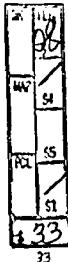
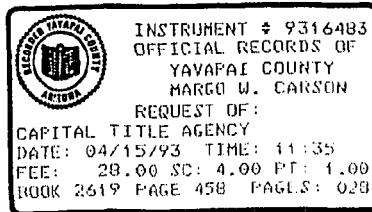


When recorded, return to:
Yavapai Hills, Inc.
5010 Bear Way
Prescott, AZ. 86301
(602) 778-1000



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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR RESIDENTIAL LOTS

RECITALS

Yavapai Hills, Inc., a Delaware corporation, as present owner of the beneficial interest in Trust No. 1017 at Capital Title Agency, Inc., an Arizona corporation, being properly authorized so to act by terms of the Trust, and Capital Title Agency, Inc., as Trustee thereunder, solely as bare legal title holder, and not personally, and acting at the proper direction of said beneficiary recites that:

WHEREAS, Capital Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 1017, is the legal title holder of the following described premises, situated within the County of Yavapai, State of Arizona, to-wit:

Lots 1-40 inclusive, in Unit IV, and Lots 41-68, in Unit V, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Units IV and V" filed in the office of the Yavapai County Recorder on March 12, 1993 in Book 30 of Maps, Pages 1,2,& 3.

WHEREAS, Capital Title Agency, Inc., as Trustee, will convey said premises subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Capital Title Agency, Inc., as Trustee, solely as bare legal title holder and not personally and acting at the proper direction of said Yavapai Hills, Inc., hereby declares that all of the lots described above and any other lots to which this Declaration is extended by Yavapai Hills, Inc. shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and

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attractiveness of the above-described property and all other property to which this Declaration is extended by Yavapai Hills, Inc., and all of which are hereby declared to be for the benefit of the above-described property and all other property to which this Declaration is extended by Yavapai Hills, Inc., and the owners thereof, their heirs, successors, grantees and assigns, as part of the plan for development of a community known as "Yavapai Hills."

1. RULES OF CONSTRUCTION.

For the purposes of this Declaration, and when not inconsistent with the context:

- 1.1 Words used in the present tense include the future.
- 1.2 Words in the singular include the plural.
- 1.3 Words in the plural include the singular.
- 1.4 The masculine includes the feminine.
- 1.5 The word "shall" is mandatory and not directory.
- 1.6 The word "may" is directory.
- 1.7 The particular controls the general.
- 1.8 Enumeration is not limited.

2. DEFINITIONS.

Unless the context otherwise requires, the following terms, phrases and words shall have the meaning hereinafter given for purposes of this Declaration:

2.1 "Additional Property" shall mean real property located adjacent to the Property. For purposes of the foregoing, real property shall be deemed to be located adjacent to the Property if it is separated from the Property solely by land dedicated to and accepted by the United States of America, the State of Arizona, Yavapai County, the City of Prescott or any other political subdivision land dedicated for public rights-of-way.

2.2 "Apartment" shall have the meaning set forth in the By-Laws.

2.3 "Articles" means the Articles of Incorporation of the Association which are filed in the office of the Corporation Commission of the State of Arizona, and as the same may be amended from time to time. In the event of any conflict between this Declaration and the Articles, the Articles shall control.

2.4 "Assessment" shall mean annual assessments, special assessments and/or other charges which may be levied against an Owner according to the provisions of this Declaration, the Articles or the By-Laws.

2.5 "Association" means Yavapai Hills Home Owners Association, a non-profit corporation, its successors and assigns, incorporated under the laws of the State of Arizona for the purpose of performing the functions and duties enumerated in this Declaration and for such other purposes as set forth in the Articles.

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

2.7 "By-Laws" means the By-Laws adopted by the Association, as the same may be amended from time to time. In the event of any conflict between this Declaration and the By-Laws, the By-Laws shall control.

2.8 "Committee" means the architectural Committee appointed as hereinafter provided.

2.9 "Common Areas and Facilities" means those areas or facilities owned or acquired by the Association or placed under the jurisdiction of the Association, including but not limited to:

- 2.9.1 Open spaces.
- 2.9.2 Recreational areas.
- 2.9.3 Drives.
- 2.9.4 Walks.
- 2.9.5 Guard houses.
- 2.9.6 Parks.
- 2.9.7 Lakes.
- 2.9.8 Picnic areas.
- 2.9.9 Club houses.
- 2.9.10 Recreational facilities.
- 2.9.11 Improvements and personal property used in conjunction with the foregoing.

2.10 "Declaration" means this Declaration of Covenants, Conditions and Restrictions For Residential Lots as now constituted or as the same may from time to time be amended or supplemented in accordance with the provisions hereof.

2.11 "Density Unit" means those Dwelling Units permitted or allowed to be constructed on a Residential Tract in accordance with the density district prescribed for such Residential Tract by the applicable zoning law. Actual building construction or occupancy shall not be a requirement to constitute a "Density Unit."

2.12 "Dwelling" shall mean any building or portion of a building situated upon a Parcel designed and intended for use and occupancy as a single family residence.

2.13 "Dwelling Unit" means a Lot or an Apartment.

2.14 "Lot" means a residential lot as shown on a subdivision plat of the Property recorded in the records of the County Recorder of Yavapai County, Arizona.

2.15 "Member" means any person, corporation, partnership, joint venture or any other legal entity who is a member of the Association, and who shall also be an Owner.

2.16 "Owner" means (when so capitalized) the record holder of legal title to the fee simple interest in any Dwelling Unit or Residential Tract, but excluding those who hold such title merely as security for the performance of an obligation. In the case of a Dwelling Unit or Residential Tract, the fee simple title to which is vested of record in a seller under a valid and outstanding Agreement or Contract of Sale, as defined in A.R.S. §33-741, legal title shall be deemed to be in the purchaser under such Agreement or Contract of Sale. In the case of a Dwelling Unit or Residential Tract, the fee simple title to which is vested of record in a trustee pursuant to A.R.S. §33-801, et seq., legal title shall be deemed to be in the Trustor. An Owner shall include any person who holds record title to a Dwelling Unit or Residential Tract in joint ownership with any other person or holds an undivided fee interest in any Dwelling Unit or Residential Tract.

2.17 "Property" or "Yavapai Hills" means Lots 1-40 inclusive, in Unit IV, and Lots 41-68, in Unit V, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Units IV and V" filed in the office of the Yavapai County Recorder on March 12, 1993 in Book 30 of Maps, Pages 1, 2, & 3, and

such additional property thereto, if any, as may hereafter become subject to this Declaration and be brought within the jurisdiction of the Association pursuant to the provisions of Section 11 of this Declaration.

2.18 "Residential Tract" means any tract of land designated by a capital letter on a subdivision plat of record of the Property and zoned for residential purposes, but excluding therefrom any such tracts owned by the Association or set aside for school sites, or Common Areas and Facilities.

2.19 "Rules and Regulations" means the Rules and Regulations adopted by the Association for the regulation of Common Areas and Facilities and as the same may from time to time be amended.

2.20 "Supplemental Declaration" means a written instrument recorded in the records of the County Recorder of Yavapai County, Arizona which refers to this Declaration and effects the annexation of real property to this Declaration in accordance with the provisions of Section 11 of this Declaration.

2.21 "Yavapai Hills, Inc." means the existing corporation, organized under the laws of the State of Delaware, its successors and assigns.

3. PROPERTY SUBJECT TO YAVAPAI HILLS DECLARATION

3.1 General Declaration Creating Yavapai Hills. Yavapai Hills, Inc. intends to develop Yavapai Hills by subdivision into various Lots and Residential Tracts and to sell and convey such Lots and Residential Tracts. As portions of Yavapai Hills are developed, Yavapai Hills, Inc. intends to record one (1) or more Supplemental Declarations, which Supplemental Declarations shall incorporate this Declaration by reference. The Supplemental Declarations shall establish such additional covenants, conditions and restrictions as may be appropriate for the Lots and/or Residential Tracts covered by the applicable Supplemental Declaration. Yavapai Hills, Inc. hereby declares that all of the Property 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 and any Supplemental Declarations applicable thereto, as amended or modified from time to time. This Declaration and the Supplemental Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of Yavapai Hills, and are established for

the purpose of enhancing and protecting the value, desirability and attractiveness of Yavapai Hills and every part thereof. All of this Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Yavapai Hills, Inc., the Association, all Owners, and their successors in interest.

4. EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS AND FACILITIES.

4.1 Reservation of Easements. With respect to each Dwelling Unit and Residential Tract, easements and rights-of-way, as set forth in recorded plats of Yavapai Hills, are hereby reserved unto Yavapai Hills, Inc., and its assigns for construction, installation, and maintenance of water supply lines, sewers, utility lines and drains.

4.2 Reservation and Right of Access. Right of access to each Dwelling Unit and Residential Tract is hereby reserved to Yavapai Hills, Inc., and the Association for general improvements of any person's premises or premises of Yavapai Hills, Inc., but such right of access to any Dwelling Unit or Residential Tract shall terminate upon commencement of construction on the Dwelling Unit or Residential Tract by the Owner.

4.3 Easements of Enjoyment. Yavapai Hills, Inc. and every Owner shall have a right and easement of enjoyment in and to the Common Areas and Facilities which shall be appurtenant to, and shall pass with, the title to every Dwelling Unit and Residential Tract, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of the Common Areas and Facilities.

(b) The right of the Association to suspend the voting rights, the right to use of the Common Areas and Facilities and other rights of any Member according to the Articles, By-Laws and Rules and Regulations.

(c) The right of the Association to regulate the use of the Common Areas and Facilities through the Rules and Regulations.

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas and Facilities to any public agency,

authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

(e) The right of the Association to change the use of the Common Areas and Facilities in accordance with this Declaration, the Articles and/or the By-Laws.

(f) The right of the Association to change the size, shape or location of Common Areas and Facilities, to exchange Common Areas and Facilities for other lands or interests therein which become Common Areas or Facilities and to abandon or otherwise transfer Common Areas and Facilities.

