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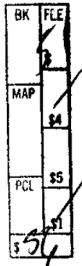
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THIRD AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VICTORIAN ESTATES

January 27, 2000



VICTORIAN ESTATES
TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I DEFINITIONS	2
ARTICLE II COVENANTS BINDING ON PROPERTY, OWNER AND ASSOCIATION.....	6
Section 1. General Declaration	6
Section 2. Property and Parties Bound	7
ARTICLE III USE RESTRICTIONS.....	7
Section 1. Classification	7
Section 2. Use of the Property	7
Section 3. Improvements	13
Section 4. Lot Owners and Residents	15
Section 5. Exemptions	17
Section 6. Enforcement; Waiver	18
ARTICLE IV ASSESSMENTS.....	18
Section 1. Purpose of Assessments	18
Section 2. Annual Assessment	18
Section 3. Increase in Maximum Annual Assessments.....	19
Section 4. Special Assessment.....	20
Section 5. Transfer Fee.....	20
Section 6. Establishment of the Assessment Period.....	20
Section 7. Rules Regarding Billing and Collection Procedures.....	20
Section 8. Collection Costs and Interest on Delinquent Assessments and Charges	21
Section 9. Evidence of Payment of Assessments and Charges	22
ARTICLE V IMPOSITION OF LIEN; EXEMPTIONS; OWNER'S AGREEMENT	22
Section 1. Imposition of Assessment Lien and Priority of the Lien.....	22
Section 2. Property Exempted from Assessments	22
Section 3. Owner's Promise Regarding Assessments and Assessment Lien	22
ARTIVLE VI ENFORCEMENT	23
Section 1. Association as Enforcing Body.....	23
Section 2. Association's Remedies	23
Section 3. Subordination of Lien to First Mortgage or Deed of Trust	23
Section 4. Costs to be Borne by Owner in Connection with Enforcement.....	24
Section 5. Sanctions	24

ARTICLE VII USE OF FUNDS; BORROWING POWER; INSURANCE	24
Section 1. Purposes for which Association's Funds may be Used.....	24
Section 2. Borrowing Power.....	25
Section 3. Association's Rights in Spending Funds from Year to Year.....	25
Section 4. Administration of Special Use Fees	25
Section 5. Insurance	25
ARTICEL VIII ORGANIZATION AND RIGHTS AND POWERS OF THE ASSOCIATION.....	25
Section 1. Formation of Association.....	25
Section 2. Board of Directors and Officers.....	26
Section 3. The Association Rules	26
Section 4. Association's Rights of Enforcement of Provisions of other Instruments Affecting the Property.....	26
Section 5. Contracts with Others; Interested Parties.....	26
ARTICLE IX MEMBERSHIP	27
Section 1. Membership in the Association	27
Section 2. Voting Rights.....	27
ARTICLE X EASEMENTS AND RIGHTS OF ENJOYMENT IN ASSOCIATION LANDS	28
Section 1. Owners' and Residents' Easements and Rights of Enjoyment in Association Land	28
Section 2. Rules Regulating Use of Association Land	28
Section 3. Fees Chargeable to Certain Classes of Users of Association Land.....	28
Section 4. Suspension of Rights of Enjoyment in Connection with Enforcement of the Covenants	28
Section 5. Delegation of Use.....	29
ARTICLE XI ARCHITECTURAL CONTROL	29
Section 1. Architectural Committee.....	29
Section 2. Architectural Control.....	29
Section 3. Architectural Rules	30
Section 4. Appeal to Board	30
Section 5. Fee	30
Section 6. Notice of Noncompliance or Noncompletion	31
Section 7. Exception	31
ARTICLE XII MAINTENANCE	31
Section 1. Association Land.....	31
Section 2. Assessment of Costs of Maintenance and Repair of Association Land and Buildings.....	32
Section 3. Improper Maintenance or Use of Other Portions of the Property	32
ARTICLE VIII TRANSFER OF ASSOCIATION LAND AND CHANGES IN USE	32
Section 1. Transfer of Association Land and Procedure Thereof	32

