the Owner as determined by the Board, and may exercise any other remedies available under the Declaration and Arizona law.

6.17 Maintenance of Lots. Each Owner shall be solely responsible for the maintenance, repair and replacement of his or her Lot and the Home and all Improvements located thereon in good condition and repair and in a neat and attractive manner. In the event any Lot is not so maintained, the Association may give the Owner written notice of the condition on the Lot in violation of this Declaration, a description of the work needed to bring the Lot into a good condition, and a time frame for the Owner's completion of the work. If the Owner fails to take the described corrective action within the time frame set by the Association, the Association shall have the right to furnish the labor and/or materials necessary to bring the Lot into a good condition as determined by the Board of Directors. In such event, the Owner shall pay the Association for all direct and indirect costs and expenses incurred by the Association in furnishing such labor and/or materials. The amount the Owner is obligated to pay for such costs shall constitute an Assessment on such Lot, payable ten (10) days after the Owner is notified of the amount due. In the event of non-payment, the amount due shall be secured by the Assessment lien on such Owner's Lot.

6.18 Damage to Common Area. The Owner of each Lot shall be liable to the Association for all damage to the Common Area or improvements thereon or to other areas to be maintained by the Association or improvements thereon caused by such Owner or any occupant, guest or invitee of or to his Lot. The cost of such maintenance or repair shall be added to and become a part of the Assessment to which such Owner's Lot is subject and shall be secured by the Assessment lien on such Owner's Lot.

ARTICLE VII **BUDGET AND ASSESSMENTS**

7.01 Assessment Obligations. Each Owner of any Lot, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) Annual Assessments, (b) Special Assessments, (c) Reserve Assessments and (d) other charges made or levied by the Association against the Owner or Lot pursuant to this Declaration, such Assessments and charges to be established and collected as provided herein. The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

7.02 Purpose of Assessments. The Assessments by the Association shall be used to promote the recreation, health, safety, and welfare of all the residents in the Property, for the improvement and maintenance of the Common Area as provided herein, payment of taxes on the Common Area, and for the common good of the Property. Annual Assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Area and other improvements which the Association is responsible for maintaining.

7.03 Budget and Annual Assessments. The Board shall annually determine and fix the amount of the Annual Assessment against each Lot in accordance with the budget. The Board of Directors shall prepare an annual budget reflecting the estimated costs for the operating expenses necessary and desirable to administer and manage the Association, costs prudent and necessary to maintain, operate, and repair the Common Area, and the sum needed to provide adequate reserves for the items of major repair, replacements and additions to the Common Area. Not less than thirty (30) days before the beginning of the calendar year the Board shall distribute the budget and notify the Owner of each Lot in writing as to the amount of the Annual Assessment; however, failure to send the budget and written notice shall not eliminate an Owner's obligation to pay Assessments. In the event Board fails to adopt the budget, fix the amount of the Annual Assessment for a new fiscal year, notify the Owners of such amount, the Owners shall pay to the Association the amount of the previous year's Annual Assessment until receipt of written notice of the Annual Assessment.

7.04 Adjustment of Budget and Assessments. If the Board of Directors determines that the Annual Assessment is inadequate to defray all Association expenses and/or insufficient to carry

out all the purposes of the Governing Documents, the Board of Directors may prepare and distribute a supplemental budget and increase the amount of the Annual Assessment for the remaining months of the calendar year to sufficiently to meet the Association's needs.

7.05 Limitation in Increases in Annual Assessments. Notwithstanding any provision contained herein to the contrary, the Annual Assessment for any fiscal year may not be increased more than twenty percent (20%) above the assessments levied for the immediately preceding fiscal year, without the approval of a majority of the Owners of the Association.

7.06 Special Assessments. In addition to the Annual Assessments authorized above, the Board may levy a Special Assessment for any proper Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by members who are voting in person or by absentee ballot at a meeting duly called for such purpose. Written notice of any meeting called for this purpose shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members, in person or by absentee ballot, entitled to cast sixty percent (60%) of all the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall half the quorum required at the prior meeting. No such subsequent meeting may be held more than sixty (60) days following the preceding meeting.

7.07 Uniform Rate of Annual and Special Assessments. The Annual and Special Assessments shall be levied uniformly against each of the 255 Lots. Reserve Assessments need not be uniform.

7.08 Due Dates for Assessments. The Assessments at such regular intervals as may be fixed by the Board of Directors. Notice shall be given to each Lot Owner at least thirty (30) days prior to due date of the Assessment or the first installment of the Assessment. If the Assessment is due in installments, the notice shall set forth the amount and due date for each installment.

7.09 Time of Liability; Non-Waiver. Each Owner's liability for Assessments shall commence with the recording of the deed to his or her Lot. It shall be applicable regardless of whether a Home has been placed on the Lot and regardless of whether the Owner is receiving any of the services or benefits for which the Assessment is levied. An Owner may not exempt himself from liability for any Assessment by waiver or abandonment of the use and enjoyment of his Lot or the Common Area.