5. GENERAL USE RESTRICTIONS.

5.1 Residential Use. No buildings or structures shall be erected, altered, placed or permitted to remain on any Dwelling Unit or Residential Tract other than a single family residential dwelling, an attached garage or carport, and any other accessory building customarily found on residential property in a subdivision (but in no event shall there be any barns, mobile homes, trailers, sheds or shacks) and landscaping. There shall not exist on any Dwelling Unit or Residential Tract at any time, more than one single family residence. No Dwelling Unit shall be subdivided into smaller Lots or Apartments, nor conveyed or encumbered in less than the full original dimensions of such Lot or Apartment, except for purposes of the installation or maintenance of public utilities. This restriction shall not prevent the division of a Lot or Apartment to increase the size of the Lots or Apartments on either side so long as no new building site is created nor made smaller. Nothing herein contained shall prevent the dedication or conveyance of portions of a Dwelling Unit for public utilities, in which event the remaining portion of any such Dwelling Unit shall, for the purpose of this provision, be treated as a whole Dwelling Unit. This restriction or any others contained herein shall not prevent the utilization of two or more contiguous Dwelling Units having common ownership as a single building site.

5.2 Garage and Parking. Each Dwelling must provide an attached carport or garage or a detached garage as approved by the Committee. In addition to garage or carport parking, every Dwelling must be provided with paved off-

street parking spaces for at least two (2) additional vehicles. All Owners shall be responsible for providing off-street parking for all vehicles owned by the Owner and his guests, insofar as possible, to keep the street lanes clear to the movement of traffic.

5.3 Pavement. Driveways, turnarounds and off-street parking areas shall be paved with concrete or asphalt or other permanent materials approved by the Committee.

5.4 Contractors and Time of Completion. Each structure on a Dwelling Unit or Residential Tract shall be constructed by a contractor licensed by the State of Arizona for the work. The Committee may waive the licensed contractor requirement for any Owner it deems qualified to act as his own prime contractor. Said Owner shall be subject to any and all rules, regulations and/or other governmental requirements pertaining to the construction of improvements to a residential lot.

5.5 Occupancy of Dwelling. No Dwelling Unit shall be used for residential purposes prior to the time at least one (1) water flush toilet is installed in the Dwelling thereon or prior to the time the Dwelling is serviced by water and sewer connections.

5.6 Pets. No animals, birds or poultry shall be kept or maintained on any Dwelling Unit or Residential Tract, except recognized household pets which may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants, and not for breeding or any other commercial use or purpose. All animal wastes shall be disposed of in accordance with applicable city or county regulations. Any pets permitted out of doors or off any Dwelling Unit or Residential Tract must be contained in an enclosure approved by the Committee or secured on a leash. This restriction shall not prohibit the establishment by Yavapai Hills, Inc. or the Association of a horse stable or stables for use of Members upon a tract or tracts of land which may be set aside specifically for the purpose.

5.7 Waste, Garbage and Trash. Waste, rubbish and garbage must be kept in suitable containers and must not be allowed to accumulate on any Dwelling Unit or Residential Tract and must be removed from each Dwelling Unit or

Residential Tract in accordance with applicable sanitation regulations. Each Owner is responsible for the removal of all waste, rubbish or garbage from their Dwelling Unit or Residential Tract. Trash containers are to be stored in such manner that they are not visible from adjoining properties, with the provision that they may be placed near the street the morning of collection and must be removed by evening of the same day. No waste, rubbish or garbage shall be burned or dumped on any Dwelling Unit or Residential Tracts or any part of the Property except in such places as may be specifically designated and approved for such purposes by the governmental authorities having jurisdiction thereof. Failure to comply with either this Paragraph 5.7 or Paragraph 7.2 pertaining to the removal of building debris, automatically grants a right to Yavapai Hills, Inc., its designee, or the Association, to enter upon any Dwelling Unit or Residential Tract for purposes of removing waste, rubbish, garbage, and all expenses so incurred shall be a charge against the Dwelling Unit or Residential Tract, and until paid, shall constitute a lien upon the Dwelling Unit or Residential Tract which may be foreclosed pursuant to the procedures outlined in Section 9.

5.8 Business Prohibition and Nuisances. No Dwelling Unit or Residential Tract shall be used in whole or in part for any trade, business or commercial purpose. No Dwelling Unit or Residential Tract shall be used in whole or in part for the storage of any property or object that will cause such Dwelling Unit or Residential Tract to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any Dwelling Unit or Residential Tract be used in such manner that it will emit foul or obnoxious odors, will cause unreasonable noise, or will cause a nuisance. No thing or condition shall exist upon any portion of the Property which shall induce, breed or harbor plant or other disease or noxious insects or other pests or which shall pose a health or safety hazard of any kind.

5.9 Fences and Hedges. Except as may be otherwise required by law, no Dwelling Unit or Residential Tract boundary fences or screens of any kind shall be erected or maintained on any Dwelling Unit or Residential Tract. Fences for private patios, swimming pools, tennis courts or pet runs must be first submitted to the Committee for approval but in no case may they project beyond

the property line setback for structures. No hedge shall be maintained on any Dwelling Unit or Residential Tract which shall unreasonably restrict or block the view from an adjoining Dwelling Unit or Residential Tract, or which shall materially impair the continuity of the general landscaping plans of Yavapai Hills. In no event shall any hedge be maintained which shall exceed four (4) feet in height without the prior approval of the Committee.

5.10 Signs, Mailboxes and Yard Lights. No sign or advertisement of any kind, other than name plate signs not to exceed one (1) square foot in area, shall be erected or maintained on the Property without the written approval of the Committee. All Dwelling Unit Owners are to install an electric street lamp and a mailbox. A post type street lamp of not less than four (4) feet or more than six (6) feet in height is to be located not more than ten (10) feet from the street curb. The light is to be activated automatically during the hours between sunset and sunrise by photoelectric cell or equivalent device. A light strength of not less than 25 watts or more than 40 watts incandescent strength, or equivalent, is required. Following installation, the Dwelling Unit Owner is required to maintain the lamp in working order. Mailbox designs are to be compatible with the house design.

5.11 Antennas, Towers, etc. There shall be no exterior television antenna, satellite dish, radio antenna, flagpole, mast or tower upon the Property without the prior written approval of the Committee. The Committee may approve the temporary installation of a television antenna or satellite dish on a Dwelling Unit or Residential Tract during the time Cable TV facilities are not available at the Dwelling Unit or Residential Tract.

5.12 Tanks. No above-ground tanks of any kind shall be installed or placed on the Property.

5.13 Recreational Vehicles. Boats, campers, motor homes, travel trailers, motorcycles and other recreational vehicles shall be kept in a garage and out of view of neighboring Dwelling Units or Residential Tracts or streets. No exterior storage of any items of any kind shall be permitted, except with prior written approval of the Committee. Any allowed storage shall be areas screened from view from neighboring property, as required by the Committee. No

automobile, truck or other vehicle shall remain on any portion of the Property in any manner which could be construed as being stored, neglected, abandoned, or otherwise not in frequent use, except pursuant to written approval of the Committee.

5.14 No Encroachments; Utilities. No tree, shrub, or plant of any kind or any other thing shall be allowed to overhang or otherwise encroach upon a roadway, sidewalk or any other way without the prior written authorization of the Committee. No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines shall be installed or maintained on the Property without the prior written approval of the Committee; all such lines, when approved, shall be located underground to the extent practicable.

5.15 Oil, Gas and Mineral Activity. No oil, gas or mineral exploration, drilling, quarrying, development, refining or mining operations of any kind, including but not limited to wells, derricks, surface tanks, tunnels, or mineral excavations or shafts shall be placed, allowed or maintained on any portion of the Property without the prior written approval of the Committee.

5.16 Outside Speakers and Amplifiers, Lighting. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind shall be placed, allowed or maintained outside, or be directed to the outside of any building or other improvement without the prior written approval of the Committee. No lighting shall be placed, allowed or maintained outside or be directed to the outside of any building or other improvement without the prior written approval of the Committee.

5.17 Repairs. No repairs or maintenance, other than emergency repairs, of any machinery, equipment or other personal property or fixtures (including without limitation motor vehicles) not part of the Dwelling or other improvements constructed on the Property where such repair or maintenance takes place shall be made within view of any neighboring property with the prior written approval of the Committee.

5.18 Signs. No signs or advertisements of any kind may be placed, allowed or maintained on the Property without the prior written approval of the Committee, except that mailboxes, residential nameplates, signs required by legal

proceedings, and "for sale" signs (but not "for rent" signs) may be placed and maintained in conformity with the Committee guidelines.

5.19 Violations. No portion of the Property shall be improved, maintained or utilized in such manner as to violate any applicable statute, ordinance or regulations of the United States of America, the State of Arizona; the County of Yavapai, the City of Prescott, or any other governmental agency or subdivision having jurisdiction over the Property. No portion of the Property shall be maintained or utilized in violation of the Rules and Regulations, the Committee guidelines, or any other covenants and restrictions applicable to the Property.

5.20 Roofs. Air conditioners, evaporative coolers, and any other mechanical equipment must be shielded from view on all sides. No such equipment will be allowed to be installed on the roof unless fully screened. Miscellaneous items such as vents and flues should be located as much as possible on the least prominent side of the roof. Vents, flues and flashing must be coated with a flat paint to match the color of the roof.

5.21 Sales Offices. The provisions of this Declaration and of Supplemental Declarations shall not prohibit the construction and maintenance of homes to be used as a sales office by Yavapai Hills, Inc. and parking incidental to the operation of such sales offices, and the signage associated therewith, so long as the location of such sales office and the opening and closing hours and all signage are approved by the Committee, and the construction and maintenance of the sales office otherwise complies with this Declaration. The Committee may also permit Lots and other areas to be used for parking in connection with the sales office so long as such parking areas are in compliance with City of Prescott ordinances.