Section 2. Change of Use of Association Land and Procedure Thereof.....	33
Section 3. Eminent Domain.....	33
ARTICLE XIV TERM; AMENDMENT; TERMINATIONS.....	33
Section 1. Term; Method of Termination.....	33
Section 2. Amendments	34
Section 3. Procedures for Amendments and Termination	34
Section 4. Right of Amendment to Comply with Governmental Law, Rule or Regulation	34
Section 5. Right of Amendment to Comply with V.A and F.H.A., etc.	35
ARTICLE XV DECLARANT'S EASEMENT AND RIGHTS; RESTRICTION	35
Section 1. Declarant's Easement and Rights	35
Section 2. Restriction on Further Subdivision, Property Restrictions and Rezoning ..	35
Section 3. Access Easement	36
ARTICLE XVI GENERAL	36
Section 1. Interpretation of the Covenants	36
Section 2. Construction	37
Section 3. Rules Against Perpetuities	37
Section 4. Change of Circumstances	37
Section 5. Rules and Regulations	37
Section 6. Declarant's Disclaimer of Representations	37
Section 7. References to the Covenants in Deeds.....	37
Section 8. Successors and Assigns of Declarant and Developer	38
Section 9. Gender and Number; Entity	38
Section 10. Captions and Titles	38
Section 11. Notices	38
Section 12. Governing Law	38
Section 13. Nonliability.....	38
Section 14. Limitation on the Developer's Liability	39

EXHIBITS:

Exhibit A - Legal Description of the Property

**THIRD AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VICTORIAN ESTATES**

This Third Amended and Restated Declaration of Covenants, Conditions, and Restrictions (hereinafter termed the "Declaration") is made this 27th day of January, 2000, by First American Title Insurance Agency of Yavapai, Inc., an Arizona corporation, ("First American") as trustee under Trust No. 4433 ("Declarant") and by PDG/Prescott Development Group, L.L.C., an Arizona limited liability company ("Developer") as sole beneficiary under First American Trust No. 4433.

W I T N E S S E T H

WHEREAS, Declarant owns certain real property in the Town of Prescott Valley, in Yavapai County, Arizona, as more particularly described in Exhibit "A" hereto (the "Property").

WHEREAS, Declarant and Developer intend, without obligation to do so, to develop, or to cause or to permit to be developed by others, which development may be in stages, the Property into a planned residential community to be known as "Victorian Estates" "the Project".

WHEREAS, in accordance with the Master Plan of Victorian Estates and as part of the development of the Property, Developer, without obligation to do so, may, or may cause or permit others to: record various subdivision plats on portions of the Property; amend this Declaration; reserve and establish general and restricted Association Land and easements on portions of the Property; dedicate portions of the Property to the public for streets, roadways, drainage, utilities, parks and other public use; and record various amendments to this Declaration adding real additional property to the Project, which additional real property will thereafter be subject to this Declaration.

WHEREAS, the Property was originally subject to that certain Declaration of Covenants, Conditions, and Restrictions for Victorian Estates, dated October 14, 1993, and recorded on October 15, 1993, in the Official Records of Yavapai County, Arizona (the "Official Records") at Book 2712, Page 1, and re-recorded on December 6, 1993, in the Official Records at Book 2739, Page 577, (the "Original Declaration"), as amended by that certain First Amendment to Master Declaration of Covenants, Conditions and Restrictions (the "First Amendment"), dated January 27, 1994, and recorded on January 27, 1994, in the Official Records at Book 2768, Page 649.

WHEREAS, the Original Declaration as amended by that certain First Amendment was subsequently amended by that Certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Victorian Estates, (the "Amended and Restated

Declaration") dated July 27, 1994, and recorded on August 8, 1994 in the Official Records of Yavapai County at Book 2877, page 562.

WHEREAS, the Amended and Restated Declaration was subsequently amended by that certain Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Victorian Estates (the "Second Amended and Restated Declaration"), dated September 14, 1996, and recorded on September 19, 1996, in the Official Records at Book 3280, Page 554

WHEREAS, the Property is currently subject to the Second Amended and Restated Declaration.

WHEREAS, Developer desires to amend the Second Amended and Restated Declaration in several respects and seeks to replace the Second Amended and Restated Declaration with this Third Amended and Restated Declaration.

NOW, THEREFORE, Declarant hereby replaces, amends and restates the Second Amended and Restated Declaration in its entirety with the following Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Victorian Estates and agrees as follows:

For the mutual benefit of the Property and, all those holding interests in the Property, and to accomplish the purposes outlined above, the Property is hereby made subject to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth (hereinafter collectively termed "Covenants") which shall run with the Property; and in order to cause the Covenants to run with the Property and to be binding upon the Property and the Owners thereof or others holding interests therein from and after the date of recordation of this Declaration, Declarant and Developer hereby make all conveyances of the Property or portions thereof or interests therein, whether or not expressly so provided therein, subject to this Declaration, the Covenants herein set forth; and by accepting deeds, leases, easements or other grants or conveyances of any portion of or interest in the Property, the Owners, and other transferees, for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they take their interest in the Property subject to, and shall be personally bound by, all of provisions of this Declaration including the Covenants (including but not limited to the obligation to pay Assessments):

ARTICLE I

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

A. "Amenities" shall mean the common area facilities and improvements owned by the Association for use and enjoyment of its Owners and Residents

B. "Annual Assessment" shall mean the charges levied and assessed each year pursuant to Article IV, Section 2.

C. "Architectural Committee" shall mean the committee of the Association to be created pursuant to Article XI.

D. "Architectural Rules" shall mean the rules, guidelines and standards adopted by the Architectural Committee pursuant to Article XI, as those Rules may be amended from time to time.