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

- a) 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 be deemed delinquent. The Board of Directors may charge interest on delinquent Assessments from the due date at any commercially reasonable rate. In addition, the Board of Directors may establish a late fee, not to exceed the greater of \$15.00 or ten percent (10%) of the amount of the delinquent

Assessment. Any amounts paid by a Member shall be applied first to unpaid principal and then to interest, late charges, and fees, if any.

- b) Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made. Recording of this Declaration perfects the Association's assessment lien. Nevertheless, the Association may record a "Notice of Claim of Lien" which shall set forth (a) the name of the delinquent Owner as shown on the records of the Association, (b) the legal description or street address of the Lot against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (d) the name and address of the Association. The Association shall not be obligated to release the assessment lien until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.
- c) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, late fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, the following procedures (and the exercise of one remedy shall not prevent the Association from thereafter exercising any other remedy available): (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving any lien securing any such delinquent Assessments or (ii) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage or deed of Trust. 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 purchases at such sale.

7.11 Discontinuance of Services. In addition to any and all available legal and equitable remedies provided to the Association under the Governing Documents, the Association may, to the extent permitted by law, discontinue furnishing services to the Lot and may deny the Owner, other occupants and guests of such Lot for so long as such Owner shall not remedy his default. This paragraph shall not affect or diminish the Owner's obligation to pay the Assessment after discontinuance of any such services.

7.12 Subordination of the Lien to Mortgages. The lien of the Association for delinquent Assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

7.13 Reserve Assessments. Each person or entity who/that purchases or otherwise becomes the Owner of a Lot, whether by deed, by a trustee's deed upon sale, by a deed in lieu of foreclosure,

or any similar means, shall pay to the Association immediately upon becoming an Owner of the Lot a Reserve Contribution Assessment ("Reserve Assessment") in such amount as determined from time to time by the Board of Directors pursuant to this Section 7.13. All Reserve Assessments shall be deposited in the Association reserve account and shall be used to fund reserve expenditures of the Association. The Reserve Assessment for calendar fiscal year 2017 shall be \$300.00. The Board may from time to time increase or decrease the amount of the Reserve Assessment, provided that the Board shall not be entitled to increase the amount of the Reserve Assessment in any fiscal year by more than twenty percent (20%) of the amount of the Reserve Assessment for the previous fiscal year without first obtaining the approval of a majority of the Members who are voting at a duly called and held meeting of the Members. Reserve Assessments 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. Reserve Assessments shall be secured by a lien against the related Lot as provided in Article VII of this Declaration. No Reserve Assessment shall 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 for estate planning purposes; (c) a transfer or conveyance to a corporation, partnership or other entity in which the grantor owns a majority interest; or (d) a conveyance of an undivided interest in a Lot to the then-existing co-owners of the Lot, unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment for the Reserve Assessment in which event the Reserve Assessment shall be payable with respect to such transfer or conveyance.

ARTICLE VIII **INSURANCE REQUIREMENTS**

8.01 Scope of Coverage. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

A. Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, 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;

B. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$2,000,000.00. 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 Common Area and all other portions of the Property which the Association is obligated to maintain under this Declaration or for which the Association has accepted responsibility to maintain;

C. Worker's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

D. Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners, including, if applicable, insurance on portions of the Lot maintained by the Association;

E. "Agreed Amount" and "Inflation Guard" endorsements.

8.02 Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or 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.

8.03 Fidelity Insurance. The Association shall maintain fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity insurance coverage shall be based upon the business judgment of the Board.

8.04 Payment of Premiums and Deductible. The premiums and deductibles for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association. Notwithstanding the foregoing, if damage is caused by the act or neglect of an Owner, such Owners shall be responsible for the payment of the insurance deductible, and such amount, if unpaid, shall become a lien on the Owner's Lot and collectible in the same manner as Assessments.

8.05 Insurance Obtained by Owners. Each Owner shall be responsible for obtaining insurance for his or her own benefit and at his or her own expense covering the Owner's Lot (including any easements thereon), all Improvements located thereon, including the Home, and the Owner's personal property. Each Owner shall also be responsible for obtaining at his or her expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of the Owner's Lot.

8.06 Payment of Insurance Proceeds. With respect to any loss to the Common Area 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 7 of this Article VIII, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

8.07 Repair and Replacement of Damaged or Destroyed Common Area. Any portion of the Common Area 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 owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the damaged Common Area is not repaired or replaced, insurance proceeds

attributable to the damaged Common Area 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 in its reserves.