6. ARCHITECTURAL COMMITTEE.

6.1 Appointment of Committee. The Committee shall consist of three (3) persons, two of whom shall be appointed by Yavapai Hills, Inc., and one of whom shall be appointed by the Board. The Committee members appointed by Yavapai Hills, Inc. shall serve at the discretion of Yavapai Hills, Inc. and in the event any such Committee member is removed, resigns, refuses to serve, dies, or is

unable to serve for any reason, Yavapai Hills, Inc. shall appoint his successor. The person, and his successors, appointed to each Committee by the Board shall serve at the discretion of the Board and in the event such appointee is removed, resigns, refuses to serve, dies or is unable to serve for any reason, the Board shall appoint his successor. At such time as shall be designated by Yavapai Hills, Inc., the foregoing power of appointment of Yavapai Hills, Inc. shall be relinquished in favor of the Board, and thereafter the power of appointment for all members of the Committee shall be exercised by the Board, and all powers, rights and authorities of the Committee shall be exercised and vested in the Committee as an Association Committee. Yavapai Hills, Inc. may delegate to another corporation, association, or person, its right to appoint persons to the Committee. Until such time as Yavapai Hills, Inc. has relinquished its power of appointment as aforesaid, the area of authority of the Committee shall be determined by Yavapai Hills, Inc., and thereafter by the Board. The members of the Committee do not need to be architects, engineers, directors, or Owners and do not need to possess any special qualifications at any time. The Committee shall hold meetings at such times and places and upon such notice as it may determine; a quorum for such meeting shall consist of two members, and the concurrence of two members shall be necessary for any decision of the Committee.

6.2 Approval of Plans and Specifications. No Dwelling, building, fence, patio, deck, port, landscaping or other structure shall be commenced, erected, added to, have its exterior modified, changed, altered, be painted or repainted, placed or permitted to remain on any Dwelling Unit or Residential Tract or maintained, except in accordance with the plans and specifications of the Dwelling Unit or Residential Tract, showing the nature, kind, shape, height, materials, floor plans, exterior color scheme, location and approximate cost of such Dwelling, building or other structure and the grading of the Dwelling Unit or Residential Tract to be built upon, which have been previously submitted to and approved in writing by the Committee, and a copy thereof, as finally approved, lodged permanently with the Committee. The Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or other

reasons, and in so reviewing such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed dwelling or other structure, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the Dwelling, building or other structure as planned on the outlook from adjacent or neighboring property. No Owner or other party shall have recourse against the Committee for its refusal to approve any such plans and specifications, including lawn areas and landscaping. The Committee shall not be liable for any structural or other defects in building or structure erected according to such plans and specifications.

6.3 Site Plans. Site plans shall show:

- (i) Location of all trees over three inches (3") in trunk diameter, one foot from the ground.
- (ii) Trees to be removed to permit construction.
- (iii) Location of all easements.
- (iv) Dimensions and bearings of the boundaries of the item to be constructed, erected or placed on the Dwelling Unit or Residential Tract.
- (v) Existing grade and grade changes.
- (vi) Structure location.
- (vii) Front, side and rear set backs.
- (viii) Driveways and Parking Areas.

6.4 Excavation and Removal. There shall not be any excavation or removal of rocks, dirt or natural vegetation or importation of dirt, rocks, etc., until the site plan has been approved by the Committee.

6.5 Request for Approval. Request for the Committee's approval of such plans and specifications, together with a copy of such plans and specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee, at least thirty (30) days prior to the date on which construction is to commence. Within thirty (30)

days from receipt of such written request, the Committee shall notify in writing the Owner making the request of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specifications, then and in that event that Committee shall set forth in its notification the reason for rejection thereof. The decision of the Committee shall be final if the Owner fails to request a hearing in accordance with the procedures outlined in Paragraph 6.7.

6.6 Failure to Act. In the event the Committee shall fail to approve or disapprove plans or specifications within thirty (30) days after receipt of the written request, the plans, specifications, and other information requested by the Committee, approval thereof shall be deemed to have been given; provided however, any Dwelling, building or structure embraced by such plans and specifications shall be masonry or frame construction and the location and size of the dwelling, building or structure shall not be in violation of any of the restrictions contained in this Declaration or any applicable law, rule or regulation of any governmental body or agency having jurisdiction thereof.

6.7 Right of Hearing. Should the Committee reject or disapprove the plans and specifications as submitted, the Owner, within fifteen (15) days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of such written request, shall fix the date, time and place of the hearing and shall notify the Owner in writing of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the written request for hearing. At the hearing the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall then determine, by majority vote of the persons appointed by the Committee, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Notice in writing of the Committee's decision shall be mailed to the Owner within seven (7) days from the date of the hearing. The

decision of the Committee shall be final if the Owner fails to exercise the right of appeal in accordance with the procedures set forth in Paragraph 6.8.

6.8 Right of Appeal. In the event the Owner is dissatisfied with the decision of the Committee rendered in accordance with Paragraph 6.7, then and in that event, the Owner may appeal such decision to the Board. The right of appeal shall be exercised by the Owner within fifteen (15) days from the date the Committee mails notice of its decision to the Owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of a notice of appeal, shall fix the date, time and place of the hearing on appeal and shall notify in writing the Committee and the Owner of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the notice of appeal. At the hearing on appeal, both the Committee and the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing on appeal, the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed. Notice in writing of the Board's decision shall be mailed to the Committee and the Owner within seven (7) days from the date of the hearing on appeal. The decision of the Board shall be final.

6.9 Fee. The Board may establish a reasonable processing fee to defer the costs in considering any requests for approvals submitted to the Committee or the Board, which fee shall be paid at the time the request for approval is submitted.

6.10 Rules. The Committee may (but is not required to) establish, amend and repeal rules which shall serve as guidelines to be used in rendering its decisions. Such rules do not need to be the same for all portions of the Property, and nothing shall preclude the Committee from deviating therefrom in its sole discretion.

7. CONSTRUCTION REQUIREMENTS AND TEMPORARY STRUCTURES.

Construction on a Dwelling Unit or Residential Tract shall be governed by the following:

7.1 Time of Construction. All construction on a Dwelling Unit or Residential Tract must be commenced within three (3) months from the date of approval by the Committee of the plans and specifications and all dwellings, buildings or structures shall be completed within six (6) months from commencement of construction; provided, however, the Committee may extend such time when in its opinion conditions warrant such extension and landscaping must be substantially completed in accordance with the approved plans within nine (9) months of the commencement of construction of a Dwelling. It shall be the responsibility of the Owner to notify the Committee in writing of the starting and completion dates of construction.

7.2 Temporary Structures. No trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character on any Dwelling Unit or Residential Tract shall at any time be used as a residence, either temporarily or permanently. No temporary dwellings, buildings or structures of any type shall be placed on any Dwelling Unit or Residential Tract, except as may be required for storage or watchmen during the period of construction of the Dwelling on such Dwelling Unit or Residential Tract. Debris resulting from construction of the Dwelling must be disposed of weekly.

7.3 Obstruction of Easements, Ditches or Culverts. No Dwelling, building or structure of any kind or nature shall be erected, permitted or maintained on, over or across the easements for utilities or drainage as shown on the recorded plats of Yavapai Hills. No Owner, nor anyone acting under his direction, shall cover, bridge or otherwise interfere with drainage or irrigation ditches or culverts now existing or hereafter installed without the prior express written approval of the Committee.

8. SIZE AND HEIGHT AND SETBACK REQUIREMENTS:

The size and height and setback of dwellings, buildings or other structures shall be limited as follows:

8.1 Area. Exclusive of enclosed or open porches, garages, carports and any area in the basement or within the foundation:

(ix) Each single level Dwelling shall have a minimum of 1600 square feet of living area.

(x) Each two-story Dwelling shall have a minimum of 1400 square feet of living area on the main level and a total living area of not less than 2000 square feet.

(xi) Each one and one-half story Dwelling shall have a minimum of 1400 square feet of living area on the first floor and a total living area of not less than 2000 square feet.

(xii) Each split or multi-level Dwelling shall have a minimum of 2000 square feet of living area.

8.2 Height. The height limitation of buildings shall be two stories, but not to exceed 30 feet at any point on the side of a building facing a dedicated street or a private roadway platted on a subdivision plat of the Property, but a building may have an additional story on a downhill side not facing such roadway or street with approval of the Committee.

8.3 Setback Requirements. All setback requirements for the Property shall be measured to the face of each Dwelling or other building constructed on the Residential Tract or Dwelling Unit. All Dwellings and other buildings shall be constructed within the setback requirements set forth on the plat for each Residential Tract or Dwelling Unit. Notwithstanding anything to the contrary herein, the Committee shall have the right to permit reasonable modification of the setback requirements where, in the discretion of the Committee, strict enforcement of these setback provisions would work a hardship, or, in the case of a front yard setback, where the topography of the Lot or Residential Tract may necessitate a different setback. However, any such modification shall not be contrary and conflict with the setback requirements of the applicable zoning ordinance, code or other law then in effect, unless the person seeking the modification has obtained from the proper authority having jurisdiction thereof a variance from such zoning ordinance, code or other law

that would allow such modification by the Committee, or the Committee may grant the modification conditioned upon the obtaining of such variance. Where two or more Dwelling Units are acquired as a single building site, the side Dwelling Unit lines shall refer only to the Dwelling Unit lines bordering the adjoining property owners.

9. YAVAPAI HILLS HOME OWNERS ASSOCIATION.

9.1 Association. For the purpose of construction, maintenance and improvement of Common Areas and Facilities and of any and all common community services of every kind and nature required or desired in areas owned, acquired by, or under the jurisdiction of the Association for the general benefit and use of members, each and every Owner, in accepting a deed or contract of purchase for any Dwelling Unit or Residential Tract, agrees to and shall be a member of and be subject to the obligations and duly elected By-Laws and Rules and Regulations of the Association, and to pay annual assessments and any special assessment and any other charges levied against each Dwelling Unit or Residential Tract pursuant to this Declaration, the Articles of the By-Laws to provide the necessary funds for the aforesaid purposes. Every Owner, by virtue of being an Owner, automatically shall be a Member of the Association, and shall thereafter remain such for as long as he remains an Owner. Such membership shall be appurtenant to and pass with the title to any Dwelling Unit or Residential Tract. No change in the Owner shall be effective for voting or other purposes unless and until the Board is given actual written notice of such transfer.

9.2 Voting Rights. Members shall have voting rights as provided in the Articles and By-Laws.

9.3 Assessments. All Assessments shall be paid within thirty (30) days of the due date. Any part of an Assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. Each Dwelling Unit and Residential Tract shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration or a Supplemental Declaration for the amount of the Assessments against each such Dwelling Unit or Residential Tract (hereinafter called the "Assessment Lien"). The Assessment Lien on each Dwelling

Unit and Residential Tract shall be prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, and after notice of such delinquency has been given to the Owner without the delinquency having been cured within the thirty (30) days of receipt of such notice, shall be treated as a deed of trust in the amount of the delinquency with the Owner as trustor, Capital Title Agency, Inc., as Trustee, and the Association as beneficiary, the Association being authorized to sell or foreclose upon the property pursuant to Arizona Revised Statutes Section 33-807 et seq. or in any other manner permitted by law, however, the right to sell or foreclose upon such Dwelling Unit or Residential Tract shall be in additional to and not in substitution of all of the rights and remedies which the Association and Board may have in accordance with the provision of this Declaration or otherwise. The Association, acting on behalf of the Owners, shall have the power to bid for such Dwelling Unit or Residential Tract at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Assessments, other costs and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties and may temporarily suspend the Association membership rights of an Owner who is in default after a hearing held in accordance with the By-Laws. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area and Facilities or abandonment of his Dwelling Unit or Residential Tract.