E. "Articles" shall mean the Articles of Incorporation of the Association as the same may be amended or supplemented from time to time.

F. "Assessable Property" shall mean the entire Property, except such part or parts thereof as may from time to time constitute Exempt Property.

G. "Assessment" shall mean, collectively, Annual Assessments, Special Assessments, Maintenance Charges, and any other charges, fees or other costs due or payable as provided in this Declaration, the Architectural Rules or the Association Rules.

H. "Assessment Period" shall mean the period determined pursuant to Article IV, Section 7.

I. "Assessment Lien" shall mean the lien created and imposed by Article V.

J. "Association" shall mean Victorian Estates Homeowners Association, Inc., an Arizona non-profit corporation. Unless this Declaration or other applicable document specifically requires a vote of the Owners, all approvals or other actions to be given or taken by the Association shall be valid if given or taken by the Board or its duly authorized agents, committees or representatives.

K. "Association Land" shall mean such part or parts of the Property, together with the buildings and other improvements thereon, as may be owned at any time by the Association, for as long as the Association is the owner thereof.

L. "Board" shall mean the Board of Directors of the Association.

M. "Bylaws" shall mean the Bylaws of the Association as the same may be amended or supplemented from time to time.

N. "Classes" shall mean the Voting Owners as specified in Article IX, Section 2 (a) of this Declaration.

O. **"Covenants"** shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth in this Declaration herein as the same may be amended or supplemented from time to time.

P. **"Declarant"** shall mean First American Title Insurance Agency of Yavapai, Inc., an Arizona corporation, as trustee under Trust No. 4433, and the successors and assigns of Declarant's rights and powers hereunder by express written assignment thereof.

Q. **"Declaration"** shall mean this Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Victorian Estates as amended or supplemented from time to time.

R. **"Deed"** shall mean a deed or other instrument conveying the fee simple title in a Lot, excluding conveyance merely for security.

S. **"Default Rate of Interest"** shall mean an annual rate of interest pursuant to Article IV, Section 9, of this Declaration.

T. **"Developer"** shall mean PDG/Prescott Development Group, L.L.C., an Arizona limited liability company, and the successors and assigns of Developer's rights and powers hereunder by express written assignment thereof.

U. **"Dwelling Unit"** shall mean any portion of an improvement situated upon the Property designed and intended for use and occupancy as a single family residence.

V. **"Exempt Property"** shall mean the following parts of the Property:

(1) All land and Permanent Improvements owned by or dedicated to and accepted by the United States of America, the State of Arizona, Yavapai County, the Town of Prescott Valley, or any political subdivision of any such jurisdiction, for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective; and

(2) All Association Land.

W. **"Lot"** shall mean any area of real property within the Property designated as a Lot on any Plat.

X. **"Maintenance Charges"** shall mean any and all charges assessed pursuant to Article XII, Section 2 and 3, of this Declaration.

Y. **"Maximum Annual Assessment"** shall mean the current Annual Assessment and any increases approved by the Board or a vote of the membership pursuant to Article IV, Section 2 and 3.

Z. **"Member"** shall mean the members, which shall consist of all Owners.

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AA. "Minimum Age" shall mean the minimum age requirement of each occupants of a Dwelling Unit on any Lot pursuant to Article III, Section 4 (a) of this Declaration.

BB. "Owner" shall mean the one or more persons or entities, including Declarant or Developer, who alone or collectively are the record owner of the fee simple interest in any Lot, regardless of whether such Owner actually resides on any part of the Property; provided that the purchaser rather than the seller under a recorded agreement for sale shall be deemed the Owner; and provided further that neither the trustee or beneficiary under a deed of trust securing indebtedness or other persons or entities holding and interest in a Lot merely as security for performance of an obligation, nor a trustee under trust agreement for Developer as beneficiary shall be deemed the Owner of the Lot(s) subject thereto, but rather the beneficial owner(s) of such Lot(s) shall for purposes of this Declaration be deemed the Owner thereof. Where more than one person or entity constitute an Owner, all such persons and entities shall be jointly and severally liable for the performance of the Owner's obligations hereunder.

CC. "Permanent Improvement" shall mean all buildings, fixtures, roads, roadways, curbs, gutters, storm sewers, underground water and sewer pipes, parking areas, lighting fixtures, fences, walls, landscaping, club house and all other improvements within the Association Land and other matters and things on the Association Land which, as of the time of determination, are taxable by the State of Arizona or a political subdivision thereof (including but not limited to Yavapai County or the Town of Prescott Valley) as real property under applicable law.