ARTICLE IX **EASEMENTS**

9.01 Reservation of Easements. The Association expressly reserves easements and rights-of-way for all public utilities within the area of each of the private streets, and within the areas of the public utility easements shown on the Plat for the purpose of constructing and placing within and on wires, conduits, transformers and related necessary equipment for the underground transmission of electricity, and for the construction, installation, operation and maintenance of gas lines, water lines, sewer lines, water pipes, drains, telephone lines, television cable, or conduits under the surface of the private streets and easements for any and all lawful purposes.

9.02 Drainage Easements. No structures shall be placed or permitted within the drainage easements, nor shall anything be done that may change or alter the direction or flow of drainage easements, or which may obstruct or retard the flow of surface water through drainage channels or easements.

9.03 Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Owners and their family, guests, tenants and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

ARTICLE X **GENERAL PROVISIONS**

10.01 Enforcement. In the event of any violation or threatened violation of any of the Governing Documents, the Association or any Owner may enforce the provisions of the Governing Documents in any manner provided for in this Declaration or at law or in equity including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with Governing Documents, or to recover damages for violations of the Governing Documents.

10.02 Costs of Enforcement. In the event that the Association, by and through the Board of Directors, acts to enforce the terms of this Declaration regardless of whether suit is filed, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith, including, but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be a lien against said Owner's Lot. If, however, a lawsuit is filed, and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the

Association's attorney's fees, court costs, costs of investigation and other related expenses incurred therewith.

10.03 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner of any restriction or other provision of the Governing Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner violating, or responsible for the violation of the Governing Documents; (ii) the legal description of the Lot against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and any subsequent purchaser of the Lot, that there is such a violation. If, after the recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, and the recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or that the violation did not exist. 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 Governing Documents.

10.04 Penalties. In addition to the penalties provided herein, the Board of Directors may establish and publish all penalties for violations of any provisions of any of these Governing Documents, including, but not limited to, monetary penalties, discontinuance of services, or suspension of privileges and uses.

10.05 Violations and Nuisance. Every act or omissions whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association or any Owner.

10.06 Violations of Law. 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 the enforcement procedures set forth herein.

10.07 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

10.08 Waiver. The failure by the Association or any Owner to enforce any covenant, condition or restriction contained in this Declaration shall not be deemed as a waiver of the right to do so thereafter. Such failure shall not give rise to any claim or cause of action against the Association or any Owner. No waiver of a breach shall be construed to be a waiver of any other breach of the same or other provisions, nor shall the failure to enforce any one of the provisions be construed as a waiver of any other provision.

10.09 Future Instruments. All instruments conveying or assigning any interest in all or part of the Property shall refer to this Declaration and shall be subject to the covenants, conditions, restrictions, and reservations contained in this Declaration as fully as though this Declaration were set forth in full in the instrument. However, the terms and conditions of this Declaration shall be binding upon all persons affected by its terms regardless whether express reference is made to this Declaration in any such instrument.

10.10 Amendment. This Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of Owners of two-thirds (2/3) of the Lots. Notwithstanding the foregoing, the Board may amend this Declaration without a vote of the Owners solely for the purpose of complying with the law. An amendment instrument setting for the approved amendment(s) must be recorded in the official records, Yavapai County Recorder.

10.11 Severability. If any provision contained in this Declaration, or any portion is invalid or void, such invalidity or voidness shall not affect any other provision.

10.12 Gender. As used in this Declaration, the masculine gender shall include the feminine gender and the neuter gender.

10.13 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or this Declaration.

10.14 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the ~~Articles, Bylaws, or Rules and Regulations~~, the provisions of this Declaration shall prevail over all others, ~~the Articles shall prevail over the Bylaws, and the Bylaws shall prevail over the Rules and Regulations~~.

10.15 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of the Governing Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Governing Documents.

10.16 Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration shall be joint and several.

10.17 Attorneys' Fees. In the event the Association incurs legal expenses and costs, including but not limited to attorney's fees, in bringing claims against Owners or defending claims brought by Owners in an administrative action or proceeding, including but not limited to, proceedings before an Administrative Law Judge, the Association shall be entitled to recover its attorney fees and costs from the Owner involved in the administrative proceeding.

IN WITNESS WHEREOF, the President of the Association hereby certifies that the provisions contained with this Amended and Restated Declaration have been approved by the required percentage of the Owners.

DATED this 14th day of November, 2017.

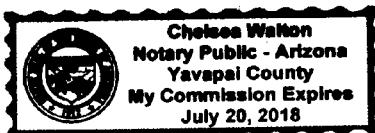
PRESCOTT CANYON ESTATES HOMEOWNERS ASSOCIATION

By Patty Hanna
President

STATE OF ARIZONA)
)
) ss.
County of Yavapai)

On this 14th day of November, 2017, before me personally appeared
Patty Hanna, whose identity was proved to me on the basis of satisfactory evidence
to be the person whose name is subscribed to this document, and who acknowledged that he/she
signed this document.

Notary Seal:



Chelsea Walton
Notary Public