9.4 Evidence of Payment of Assessments and Charges. Upon receipt of a written request by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating (a) that all Assessments have been paid with respect to the specified Dwelling Unit or Residential Tract as of the date of such certificate, or (b) if all such amounts have not been paid, the amount of such Assessments against such Dwelling Unit or Residential Tract due and payable

as of the date of the certificate. The Association may make a charge for the issuance of such certificates, which charge must be paid in advance at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Dwelling Unit or Residential Tract in question.

9.5 Association's Remedies. If the Owner of any Dwelling Unit and Residential Tract or any other person or entity breaches any provision of this Declaration (including but not limited to any failure to pay any Assessments when due), the Association (or the Committee, where appropriate), may enforce the same under any remedy available at law or in equity, including but not limited to taking any or all of the following actions, concurrently or separately (and, by seeking any such remedy, the Association or Committee does not by election or otherwise prejudice or waive its rights to exercise any other remedy):

- (a) Bring an action to recover money damages and costs;
- (b) Seek an injunction against the continuance of the breach;
- (c) Seek specific performance of any affirmative covenant;
- (d) Enforce the Assessment Lien by foreclosure as a realty mortgage or by sale as under a deed of trust (in which regard each Owner hereby expressly grants a power of sale to the Association) or otherwise, and pursue any deficiency; the Association having the right: (i) to make payments on any prior lien, which payments shall bear interest at the same rate as delinquent Assessments and which (with such interest) shall be secured by the Assessment Lien, and (ii) to bid on any interest sold or foreclosed and to acquire, hold, mortgage, lease, sell or otherwise deal with the same.

If the Association shall fail or refuse to enforce a mandatory provision of this Declaration for an unreasonable period of time (which shall exceed at least 30 days) after written request by at least ten (10) Owners to do so, then the requesting Owners may enforce them on behalf of the Association by any appropriate action, whether at law or in equity.

9.6 Transfer of Lot. Sale or transfer of any interest in a Dwelling Unit and Residential Tract shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of such a mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, any such purchaser or transferee shall take the Dwelling Unit and Residential Tract free of all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu but such purchaser or transferee shall take subject to all Assessments accruing on and subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu. Any Assessments so relieved may, however, be collected by assessment (specially or in the next Annual Assessment) against all Dwelling Units and Residential Tracts (including the subject Dwelling Unit and Residential Tract) and shall be secured by the Assessment Lien against all such Dwelling Units and Residential Tracts. No exemption under this Section shall release any defaulting Owner of his personal obligation for amounts so exempted.

10. LANDS RETAINED BY YAVAPAI HILLS, INC.

Neither the purchaser of a Dwelling Unit or Residential Tract nor any successor in interest thereof shall be deemed to have acquired any proprietary or riparian rights in lands that are retained by Yavapai Hills, Inc., in any improvements on such lands or in any of the lakes, irrigation ditches, or other waterways on such lands.

11. SUBJECTION ADDITIONAL LAND TO THE DECLARATION.

11.1 Requirements for Subjecting Additional Lands. From time to time, the size of the Property may be increased by Yavapai Hills, Inc. adding, or permitting others to add, land thereto by Yavapai Hills Inc. recording with the County Recorder of Yavapai County, Arizona, a Supplemental Declaration. The Supplemental Declaration shall be signed and acknowledged by or on behalf of Yavapai Hills, Inc. and the Owner of the Additional Land if other than Yavapai Hills, Inc. Each such Supplemental Declaration shall at least:

- (a) describe the land being added as part of the Property;
- (b) state that such land and the improvements thereon are expressly subjected to all of the terms of this Declaration;

(c) set forth any supplemental covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements concerning such land.

Any Supplemental Declaration shall be considered as a supplement to this Declaration and fully a part hereof for all purposes. The addition of such Additional Property to the Property, and such land's becoming subject hereto, shall be effective immediately upon recordation of such Supplemental Declaration or such other date as may be set forth in the Supplemental Declaration.

11.2 Withdrawal of Additional Property. Any Additional Property, or portions thereof, may be withdrawn and removed from the Property by recordation of a Notice of Withdrawal of such Additional Property. The Notice of Withdrawal shall set forth the legal description of the Additional Property to be withdrawn, shall state that such Additional Property shall no longer be subject to this Declaration and any Supplemental Declaration executed with respect thereto, and shall be signed and acknowledged by or on behalf of Yavapai Hills, Inc. and all of the Owners of the Additional Land if other than Yavapai Hills, Inc. The withdrawal of such Additional Property from the Property shall be effective immediately upon recordation of such Notice of Withdrawal, or such other date as may be set forth in the Notice of Withdrawal.

12. TERM; AMENDMENTS; TERMINATION.

12.1 Duration of Declaration. The aforesaid provisions, covenants, conditions and restrictions, and each and all thereof, shall run with the land and every part thereof, and shall be binding upon the Property and the Owners thereof until twenty (20) years from the date of recording of this Declaration, after which they shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the Owners holding a majority of the votes attributable to the Property has been recorded agreeing to terminate the same.

12.2 Amendment. This Declaration may be amended by Recording with the County Recorder of Yavapai County, Arizona, a Certificate of Amendment, duly signed by the President of the Association. The Certificate of Amendment shall set forth in full the amendment adopted and, shall certify that it has been

approved (either at a meeting duly called for such purpose, or by consent in lieu thereof) by the Owners holding at least fifty-one percent (51%) of the votes attributable to the Property.

13. GENERAL.

13.1 Violation of Covenants, Conditions and Restrictions. The covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing or occupying any Dwelling Unit or Residential Tract in the Property after the date on which the instrument is recorded. In the event of any violation or attempted violation of these covenants, conditions and restrictions, they may be enforced and an action may be brought by the Committee, the Association, or by any Owner at law or in equity. Such remedies shall include but not be limited to damages, court costs, and attorneys' fees, injunctive relief and/or any and all other rights or remedies pursuant to law. These covenants, conditions and restrictions or any right of re-entry by reason thereof, shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value upon such land, and each and all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise; and provided also that the breach of any said covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust. Failure by the Committee, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

13.2 Invalidity and Severability. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment of court order in no way affects the validity of any of the other provisions and the same shall remain in full force and effect. No provision hereof shall be considered invalid if any reasonable construction of Yavapai Hills, Inc.'s intent can give effect to any such provision.

13.3 Deeds of Conveyance. All instruments of conveyance of an interest in all or any part of the Property shall contain (and if not, shall be

deemed to contain) reference to this instrument and shall be subject to the covenants, conditions and restrictions herein as fully as though the terms and conditions of this instrument were therein set forth in full; provided, however, that the terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not. No private agreement of any adjoining Owners shall modify or abrogate any of these restrictive covenants, conditions or restrictions.

13.4 Absence of Obligation. Anything herein contained to the contrary notwithstanding, it is understood and agreed that Capital Title Agency, Inc., an Arizona corporation, shall have no obligation to see to the performance or non-performance of any of the covenants herein contained and shall not be personally liable for any action or non-action taken in violation of any of the covenants herein.

13.5 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities, then such provision shall continue until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States on the date hereof.

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

13.7 Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, Yavapai Hills, Inc. makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property or Yavapai Hills can or will be carried out or that any land now owned or hereafter acquired by it will be subject to this Declaration, or that any such land (whether or not it has been subject to this Declaration) will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

13.8 Captions and Titles. All captions, titles or headings of the Sections and Paragraphs in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

13.9 Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, or (ii) the date which is three days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his Dwelling Unit or Residential Tract (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and By-Laws shall specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

13.10 Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the Laws of the State of Arizona, and suit to enforce any provision hereof or to obtain any remedy with respect hereto may be brought in Superior Court, Yavapai County, Arizona, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said Court.

13.11 Nonliability. To the fullest extent permitted by law, neither Yavapai Hills, Inc., the Association, the Board, the Committee, any other committees of the Association, any Owner, Member, owner, officer, director, employee, agent, owner nor shareholder of any of the above, shall be liable to any person or entity for any damage, loss, cost, expense or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission or the like made in good faith, whether or not erroneous or negligent, which they reasonably believed to be within the scope of their respective duties and rights

hereunder or in connection herewith and the Association shall indemnify and hold them harmless to the full extent permitted by law against the same.

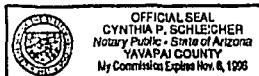
DATED this 14th day of April, 1993.

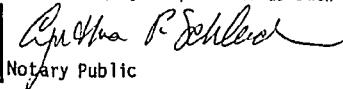
CAPITAL TITLE AGENCY, INC., as Trustee and
not personally under Trust No. 1017

By 
Its Trust Officer

STATE OF ARIZONA }
County of Yavapai } ss.

Personally appeared before me this 14th day of April, 1993,
Nena Murphy, who acknowledged him/herself to be the Trust Officer of
Capital Title Agency, Inc. and he/she as such Officer, being authorized so
to do, executed the foregoing instrument for the purposes therein contained by
signing the name of the corporation as Trustee, by him/herself as such officer.




Notary Public

My commission expires:

APPROVED:

YAVAPAI HILLS, INC., a corporation

By 
Michael J. Klein, Sr.
President

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STATE OF ARIZONA }
County of Yavapai } ss.

The foregoing instrument was acknowledged me this 8th day of April, 1993, by Michael J. Klein, Sr., President of Yavapai Hills, Inc., a corporation, on behalf of the corporation.