DD. "Plat" shall mean any and all recorded plats, replats, and lots splits of the Property, including the plat of VICTORIAN ESTATES, recorded in the Official Records in Book 30 of Maps, pages 48-49, the plat of VICTORIAN ESTATES, UNIT II, recorded in the Official Records in Book 30 of Maps, pages 59-60, and the plat of REPLAT OF A PORTION OF VICTORIAN ESTATES, recorded in the Official Records in Book 32 of Maps, pages 10-11, as the same may be amended, modified, or replatted from time to time.

EE. "Project" shall mean the planned residential community known as Victorian Estates being developed on the Property.

FF. "Property" shall mean the land described on Exhibit A and reflected on the Plat, including all improvements existing or constructed in the future hereon.

GG. "Resident" shall mean:

(1) Each purchaser under a contract of sale covering any Lots, regardless of whether the contract is recorded, and each tenant renting or leasing any Lot; and

(2) Each Owner;

(3) The members of the immediate family and the servants of each Owner and of each purchaser and tenant referred to in subparagraph (1) actually living in the same household with such Owner or such purchaser or tenant;

(4) Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special non-resident fees for use of Association Land if the Association shall so direct), the term "Resident" also may include the employees, agents, guests, licensees or invitees of any such Owner, purchaser or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

HH. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article IV, Section 4, hereof.

II. "Special Use Fees" shall mean special fees which an Owner, Resident or any other person is obligated by this Declaration, the Architectural Rules, the Association Rules, his Deed or by contract or other agreement to pay to the Association for use of or access to an amenity or improvement or for the granting of a right or privilege with respect thereto, over, above, and in addition to any Annual Assessment, or Special Assessments, Maintenance Charge, Transfer Fee and such other charges and costs as may be assessed, imposed or payable.

JJ. "Transfer Fee" shall mean any fee charged pursuant to Article IV, Section 5, hereof.

KK. "Voting Owners" shall mean those Owners who, pursuant to Article IX, hereof, have voting rights.

LL. "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to Article VIII, Section 3, hereof as the same may be amended or supplemented from time to time.

(1) All other defined terms shall have the meaning given where such term is defined herein.

ARTICLE II

COVENANTS BINDING ON PROPERTY, OWNER AND ASSOCIATION

Section 1. General Declaration. Declarant and Developer intend, without obligation to do so, to develop, to cause to be developed and/or to sell and convey for development the Property and portions thereof. Declarant hereby declares that all of the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved, transferred or otherwise dealt with, in whole or in part, subject to this Declaration as amended or modified from time to time. This Declaration is made in furtherance of a general plan for the development, improvement and sale of the

Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. This Declaration shall run with the Property for all purposes and shall be binding upon and inure to the benefit of the Association, Declarant, Developer, all Owners, Residents and their successors in interest and any other person having an interest in the Property. Nothing in this Declaration shall be construed to prevent the Developer from modifying its development plan for the Project, the Property or any portions thereof or from dedicating or conveying portions of the Property or interests therein for uses other than as a Lot or Association Land.

Section 2. Property and Parties Bound. From and after the recordation hereof, the Property shall be subject to the provisions of this Declaration, including the Covenants which shall run with, be for the benefit of, bind and burden the Property. Each Owner, for himself, his heirs, executors, administrators, trustees, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the assessments and charges provided for hereunder, and to be bound by all of the Covenants herein set forth. Each Owner shall be and remain personally liable, regardless of whether such Owner has transferred title to his Lot, for the amount of all assessments and charges which become due while he was an Owner. An Owner shall not be relieved of personal liability for the assessments and charges herein provided because of non-use of Association Land or Amenities or by transfer or abandonment of his Lot. Except as provided in Article VI, Section 3, the obligation for all such amounts shall also pass with title to the Lot to the successor Owner thereof. The liability of a successor Owner shall not relieve any prior Owner of personal liability for the amount of assessments and charges which become due while the prior Owner was an Owner.

ARTICLE III

USE RESTRICTIONS

Section 1. Classification. Each Lot shall be used only for single family residential Dwelling Units.

Section 2. Use of the Property. The use of any portion of the Property shall be subject to the Architectural Rules and the Association Rules. Without limiting the generality of the foregoing, use of any portion of the Property is hereby restricted as follows:

a. **Animals.** No animals of any kind shall be raised, bred or kept on any Lot except upon the prior written approval and authorization of the Board and then only in accordance with such rules and regulations, if any, as may be promulgated, amended or supplemented from time to time by the Board in its absolute discretion (which rules and regulations may apply retroactively or prospectively to and restrict existing situations at the time they are adopted); provided, however, that dogs, cats, birds or fish may be kept as household pets without such approval and authorization but subject to any such rules and

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regulations so long as, in the discretionary judgment of the Board, such pet is not, or does not become, a nuisance, threat or otherwise objectionable to other Owners or Residents. Each Dwelling Unit is allowed up to two animals with each animal's weight not to exceed forty (40) pounds. All animals shall be on a leash when outside of a Dwelling Unit and shall be under the direct control of its owner. No Owner, Resident, or other person shall permit any animal in his or her control to defecate or relieve itself on another Owner's Lot or on Association Land. It shall be the responsibility of each Owner, Resident or other person to remove immediately any feces or other dropping from pets anywhere on another Owner's Lot or on the Association Land.

b. Antennas. No exterior television, radio, satellite dish, short wave radio, or other antenna or receiver of any type shall be placed, allowed or maintained, except as approved by the Architectural Committee pursuant to the provisions of the Architectural Rules.

c. Awnings, Patio Covers, and Exterior Window Covering. Unless installed by the Developer, no awnings, patio covers, or exterior window treatments shall be installed without prior written approval and authorization of the Architectural Committee.

d. Barbecues and Grills. Barbecues and grills may be used for cooking, in the customary fashion, in designated areas or on Lots, so long as they are not used or stored in the front yard of any Lot.

e. Burning and Incinerators. No open fires or burning, or barbecues and the like, shall be permitted on the Property at any time unless in an approved contained manner and location, and no incinerators or like equipment shall be placed, allowed or maintained on the Property, except for permitted barbecue grills.

f. Clothes Drying. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot, nor shall any item be allowed to air dry on deck railings.

g. Encroachments. No tree, shrub, or plant of any kind or any other improvement or thing shall be allowed to overhang or otherwise encroach upon any roadway, sidewalk, neighboring property, or any other way.

h. Evaporative Coolers, Air Conditioning Units, Etc. Unless installed by the Developer, evaporative coolers and air conditioning units shall be ground mounted units. No evaporative coolers, air conditioning units, fans, water softeners or other similar equipment shall be installed on any Lot without prior approval and authorization of the Architectural Committee which are attractively screened or concealed from view of the street, Association Land and neighboring property.

i. Flags and Flagpoles. No more than one standard six (6) foot flagpole, securely anchored to the house, may be installed on any Lot. No flag other than the flag

of the United States of America or of the State of Arizona may be flown without prior written approval and authorization of the Architectural Committee.

j. Garbage. No rubbish, garbage, or trash shall be placed on any Lot outside of a Dwelling Unit or other improvement (or so as to be visible from the exterior thereof). All trash and garbage is to be bagged in plastic and placed in a minimum thirty gallon plastic container with secured lid. All garbage or trash containers shall meet all applicable requirements, including without limitation all ordinances of regulations of the Town of Prescott Valley, as amended from time to time, and any specifications of the Board. Other than during a period of eighteen hours before or after regularly scheduled trash pick-up, all garbage or trash containers shall be kept within the Dwelling Unit (including the garage) or in the side yard behind a screen approved in writing by the Architectural Committee. All rubbish, trash, and garbage shall be regularly removed by the Owner within a reasonable time and shall not be allowed to accumulate. If an Owner fails to timely remove rubbish, trash, or garbage from the Owner's Lot, the Association may, but is not obligated to do so, remove rubbish, trash, or garbage from the Lot, as the Association deems necessary, and to charge the Lot Owner for the cost thereof.

k. Health and Safety. No thing or condition shall be allowed or permitted to exist upon any portion of the Property which shall induce, breed or harbor plant or other disease or noxious odors, or insects or other pests or which shall pose a health or safety hazard of any kind.

l. Landscaping. Unless installed by the Developer, no landscaping shall be installed on any Lot without prior written approval of the Architectural Committee, after submission to the Architectural Committee of a drawing of the proposed landscaping, including the design, dimensions, colors, size and materials to be used. Owners electing to provide their own landscaping installation shall use materials that are substantially similar in kind and character as that installed by the Developer. Landscaping of the front yard of any Lot shall be completely installed within 120 days from the date on which the Owner obtains a building permit from the City of Prescott Valley, Arizona. Landscaping of the back and any side yard of any Lot shall be completed within 180 days from the date on which the Owner obtains a building permit from the City of Prescott Valley, Arizona. No artificial turf, artificial ground cover, gravel, rock, concrete, cool deck, sand or other material shall be used as landscaping without prior written approval and authorization of the Architectural Committee. All landscaping design, color, size and materials shall be subject to the Architectural Rules and the Association Rules. All Lots, including Lots without a Dwelling Unit, shall at all time be maintained in a neat, clean, debris and weed free appearance.