SEAL

Notary Public

My commission expires:

11-20-99

APPROVED:

YAVAPAI HILLS, INC., a corporation

Bv

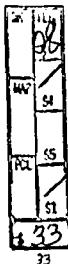
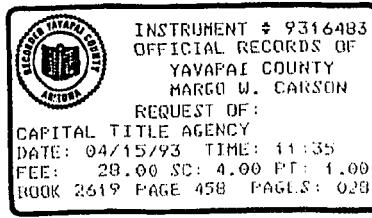
By Michael J. Klein, Sr.
President

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When recorded, return to:
Yavapai Hills, Inc.
5010 Bear Way
Prescott, AZ. 86301
(602) 778-1000



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR RESIDENTIAL LOTS

RECITALS

Yavapai Hills, Inc., a Delaware corporation, as present owner of the beneficial interest in Trust No. 1017 at Capital Title Agency, Inc., an Arizona corporation, being properly authorized so to act by terms of the Trust, and Capital Title Agency, Inc., as Trustee thereunder, solely as bare legal title holder, and not personally, and acting at the proper direction of said beneficiary recites that:

WHEREAS, Capital Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 1017, is the legal title holder of the following described premises, situated within the County of Yavapai, State of Arizona, to-wit:

Lots 1-40 inclusive, in Unit IV, and Lots 41-68, in Unit V, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Units IV and V" filed in the office of the Yavapai County Recorder on March 12, 1993 in Book 30 of Maps, Pages 1, 2, & 3.

WHEREAS, Capital Title Agency, Inc., as Trustee, will convey said premises subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth:

NOW, THEREFORE, Capital Title Agency, Inc., as Trustee, solely as bare legal title holder and not personally and acting at the proper direction of said Yavapai Hills, Inc., hereby declares that all of the lots described above and any other lots to which this Declaration is extended by Yavapai Hills, Inc. shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and

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attractiveness of the above-described property and all other property to which this Declaration is extended by Yavapai Hills, Inc., and all of which are hereby declared to be for the benefit of the above-described property and all other property to which this Declaration is extended by Yavapai Hills, Inc., and the owners thereof, their heirs, successors, grantees and assigns, as part of the plan for development of a community known as "Yavapai Hills."

1. RULES OF CONSTRUCTION.

For the purposes of this Declaration, and when not inconsistent with the context:

- 1.1 Words used in the present tense include the future.
- 1.2 Words in the singular include the plural.
- 1.3 Words in the plural include the singular.
- 1.4 The masculine includes the feminine.
- 1.5 The word "shall" is mandatory and not directory.
- 1.6 The word "may" is directory.
- 1.7 The particular controls the general.
- 1.8 Enumeration is not limited.

2. DEFINITIONS.

Unless the context otherwise requires, the following terms, phrases and words shall have the meaning hereinafter given for purposes of this Declaration:

2.1 "Additional Property" shall mean real property located adjacent to the Property. For purposes of the foregoing, real property shall be deemed to be located adjacent to the Property if it is separated from the Property solely by land dedicated to and accepted by the United States of America, the State of Arizona, Yavapai County, the City of Prescott or any other political subdivision land dedicated for public rights-of-way.

2.2 "Apartment" shall have the meaning set forth in the By-Laws.

2.3 "Articles" means the Articles of Incorporation of the Association which are filed in the office of the Corporation Commission of the State of Arizona, and as the same may be amended from time to time. In the event of any conflict between this Declaration and the Articles, the Articles shall control.

2.4 "Assessment" shall mean annual assessments, special assessments and/or other charges which may be levied against an Owner according to the provisions of this Declaration, the Articles or the By-Laws.

2.5 "Association" means Yavapai Hills Home Owners Association, a non-profit corporation, its successors and assigns, incorporated under the laws of the State of Arizona for the purpose of performing the functions and duties enumerated in this Declaration and for such other purposes as set forth in the Articles.

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

2.7 "By-Laws" means the By-Laws adopted by the Association, as the same may be amended from time to time. In the event of any conflict between this Declaration and the By-Laws, the By-Laws shall control.

2.8 "Committee" means the architectural Committee appointed as hereinafter provided.

2.9 "Common Areas and Facilities" means those areas or facilities owned or acquired by the Association or placed under the jurisdiction of the Association, including but not limited to:

- 2.9.1 Open spaces.
- 2.9.2 Recreational areas.
- 2.9.3 Drives.
- 2.9.4 Walks.
- 2.9.5 Guard houses.
- 2.9.6 Parks.
- 2.9.7 Lakes.
- 2.9.8 Picnic areas.
- 2.9.9 Club houses.
- 2.9.10 Recreational facilities.
- 2.9.11 Improvements and personal property used in conjunction with the foregoing.

2.10 "Declaration" means this Declaration of Covenants, Conditions and Restrictions For Residential Lots as now constituted or as the same may from time to time be amended or supplemented in accordance with the provisions hereof.

2.11 "Density Unit" means those Dwelling Units permitted or allowed to be constructed on a Residential Tract in accordance with the density district prescribed for such Residential Tract by the applicable zoning law. Actual building construction or occupancy shall not be a requirement to constitute a "Density Unit."

2.12 "Dwelling" shall mean any building or portion of a building situated upon a Parcel designed and intended for use and occupancy as a single family residence.

2.13 "Dwelling Unit" means a Lot or an Apartment.

2.14 "Lot" means a residential lot as shown on a subdivision plat of the Property recorded in the records of the County Recorder of Yavapai County, Arizona.

2.15 "Member" means any person, corporation, partnership, joint venture or any other legal entity who is a member of the Association, and who shall also be an Owner.

2.16 "Owner" means (when so capitalized) the record holder of legal title to the fee simple interest in any Dwelling Unit or Residential Tract, but excluding those who hold such title merely as security for the performance of an obligation. In the case of a Dwelling Unit or Residential Tract, the fee simple title to which is vested of record in a seller under a valid and outstanding Agreement or Contract of Sale, as defined in A.R.S. §33-741, legal title shall be deemed to be in the purchaser under such Agreement or Contract of Sale. In the case of a Dwelling Unit or Residential Tract, the fee simple title to which is vested of record in a trustee pursuant to A.R.S. §33-801, et seq., legal title shall be deemed to be in the Trustor. An Owner shall include any person who holds record title to a Dwelling Unit or Residential Tract in joint ownership with any other person or holds an undivided fee interest in any Dwelling Unit or Residential Tract.

2.17 "Property" or "Yavapai Hills" means Lots 1-40 inclusive, in Unit IV, and Lots 41-68, in Unit V, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Units IV and V" filed in the office of the Yavapai County Recorder on March 12, 1993 in Book 30 of Maps, Pages 1, 2, & 3, and

such additional property thereto, if any, as may hereafter become subject to this Declaration and be brought within the jurisdiction of the Association pursuant to the provisions of Section 11 of this Declaration.

2.18 "Residential Tract" means any tract of land designated by a capital letter on a subdivision plat of record of the Property and zoned for residential purposes, but excluding therefrom any such tracts owned by the Association or set aside for school sites, or Common Areas and Facilities.

2.19 "Rules and Regulations" means the Rules and Regulations adopted by the Association for the regulation of Common Areas and Facilities and as the same may from time to time be amended.

2.20 "Supplemental Declaration" means a written instrument recorded in the records of the County Recorder of Yavapai County, Arizona which refers to this Declaration and effects the annexation of real property to this Declaration in accordance with the provisions of Section 11 of this Declaration.

2.21 "Yavapai Hills, Inc." means the existing corporation, organized under the laws of the State of Delaware, its successors and assigns.

3. PROPERTY SUBJECT TO YAVAPAI HILLS DECLARATION

3.1 General Declaration Creating Yavapai Hills. Yavapai Hills, Inc. intends to develop Yavapai Hills by subdivision into various Lots and Residential Tracts and to sell and convey such Lots and Residential Tracts. As portions of Yavapai Hills are developed, Yavapai Hills, Inc. intends to record one (1) or more Supplemental Declarations, which Supplemental Declarations shall incorporate this Declaration by reference. The Supplemental Declarations shall establish such additional covenants, conditions and restrictions as may be appropriate for the Lots and/or Residential Tracts covered by the applicable Supplemental Declaration. Yavapai Hills, Inc. hereby declares that all of the Property 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 and any Supplemental Declarations applicable thereto, as amended or modified from time to time. This Declaration and the Supplemental Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of Yavapai Hills, and are established for

the purpose of enhancing and protecting the value, desirability and attractiveness of Yavapai Hills and every part thereof. All of this Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Yavapai Hills, Inc., the Association, all Owners, and their successors in interest.

4. EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS AND FACILITIES.

4.1 Reservation of Easements. With respect to each Dwelling Unit and Residential Tract, easements and rights-of-way, as set forth in recorded plats of Yavapai Hills, are hereby reserved unto Yavapai Hills, Inc., and its assigns for construction, installation, and maintenance of water supply lines, sewers, utility lines and drains.

4.2 Reservation and Right of Access. Right of access to each Dwelling Unit and Residential Tract is hereby reserved to Yavapai Hills, Inc., and the Association for general improvements of any person's premises or premises of Yavapai Hills, Inc., but such right of access to any Dwelling Unit or Residential Tract shall terminate upon commencement of construction on the Dwelling Unit or Residential Tract by the Owner.

4.3 Easements of Enjoyment. Yavapai Hills, Inc. and every Owner shall have a right and easement of enjoyment in and to the Common Areas and Facilities which shall be appurtenant to, and shall pass with, the title to every Dwelling Unit and Residential Tract, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of the Common Areas and Facilities.

(b) The right of the Association to suspend the voting rights, the right to use of the Common Areas and Facilities and other rights of any Member according to the Articles, By-Laws and Rules and Regulations.

(c) The right of the Association to regulate the use of the Common Areas and Facilities through the Rules and Regulations.

(d) The right of the Association to dedicate or transfer all or any part of the Common Areas and Facilities to any public agency,

authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

(e) The right of the Association to change the use of the Common Areas and Facilities in accordance with this Declaration, the Articles and/or the By-Laws.

(f) The right of the Association to change the size, shape or location of Common Areas and Facilities, to exchange Common Areas and Facilities for other lands or interests therein which become Common Areas or Facilities and to abandon or otherwise transfer Common Areas and Facilities.