m. Maintenance; Misuse. All Lots and any improvements thereon (including without limitation all building exteriors, lawns and landscaping and the visible interior of all carports and other improvements) shall at all times be maintained by the Owner thereof in a neat, clean and slightly condition. All damage to a Lot or improvements

thereon shall be promptly repaired by the Owner. No Lot shall be maintained or utilized in such manner as to present an unsightly appearance (including but not limited to the presence of weeds or other unsightly growth or clothes drying within public view), or as to unreasonably offend the moral of or as to constitute a nuisance or unreasonable annoyance to, or as to endanger the health or safety of, any Owner or Resident; and no noxious or otherwise offensive condition or activity nor any nuisance shall be allowed to exist or conducted thereon.

n. Model Homes. The provisions of this Declaration which prohibit nonresidential use of Lots and which regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by Developer or other persons engaged in the construction of Dwelling Unit and parking and signage incidental to the showing of such model homes or the marketing and sales of Dwelling Units. Such model homes shall otherwise comply with the provisions of this Declaration. The model homes, signage and parking areas are in compliance with the ordinances of the Town of Prescott Valley and the Architectural Rules (other than any revision to the Architectural Rules occurring after turnover of control of the Architectural Committee as described in Article XI, Section 1 of this Declaration and not agreed to by Developer).

o. Oil, Gas and Mineral Activity. No oil, gas or mineral exploration, drilling, quarrying, development, refining wells, derricks, surface tanks, tunnels, or mineral excavations or shafts may be erected, maintained or permitted without the prior written approval and authorization of the Architectural Committee.

p. Outside Lighting. Unless installed by Developer, no lighting shall be placed, allowed or maintained outside any Dwelling Unit or be directed to the outside of any building or other improvement without prior written approval and authorization from the Architectural Committee.

q. Outside Speakers and Amplifiers. No radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind may be placed, allowed or maintained outside, or be directed to the outside of any building or other improvement.

r. Parking. No more than two (2) automobiles may be parked on any Lot at one time. No carport may be constructed on any Lot. No parking of tractor-trailers (cab or trailer), motor homes, trucks larger than one (1) ton pick-ups, or commercial vehicles shall be allowed on any street or on any Lot. On street parking is restricted to guest use only. No vehicle will be allowed to remain parked on the street overnight. Overnight parking will be permitted in designated overnight parking areas only. On- street and other parking may be further prohibited or restricted by, and shall be otherwise subject to, the Architectural Rules and the Association Rules, as adopted, amended or supplemented from time to time. The Architectural Committee and Board expressly reserve the right to tow away, at the owner's expense, or otherwise impound any vehicle parked within the Property in violation of this Declaration, the Architectural Rules or the Association Rules.

Each Owner shall hold the Architectural Committee and the Board harmless for, from and against any liability incurred in connection with the towing of any improperly parked vehicle.

s. Repairs. No minor or major repairs or maintenance (including but not limited to oil changes, tune ups and the like), other than emergency repairs, of any machinery, equipment, or other personal property or fixtures (including without limitation bicycles and motor vehicles) which are not part of the building or other improvement constructed on the Lot may be undertaken where such repair or maintenance takes place within view of any neighboring property without prior written approval and authorization of the Architectural Committee.

t. Screen Doors and Windows. Unless installed by the Developer, no screen doors or windows, or other coverings of doors or windows, shall be installed without prior written approval and authorization of the Architectural Committee, and then only if in compliance with all Architectural Rules and the Association Rules with respect to color, design and materials.

u. Signs; Commercial Activities. No sign of a commercial nature shall be permitted or placed on any Lot, except, for one "For Rent" or one "For Sale" sign per Lot and only for the express purpose of selling or renting the lot. No "For Rent" or "For Sale" sign shall be permitted on any Lot that exceeds one (1) square foot. Notwithstanding the foregoing, the Developer may erect billboards or other signs on the Property and/or Lots during the development and sale of Lots in the Project. Other than the development and sales activities of the Developer, no commercial or business activity of any kind shall be conducted at any time except on portions of the Property, if any, expressly zoned therefor. No institution or other place for the care or treatment of the sick or disabled, physically or mentally (except as provided by the Arizona Developmental Disabilities Act of 1978, A.R.S. §36-581 *et seq.*, or other applicable federal or state law) shall be placed or permitted to remain on any of the Lots and no theater, bar, restaurant, saloon, or other place of entertainment may ever be erected or permitted on any Lot. Further, no trade or business of any kind may be conducted in or from any Lot except that an Owner may conduct a business activity within a Dwelling Unit located on a Lot so long as the existence or operation of the business activity (a) is not apparent or detectable by sight, sound, or smell from the exterior of the Dwelling Unit; (b) does not increase the liability or casualty insurance obligation or premium of the Association; and (c) is consistent with the residential character of the Association Land and does not constitute a nuisance or a hazardous or offensive use including, without limitation, excessive or unusual traffic or parking of vehicles in the vicinity of any Lot on the Association Land as may be determined in the sole discretion of the Board. The terms "business" or "trade", as used in the previous sentence, shall be construed to have their ordinary and generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on any ongoing basis which involves providing goods or services to persons other than the provider's family and for which the persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration regardless of

whether (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; (c) a license is required therefor.

v. Solar Panels. No solar panels shall be installed on any Lot or Dwelling Unit without the prior written approval and authorization of the Architectural Committee. If such approval is granted, the Architectural Committee may specify the size and type of solar panels allowed, and the location upon which they may be installed.

w. Storage; Storage of Vehicle. No exterior storage of any items of any kind shall be permitted, and no storage facility or building shall be maintained on any Lot, except with the prior written approval and authorization of the Architectural Committee. Any such storage as may be approved and authorized shall be only in the areas designated by the Architectural Committee, and shall be attractively screened or concealed (subject to all required approvals as to architectural control) from view from the street, Association Land, and neighboring property. This provision shall apply without limitation to woodpiles, camping trailers, boat trailers, travel trailers, recreational vehicles, race cars, classic cars, dune buggies, A.T.C.'s, boats, mobile homes and unmounted pickup camper units. Also, without limitation, no automobiles, trucks, motorcycles, bicycles, or other vehicles, regardless of ownership, age, condition or appearance, 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 and regular use, except pursuant to the written approval and authorization of the Architectural Committee. No buses, vans or trucks having a carrying capacity in excess of one (1) ton or designed for commercial purposes shall be placed, allowed or maintained on any portion of the Property except with prior written approval and authorization of the Architectural Committee and then only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of the street, Association Land, and neighboring property.

x. Utility and Service Lines. No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any nature or kind shall be placed, moved, allowed or maintained without the prior written approval and authorization of the Architectural Committee.

y. Violation of the Architectural Rules, Association Rules or of Covenants, Conditions or Restrictions. No portion of the Property shall be improved, maintained or utilized in violation of the Architectural Rules, the Association Rules, or any provisions of this Declaration.

z. Violation of Statutes, Ordinances and Regulations. No portion of the Property shall be improved, maintained or utilized in such manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Arizona, the County of Yavapai, the Town of Prescott Valley, or any other governmental agency or subdivision having jurisdiction over the premises.

aa. Window Coverings. Within sixty (60) days after the later of (i) the date on which Owner acquires title to the Lot or purchases the Lot under a recorded agreement for sale or (ii) the date of issuance of the Certificate of Occupancy, each Owner shall install permanent draperies or suitable window coverings on windows facing the street. All such window coverings must show white, beige, earth tone or pastel colors unless otherwise approved in writing by the Architectural Committee. No aluminum foil, sheets, newspapers, styrofoam, plywood, or other materials shall be used for window coverings which are not customarily made for such use. No reflective material shall be used on any window without the prior written approval and authorization of the Architectural Committee.

Section 3. Improvements. All improvements on the Property shall be additionally restricted as follows:

a. Changes or Additions; Permits. No building, improvement, alteration, repair, rebuilding, excavation, grading, landscaping or other work which in any way temporarily or permanently alters the exterior appearance of any Lot or Dwelling Unit, or any other improvements located on any Lot, shall be commenced, made or maintained, and no building or other permit shall be applied for or obtained from the Town of Prescott Valley, without the prior written approval of the Architectural Committee, and the issuance by the Architectural Committee of a permit for such work. Such approval shall be subject to the terms of this Declaration, the Association Rules and the Architectural Rules. Prior to issuing an Architectural Committee permit, the Architectural Committee may require the posting of a bond or security deposit by the Owner, sufficient to insure the completion of the project pursuant to the approved plans, and to pay for any damage to Association Land, streets, sidewalks, walls or other improvements which may be caused during the installation or construction. The security deposit shall be refundable, less a reasonable processing fee, upon completion of the installation or construction and restoration of all Association Land, streets, sidewalks, walls and other improvements to their original condition.

b. Construction Prior to Dwelling Unit. No garage, trailer, storage building or other buildings whatsoever shall be erected on any Lot until a dwelling house shall have been erected, which shall comply with the restrictions herein contained; except trailers, temporary construction offices or storage trailers or buildings placed or erected on a Lot or Association Land to be used for subdivision or Dwelling Unit construction purposes by the Developer or contractors performing either on-site or off-site work on the Property during the course of construction. Except for those owned or used by Developer, all such trailers and temporary structures shall be subject to the Architectural Rules, as adopted and amended from time to time.