5. GENERAL USE RESTRICTIONS.

5.1 Residential Use. No buildings or structures shall be erected, altered, placed or permitted to remain on any Dwelling Unit or Residential Tract other than a single family residential dwelling, an attached garage or carport, and any other accessory building customarily found on residential property in a subdivision (but in no event shall there be any barns, mobile homes, trailers, sheds or shacks) and landscaping. There shall not exist on any Dwelling Unit or Residential Tract at any time, more than one single family residence. No Dwelling Unit shall be subdivided into smaller Lots or Apartments, nor conveyed or encumbered in less than the full original dimensions of such Lot or Apartment, except for purposes of the installation or maintenance of public utilities. This restriction shall not prevent the division of a Lot or Apartment to increase the size of the Lots or Apartments on either side so long as no new building site is created nor made smaller. Nothing herein contained shall prevent the dedication or conveyance of portions of a Dwelling Unit for public utilities, in which event the remaining portion of any such Dwelling Unit shall, for the purpose of this provision, be treated as a whole Dwelling Unit. This restriction or any others contained herein shall not prevent the utilization of two or more contiguous Dwelling Units having common ownership as a single building site.

5.2 Garage and Parking. Each Dwelling must provide an attached carport or garage or a detached garage as approved by the Committee. In addition to garage or carport parking, every Dwelling must be provided with paved off-

street parking spaces for at least two (2) additional vehicles. All Owners shall be responsible for providing off-street parking for all vehicles owned by the Owner and his guests, insofar as possible, to keep the street lanes clear to the movement of traffic.

5.3 Pavement. Driveways, turnarounds and off-street parking areas shall be paved with concrete or asphalt or other permanent materials approved by the Committee.

5.4 Contractors and Time of Completion. Each structure on a Dwelling Unit or Residential Tract shall be constructed by a contractor licensed by the State of Arizona for the work. The Committee may waive the licensed contractor requirement for any Owner it deems qualified to act as his own prime contractor. Said Owner shall be subject to any and all rules, regulations and/or other governmental requirements pertaining to the construction of improvements to a residential lot.

5.5 Occupancy of Dwelling. No Dwelling Unit shall be used for residential purposes prior to the time at least one (1) water flush toilet is installed in the Dwelling thereon or prior to the time the Dwelling is serviced by water and sewer connections.

5.6 Pets. No animals, birds or poultry shall be kept or maintained on any Dwelling Unit or Residential Tract, except recognized household pets which may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants, and not for breeding or any other commercial use or purpose. All animal wastes shall be disposed of in accordance with applicable city or county regulations. Any pets permitted out of doors or off any Dwelling Unit or Residential Tract must be contained in an enclosure approved by the Committee or secured on a leash. This restriction shall not prohibit the establishment by Yavapai Hills, Inc. or the Association of a horse stable or stables for use of Members upon a tract or tracts of land which may be set aside specifically for the purpose.

5.7 Waste, Garbage and Trash. Waste, rubbish and garbage must be kept in suitable containers and must not be allowed to accumulate on any Dwelling Unit or Residential Tract and must be removed from each Dwelling Unit or

Residential Tract in accordance with applicable sanitation regulations. Each Owner is responsible for the removal of all waste, rubbish or garbage from their Dwelling Unit or Residential Tract. Trash containers are to be stored in such manner that they are not visible from adjoining properties, with the provision that they may be placed near the street the morning of collection and must be removed by evening of the same day. No waste, rubbish or garbage shall be burned or dumped on any Dwelling Unit or Residential Tracts or any part of the Property except in such places as may be specifically designated and approved for such purposes by the governmental authorities having jurisdiction thereof. Failure to comply with either this Paragraph 5.7 or Paragraph 7.2 pertaining to the removal of building debris, automatically grants a right to Yavapai Hills, Inc., its designee, or the Association, to enter upon any Dwelling Unit or Residential Tract for purposes of removing waste, rubbish, garbage, and all expenses so incurred shall be a charge against the Dwelling Unit or Residential Tract, and until paid, shall constitute a lien upon the Dwelling Unit or Residential Tract which may be foreclosed pursuant to the procedures outlined in Section 9.

5.8 Business Prohibition and Nuisances. No Dwelling Unit or Residential Tract shall be used in whole or in part for any trade, business or commercial purpose. No Dwelling Unit or Residential Tract shall be used in whole or in part for the storage of any property or object that will cause such Dwelling Unit or Residential Tract to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any Dwelling Unit or Residential Tract be used in such manner that it will emit foul or obnoxious odors, will cause unreasonable noise, or will cause a nuisance. No thing or condition shall exist upon any portion of the Property which shall induce, breed or harbor plant or other disease or noxious insects or other pests or which shall pose a health or safety hazard of any kind.

5.9 Fences and Hedges. Except as may be otherwise required by law, no Dwelling Unit or Residential Tract boundary fences or screens of any kind shall be erected or maintained on any Dwelling Unit or Residential Tract. Fences for private patios, swimming pools, tennis courts or pet runs must be first submitted to the Committee for approval but in no case may they project beyond

the property line setback for structures. No hedge shall be maintained on any Dwelling Unit or Residential Tract which shall unreasonably restrict or block the view from an adjoining Dwelling Unit or Residential Tract, or which shall materially impair the continuity of the general landscaping plans of Yavapai Hills. In no event shall any hedge be maintained which shall exceed four (4) feet in height without the prior approval of the Committee.

5.10 Signs, Mailboxes and Yard Lights. No sign or advertisement of any kind, other than name plate signs not to exceed one (1) square foot in area, shall be erected or maintained on the Property without the written approval of the Committee. All Dwelling Unit Owners are to install an electric street lamp and a mailbox. A post type street lamp of not less than four (4) feet or more than six (6) feet in height is to be located not more than ten (10) feet from the street curb. The light is to be activated automatically during the hours between sunset and sunrise by photoelectric cell or equivalent device. A light strength of not less than 25 watts or more than 40 watts incandescent strength, or equivalent, is required. Following installation, the Dwelling Unit Owner is required to maintain the lamp in working order. Mailbox designs are to be compatible with the house design.

5.11 Antennas, Towers, etc. There shall be no exterior television antenna, satellite dish, radio antenna, flagpole, mast or tower upon the Property without the prior written approval of the Committee. The Committee may approve the temporary installation of a television antenna or satellite dish on a Dwelling Unit or Residential Tract during the time Cable TV facilities are not available at the Dwelling Unit or Residential Tract.

5.12 Tanks. No above-ground tanks of any kind shall be installed or placed on the Property.

5.13 Recreational Vehicles. Boats, campers, motor homes, travel trailers, motorcycles and other recreational vehicles shall be kept in a garage and out of view of neighboring Dwelling Units or Residential Tracts or streets. No exterior storage of any items of any kind shall be permitted, except with prior written approval of the Committee. Any allowed storage shall be areas screened from view from neighboring property, as required by the Committee. No

automobile, truck or other vehicle shall remain on any portion of the Property in any manner which could be construed as being stored, neglected, abandoned, or otherwise not in frequent use, except pursuant to written approval of the Committee.

5.14 No Encroachments; Utilities. No tree, shrub, or plant of any kind or any other thing shall be allowed to overhang or otherwise encroach upon a roadway, sidewalk or any other way without the prior written authorization of the Committee. No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines shall be installed or maintained on the Property without the prior written approval of the Committee; all such lines, when approved, shall be located underground to the extent practicable.

5.15 Oil, Gas and Mineral Activity. No oil, gas or mineral exploration, drilling, quarrying, development, refining or mining operations of any kind, including but not limited to wells, derricks, surface tanks, tunnels, or mineral excavations or shafts shall be placed, allowed or maintained on any portion of the Property without the prior written approval of the Committee.

5.16 Outside Speakers and Amplifiers, Lighting. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind shall be placed, allowed or maintained outside, or be directed to the outside of any building or other improvement without the prior written approval of the Committee. No lighting shall be placed, allowed or maintained outside or be directed to the outside of any building or other improvement without the prior written approval of the Committee.

5.17 Repairs. No repairs or maintenance, other than emergency repairs, of any machinery, equipment or other personal property or fixtures (including without limitation motor vehicles) not part of the Dwelling or other improvements constructed on the Property where such repair or maintenance takes place shall be made within view of any neighboring property with the prior written approval of the Committee.

5.18 Signs. No signs or advertisements of any kind may be placed, allowed or maintained on the Property without the prior written approval of the Committee, except that mailboxes, residential nameplates, signs required by legal

proceedings, and "for sale" signs (but not "for rent" signs) may be placed and maintained in conformity with the Committee guidelines.

5.19 Violations. No portion of the Property shall be improved, maintained or utilized in such manner as to violate any applicable statute, ordinance or regulations of the United States of America, the State of Arizona; the County of Yavapai, the City of Prescott, or any other governmental agency or subdivision having jurisdiction over the Property. No portion of the Property shall be maintained or utilized in violation of the Rules and Regulations, the Committee guidelines, or any other covenants and restrictions applicable to the Property.

5.20 Roofs. Air conditioners, evaporative coolers, and any other mechanical equipment must be shielded from view on all sides. No such equipment will be allowed to be installed on the roof unless fully screened. Miscellaneous items such as vents and flues should be located as much as possible on the least prominent side of the roof. Vents, flues and flashing must be coated with a flat paint to match the color of the roof.

5.21 Sales Offices. The provisions of this Declaration and of Supplemental Declarations shall not prohibit the construction and maintenance of homes to be used as a sales office by Yavapai Hills, Inc. and parking incidental to the operation of such sales offices, and the signage associated therewith, so long as the location of such sales office and the opening and closing hours and all signage are approved by the Committee, and the construction and maintenance of the sales office otherwise complies with this Declaration. The Committee may also permit Lots and other areas to be used for parking in connection with the sales office so long as such parking areas are in compliance with City of Prescott ordinances.

6. ARCHITECTURAL COMMITTEE.

6.1 Appointment of Committee. The Committee shall consist of three (3) persons, two of whom shall be appointed by Yavapai Hills, Inc., and one of whom shall be appointed by the Board. The Committee members appointed by Yavapai Hills, Inc. shall serve at the discretion of Yavapai Hills, Inc. and in the event any such Committee member is removed, resigns, refuses to serve, dies, or is

unable to serve for any reason, Yavapai Hills, Inc. shall appoint his successor. The person, and his successors, appointed to each Committee by the Board shall serve at the discretion of the Board and in the event such appointee is removed, resigns, refuses to serve, dies or is unable to serve for any reason, the Board shall appoint his successor. At such time as shall be designated by Yavapai Hills, Inc., the foregoing power of appointment of Yavapai Hills, Inc. shall be relinquished in favor of the Board, and thereafter the power of appointment for all members of the Committee shall be exercised by the Board, and all powers, rights and authorities of the Committee shall be exercised and vested in the Committee as an Association Committee. Yavapai Hills, Inc. may delegate to another corporation, association, or person, its right to appoint persons to the Committee. Until such time as Yavapai Hills, Inc. has relinquished its power of appointment as aforesaid, the area of authority of the Committee shall be determined by Yavapai Hills, Inc., and thereafter by the Board. The members of the Committee do not need to be architects, engineers, directors, or Owners and do not need to possess any special qualifications at any time. The Committee shall hold meetings at such times and places and upon such notice as it may determine; a quorum for such meeting shall consist of two members, and the concurrence of two members shall be necessary for any decision of the Committee.

6.2 Approval of Plans and Specifications. No Dwelling, building, fence, patio, deck, port, landscaping or other structure shall be commenced, erected, added to, have its exterior modified, changed, altered, be painted or repainted, placed or permitted to remain on any Dwelling Unit or Residential Tract or maintained, except in accordance with the plans and specifications of the Dwelling Unit or Residential Tract, showing the nature, kind, shape, height, materials, floor plans, exterior color scheme, location and approximate cost of such Dwelling, building or other structure and the grading of the Dwelling Unit or Residential Tract to be built upon, which have been previously submitted to and approved in writing by the Committee, and a copy thereof, as finally approved, lodged permanently with the Committee. The Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or other

reasons, and in so reviewing such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed dwelling or other structure, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the Dwelling, building or other structure as planned on the outlook from adjacent or neighboring property. No Owner or other party shall have recourse against the Committee for its refusal to approve any such plans and specifications, including lawn areas and landscaping. The Committee shall not be liable for any structural or other defects in building or structure erected according to such plans and specifications.

6.3 Site Plans. Site plans shall show:

- (i) Location of all trees over three inches (3") in trunk diameter, one foot from the ground.
- (ii) Trees to be removed to permit construction.
- (iii) Location of all easements.
- (iv) Dimensions and bearings of the boundaries of the item to be constructed, erected or placed on the Dwelling Unit or Residential Tract.
- (v) Existing grade and grade changes.
- (vi) Structure location.
- (vii) Front, side and rear set backs.
- (viii) Driveways and Parking Areas.

6.4 Excavation and Removal. There shall not be any excavation or removal of rocks, dirt or natural vegetation or importation of dirt, rocks, etc., until the site plan has been approved by the Committee.

6.5 Request for Approval. Request for the Committee's approval of such plans and specifications, together with a copy of such plans and specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee, at least thirty (30) days prior to the date on which construction is to commence. Within thirty (30)

days from receipt of such written request, the Committee shall notify in writing the Owner making the request of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specifications, then and in that event that Committee shall set forth in its notification the reason for rejection thereof. The decision of the Committee shall be final if the Owner fails to request a hearing in accordance with the procedures outlined in Paragraph 6.7.

6.6 Failure to Act. In the event the Committee shall fail to approve or disapprove plans or specifications within thirty (30) days after receipt of the written request, the plans, specifications, and other information requested by the Committee, approval thereof shall be deemed to have been given; provided however, any Dwelling, building or structure embraced by such plans and specifications shall be masonry or frame construction and the location and size of the dwelling, building or structure shall not be in violation of any of the restrictions contained in this Declaration or any applicable law, rule or regulation of any governmental body or agency having jurisdiction thereof.

6.7 Right of Hearing. Should the Committee reject or disapprove the plans and specifications as submitted, the Owner, within fifteen (15) days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of such written request, shall fix the date, time and place of the hearing and shall notify the Owner in writing of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the written request for hearing. At the hearing the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall then determine, by majority vote of the persons appointed by the Committee, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Notice in writing of the Committee's decision shall be mailed to the Owner within seven (7) days from the date of the hearing. The

decision of the Committee shall be final if the Owner fails to exercise the right of appeal in accordance with the procedures set forth in Paragraph 6.8.

6.8 Right of Appeal. In the event the Owner is dissatisfied with the decision of the Committee rendered in accordance with Paragraph 6.7, then and in that event, the Owner may appeal such decision to the Board. The right of appeal shall be exercised by the Owner within fifteen (15) days from the date the Committee mails notice of its decision to the Owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of a notice of appeal, shall fix the date, time and place of the hearing on appeal and shall notify in writing the Committee and the Owner of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the notice of appeal. At the hearing on appeal, both the Committee and the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing on appeal, the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed. Notice in writing of the Board's decision shall be mailed to the Committee and the Owner within seven (7) days from the date of the hearing on appeal. The decision of the Board shall be final.

6.9 Fee. The Board may establish a reasonable processing fee to defer the costs in considering any requests for approvals submitted to the Committee or the Board, which fee shall be paid at the time the request for approval is submitted.

6.10 Rules. The Committee may (but is not required to) establish, amend and repeal rules which shall serve as guidelines to be used in rendering its decisions. Such rules do not need to be the same for all portions of the Property, and nothing shall preclude the Committee from deviating therefrom in its sole discretion.

7. CONSTRUCTION REQUIREMENTS AND TEMPORARY STRUCTURES.

Construction on a Dwelling Unit or Residential Tract shall be governed by the following:

7.1 Time of Construction. All construction on a Dwelling Unit or Residential Tract must be commenced within three (3) months from the date of approval by the Committee of the plans and specifications and all dwellings, buildings or structures shall be completed within six (6) months from commencement of construction; provided, however, the Committee may extend such time when in its opinion conditions warrant such extension and landscaping must be substantially completed in accordance with the approved plans within nine (9) months of the commencement of construction of a Dwelling. It shall be the responsibility of the Owner to notify the Committee in writing of the starting and completion dates of construction.

7.2 Temporary Structures. No trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character on any Dwelling Unit or Residential Tract shall at any time be used as a residence, either temporarily or permanently. No temporary dwellings, buildings or structures of any type shall be placed on any Dwelling Unit or Residential Tract, except as may be required for storage or watchmen during the period of construction of the Dwelling on such Dwelling Unit or Residential Tract. Debris resulting from construction of the Dwelling must be disposed of weekly.

7.3 Obstruction of Easements, Ditches or Culverts. No Dwelling, building or structure of any kind or nature shall be erected, permitted or maintained on, over or across the easements for utilities or drainage as shown on the recorded plats of Yavapai Hills. No Owner, nor anyone acting under his direction, shall cover, bridge or otherwise interfere with drainage or irrigation ditches or culverts now existing or hereafter installed without the prior express written approval of the Committee.

8. SIZE AND HEIGHT AND SETBACK REQUIREMENTS:

The size and height and setback of dwellings, buildings or other structures shall be limited as follows:

8.1 Area. Exclusive of enclosed or open porches, garages, carports and any area in the basement or within the foundation:

(ix) Each single level Dwelling shall have a minimum of 1600 square feet of living area.

(x) Each two-story Dwelling shall have a minimum of 1400 square feet of living area on the main level and a total living area of not less than 2000 square feet.

(xi) Each one and one-half story Dwelling shall have a minimum of 1400 square feet of living area on the first floor and a total living area of not less than 2000 square feet.

(xii) Each split or multi-level Dwelling shall have a minimum of 2000 square feet of living area.

8.2 Height. The height limitation of buildings shall be two stories, but not to exceed 30 feet at any point on the side of a building facing a dedicated street or a private roadway platted on a subdivision plat of the Property, but a building may have an additional story on a downhill side not facing such roadway or street with approval of the Committee.

8.3 Setback Requirements. All setback requirements for the Property shall be measured to the face of each Dwelling or other building constructed on the Residential Tract or Dwelling Unit. All Dwellings and other buildings shall be constructed within the setback requirements set forth on the plat for each Residential Tract or Dwelling Unit. Notwithstanding anything to the contrary herein, the Committee shall have the right to permit reasonable modification of the setback requirements where, in the discretion of the Committee, strict enforcement of these setback provisions would work a hardship, or, in the case of a front yard setback, where the topography of the Lot or Residential Tract may necessitate a different setback. However, any such modification shall not be contrary and conflict with the setback requirements of the applicable zoning ordinance, code or other law then in effect, unless the person seeking the modification has obtained from the proper authority having jurisdiction thereof a variance from such zoning ordinance, code or other law

that would allow such modification by the Committee, or the Committee may grant the modification conditioned upon the obtaining of such variance. Where two or more Dwelling Units are acquired as a single building site, the side Dwelling Unit lines shall refer only to the Dwelling Unit lines bordering the adjoining property owners.

9. YAVAPAI HILLS HOME OWNERS ASSOCIATION.

9.1 Association. For the purpose of construction, maintenance and improvement of Common Areas and Facilities and of any and all common community services of every kind and nature required or desired in areas owned, acquired by, or under the jurisdiction of the Association for the general benefit and use of members, each and every Owner, in accepting a deed or contract of purchase for any Dwelling Unit or Residential Tract, agrees to and shall be a member of and be subject to the obligations and duly elected By-Laws and Rules and Regulations of the Association, and to pay annual assessments and any special assessment and any other charges levied against each Dwelling Unit or Residential Tract pursuant to this Declaration, the Articles of the By-Laws to provide the necessary funds for the aforesaid purposes. Every Owner, by virtue of being an Owner, automatically shall be a Member of the Association, and shall thereafter remain such for as long as he remains an Owner. Such membership shall be appurtenant to and pass with the title to any Dwelling Unit or Residential Tract. No change in the Owner shall be effective for voting or other purposes unless and until the Board is given actual written notice of such transfer.

9.2 Voting Rights. Members shall have voting rights as provided in the Articles and By-Laws.

9.3 Assessments. All Assessments shall be paid within thirty (30) days of the due date. Any part of an Assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. Each Dwelling Unit and Residential Tract shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration or a Supplemental Declaration for the amount of the Assessments against each such Dwelling Unit or Residential Tract (hereinafter called the "Assessment Lien"). The Assessment Lien on each Dwelling

Unit and Residential Tract shall be prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, and after notice of such delinquency has been given to the Owner without the delinquency having been cured within the thirty (30) days of receipt of such notice, shall be treated as a deed of trust in the amount of the delinquency with the Owner as trustor, Capital Title Agency, Inc., as Trustee, and the Association as beneficiary, the Association being authorized to sell or foreclose upon the property pursuant to Arizona Revised Statutes Section 33-807 et seq. or in any other manner permitted by law, however, the right to sell or foreclose upon such Dwelling Unit or Residential Tract shall be in additional to and not in substitution of all of the rights and remedies which the Association and Board may have in accordance with the provision of this Declaration or otherwise. The Association, acting on behalf of the Owners, shall have the power to bid for such Dwelling Unit or Residential Tract at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid Assessments, other costs and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties and may temporarily suspend the Association membership rights of an Owner who is in default after a hearing held in accordance with the By-Laws. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area and Facilities or abandonment of his Dwelling Unit or Residential Tract.

9.4 Evidence of Payment of Assessments and Charges. Upon receipt of a written request by an Owner or any other person, the Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating (a) that all Assessments have been paid with respect to the specified Dwelling Unit or Residential Tract as of the date of such certificate, or (b) if all such amounts have not been paid, the amount of such Assessments against such Dwelling Unit or Residential Tract due and payable

as of the date of the certificate. The Association may make a charge for the issuance of such certificates, which charge must be paid in advance at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Dwelling Unit or Residential Tract in question.

9.5 Association's Remedies. If the Owner of any Dwelling Unit and Residential Tract or any other person or entity breaches any provision of this Declaration (including but not limited to any failure to pay any Assessments when due), the Association (or the Committee, where appropriate), may enforce the same under any remedy available at law or in equity, including but not limited to taking any or all of the following actions, concurrently or separately (and, by seeking any such remedy, the Association or Committee does not by election or otherwise prejudice or waive its rights to exercise any other remedy):

- (a) Bring an action to recover money damages and costs;
- (b) Seek an injunction against the continuance of the breach;
- (c) Seek specific performance of any affirmative covenant;
- (d) Enforce the Assessment Lien by foreclosure as a realty mortgage or by sale as under a deed of trust (in which regard each Owner hereby expressly grants a power of sale to the Association) or otherwise, and pursue any deficiency; the Association having the right: (i) to make payments on any prior lien, which payments shall bear interest at the same rate as delinquent Assessments and which (with such interest) shall be secured by the Assessment Lien, and (ii) to bid on any interest sold or foreclosed and to acquire, hold, mortgage, lease, sell or otherwise deal with the same.

If the Association shall fail or refuse to enforce a mandatory provision of this Declaration for an unreasonable period of time (which shall exceed at least 30 days) after written request by at least ten (10) Owners to do so, then the requesting Owners may enforce them on behalf of the Association by any appropriate action, whether at law or in equity.

9.6 Transfer of Lot. Sale or transfer of any interest in a Dwelling Unit and Residential Tract shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of such a mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, any such purchaser or transferee shall take the Dwelling Unit and Residential Tract free of all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu but such purchaser or transferee shall take subject to all Assessments accruing on and subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu. Any Assessments so relieved may, however, be collected by assessment (specially or in the next Annual Assessment) against all Dwelling Units and Residential Tracts (including the subject Dwelling Unit and Residential Tract) and shall be secured by the Assessment Lien against all such Dwelling Units and Residential Tracts. No exemption under this Section shall release any defaulting Owner of his personal obligation for amounts so exempted.

10. LANDS RETAINED BY YAVAPAI HILLS, INC.

Neither the purchaser of a Dwelling Unit or Residential Tract nor any successor in interest thereof shall be deemed to have acquired any proprietary or riparian rights in lands that are retained by Yavapai Hills, Inc., in any improvements on such lands or in any of the lakes, irrigation ditches, or other waterways on such lands.

11. SUBJECTION ADDITIONAL LAND TO THE DECLARATION.

11.1 Requirements for Subjecting Additional Lands. From time to time, the size of the Property may be increased by Yavapai Hills, Inc. adding, or permitting others to add, land thereto by Yavapai Hills Inc. recording with the County Recorder of Yavapai County, Arizona, a Supplemental Declaration. The Supplemental Declaration shall be signed and acknowledged by or on behalf of Yavapai Hills, Inc. and the Owner of the Additional Land if other than Yavapai Hills, Inc. Each such Supplemental Declaration shall at least:

- (a) describe the land being added as part of the Property;
- (b) state that such land and the improvements thereon are expressly subjected to all of the terms of this Declaration;

(c) set forth any supplemental covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements concerning such land.

Any Supplemental Declaration shall be considered as a supplement to this Declaration and fully a part hereof for all purposes. The addition of such Additional Property to the Property, and such land's becoming subject hereto, shall be effective immediately upon recordation of such Supplemental Declaration or such other date as may be set forth in the Supplemental Declaration.

11.2 Withdrawal of Additional Property. Any Additional Property, or portions thereof, may be withdrawn and removed from the Property by recordation of a Notice of Withdrawal of such Additional Property. The Notice of Withdrawal shall set forth the legal description of the Additional Property to be withdrawn, shall state that such Additional Property shall no longer be subject to this Declaration and any Supplemental Declaration executed with respect thereto, and shall be signed and acknowledged by or on behalf of Yavapai Hills, Inc. and all of the Owners of the Additional Land if other than Yavapai Hills, Inc. The withdrawal of such Additional Property from the Property shall be effective immediately upon recordation of such Notice of Withdrawal, or such other date as may be set forth in the Notice of Withdrawal.

12. TERM; AMENDMENTS; TERMINATION.

12.1 Duration of Declaration. The aforesaid provisions, covenants, conditions and restrictions, and each and all thereof, shall run with the land and every part thereof, and shall be binding upon the Property and the Owners thereof until twenty (20) years from the date of recording of this Declaration, after which they shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the Owners holding a majority of the votes attributable to the Property has been recorded agreeing to terminate the same.

12.2 Amendment. This Declaration may be amended by Recording with the County Recorder of Yavapai County, Arizona, a Certificate of Amendment, duly signed by the President of the Association. The Certificate of Amendment shall set forth in full the amendment adopted and, shall certify that it has been

approved (either at a meeting duly called for such purpose, or by consent in lieu thereof) by the Owners holding at least fifty-one percent (51%) of the votes attributable to the Property.

13. GENERAL.

13.1 Violation of Covenants, Conditions and Restrictions. The covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing or occupying any Dwelling Unit or Residential Tract in the Property after the date on which the instrument is recorded. In the event of any violation or attempted violation of these covenants, conditions and restrictions, they may be enforced and an action may be brought by the Committee, the Association, or by any Owner at law or in equity. Such remedies shall include but not be limited to damages, court costs, and attorneys' fees, injunctive relief and/or any and all other rights or remedies pursuant to law. These covenants, conditions and restrictions or any right of re-entry by reason thereof, shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value upon such land, and each and all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise; and provided also that the breach of any said covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust. Failure by the Committee, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

13.2 Invalidity and Severability. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment of court order in no way affects the validity of any of the other provisions and the same shall remain in full force and effect. No provision hereof shall be considered invalid if any reasonable construction of Yavapai Hills, Inc.'s intent can give effect to any such provision.

13.3 Deeds of Conveyance. All instruments of conveyance of an interest in all or any part of the Property shall contain (and if not, shall be

deemed to contain) reference to this instrument and shall be subject to the covenants, conditions and restrictions herein as fully as though the terms and conditions of this instrument were therein set forth in full; provided, however, that the terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not. No private agreement of any adjoining Owners shall modify or abrogate any of these restrictive covenants, conditions or restrictions.

13.4 Absence of Obligation. Anything herein contained to the contrary notwithstanding, it is understood and agreed that Capital Title Agency, Inc., an Arizona corporation, shall have no obligation to see to the performance or non-performance of any of the covenants herein contained and shall not be personally liable for any action or non-action taken in violation of any of the covenants herein.

13.5 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities, then such provision shall continue until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States on the date hereof.

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

13.7 Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, Yavapai Hills, Inc. makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property or Yavapai Hills can or will be carried out or that any land now owned or hereafter acquired by it will be subject to this Declaration, or that any such land (whether or not it has been subject to this Declaration) will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

13.8 Captions and Titles. All captions, titles or headings of the Sections and Paragraphs in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

13.9 Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, or (ii) the date which is three days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his Dwelling Unit or Residential Tract (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and By-Laws shall specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

13.10 Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the Laws of the State of Arizona, and suit to enforce any provision hereof or to obtain any remedy with respect hereto may be brought in Superior Court, Yavapai County, Arizona, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said Court.

13.11 Nonliability. To the fullest extent permitted by law, neither Yavapai Hills, Inc., the Association, the Board, the Committee, any other committees of the Association, any Owner, Member, owner, officer, director, employee, agent, owner nor shareholder of any of the above, shall be liable to any person or entity for any damage, loss, cost, expense or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission or the like made in good faith, whether or not erroneous or negligent, which they reasonably believed to be within the scope of their respective duties and rights

hereunder or in connection herewith and the Association shall indemnify and hold them harmless to the full extent permitted by law against the same.

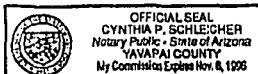
DATED this 14th day of April, 1993.

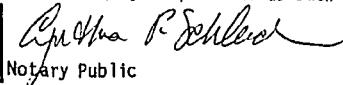
CAPITAL TITLE AGENCY, INC., as Trustee and
not personally under Trust No. 1017

By 
Its Trust Officer

STATE OF ARIZONA }
County of Yavapai } ss.

Personally appeared before me this 14th day of April, 1993,
Nena Murphy, who acknowledged him/herself to be the Trust Officer of
Capital Title Agency, Inc. and he/she as such Officer, being authorized so
to do, executed the foregoing instrument for the purposes therein contained by
signing the name of the corporation as Trustee, by him/herself as such officer.




Notary Public

My commission expires:

APPROVED:

YAVAPAI HILLS, INC., a corporation

By 
Michael J. Klein, Sr.
President

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STATE OF ARIZONA }
County of Yavapai } ss.

The foregoing instrument was acknowledged me this 8th day of April, 1993, by Michael J. Klein, Sr., President of Yavapai Hills, Inc., a corporation, on behalf of the corporation.

SEAL

Notary Public

My commission expires:

11-20-94

APPROVED:

YAVAPAI HILLS, INC., a corporation

Bv

By Michael J. Klein, Sr.
President

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