c. Fences and Walls. No fences or walls shall be constructed on any Lot with the exception of dog runs. No dog runs shall be constructed on any Lot without prior written approval and authorization of the Architectural Committee.

d. Fireplaces. Unless built or installed by the Developer, no fireplaces shall be built or installed without the prior written approval and authorization of the Architectural Committee.

e. Fountains, Ponds, Etc. Unless built or installed by the Developer, no fountains, ponds or similar improvement shall be built or installed without the prior written approval and authorization of the Architectural Committee.

f. Garage Enclosures. No garage, porch or similar ancillary improvement or structure used in connection with a Dwelling Unit shall be enclosed or otherwise converted for use for residential living purposes.

g. Height. No structure shall be erected, altered, placed or permitted to remain on any of the Lots other than one detached single family dwelling unit not to exceed one (1) story in height and private garage not to exceed one (1) story in height for not more than two (2) cars or, if the lot size permits, three (3) cars. Notwithstanding the foregoing, for Lots 71 through 74, inclusive, and 129 through 135, inclusive, the dwelling unit, including any portion built over the private garage, may exceed one (1) story in height but shall not exceed two (2) stories in height.

h. New and Permanent Construction. All buildings or other improvements on the Property shall be of new and permanent construction; provided, however, that temporary buildings may be placed and maintained on the Property in connection with the construction of buildings or improvements thereon if previously approved and authorized in writing by the Architectural Committee. Any such temporary structure shall be promptly removed upon completion of the construction to which it relates.

i. No Construction on Easements. No structure of any kind shall be erected, permitted or maintained on the easements for utilities or other purposes on the Property; except fences and structures specifically required for the installation and operation of utilities.

j. Paint Colors. Any painting or repainting of the exterior of any Dwelling Unit or of any other improvements upon any Lot shall be the same color, texture and material as that originally used by the Developer unless otherwise approved and authorized in writing by the Architectural Committee.

k. Prosecution of Construction, Maintenance and Repairs. All construction, maintenance and repair work of any kind shall be performed by licensed and bonded contractors and shall be prosecuted diligently from commencement until completion and shall be conducted in such a manner as to minimize the interference with the use and enjoyment of other portions of the Property.

l. Roof Materials. Any repairs to or replacement of any roof on any Dwelling Unit or other structure or improvement on any Lot shall be of the same color and

material as that originally used by the Developer unless otherwise approved and authorized in writing by the Architectural Committee.

m. Set Backs. No building shall be erected on any of the Lots, the front walls of which are closer than eight feet to the front property line, closer than five feet to any street side line; nor closer than five feet to any non-street side line, or closer than seven feet to the real property line on the Lot on which it is built except attached garages, which shall conform to the Town of Prescott Valley regulations.

n. Square Footage. No Dwelling Unit, having a ground floor area of fewer than 1,000 square feet per unit, including the walls proper of the house, but exclusive of open porches, pergolas, garages, or other similar extensions or projections, shall be erected on any of the Lots.

o. Spas or Similar Improvements or Equipment. Unless constructed or installed by the Developer, no spa or similar improvement or equipment shall be installed or constructed on any Lot, and no building or other permit shall be applied for or obtained from the Town of Prescott Valley for the installation or construction thereof, without prior written approval of the Architectural Committee of the plans for such spa, similar improvement or equipment, and the issuance by the Architectural Committee of a permit for the installation or construction thereof. The Architectural Committee permit shall be posted conspicuously on any Lot during all times that the spa or other equipment, is being installed or constructed. The Architectural Committee may adopt, and amend from time to time, other reasonable restrictions and requirements related to the installation or construction of spas and similar improvements or equipment on any Lot.

p. Time of Construction. The Architectural Committee reserves the right to require that any construction activity on any Lot shall commence and be completed within a specified time period and any approval or authorization is approved by the Architectural Committee.

q. Occupancy of Dwelling Unit. No one shall occupy a Dwelling Unit prior the final issuance of a Certificate of Occupancy.

Section 4. Lot Owners and Residents.

a. Age Restriction. The Property is intended for and operated for occupancy in at least eighty percent (80%) of its Dwelling Units by at least one person fifty-five (55) years of age or older per Dwelling Unit. All Dwelling Units must be occupied by at least one person forty (40) years of age or older. Subject to compliance with the Requirements for Exemption as set forth in subparagraph (2) below, no person who has not yet reached their nineteenth (19th) birthday shall reside permanently at the Property. The Board, in its sole discretion, shall have the right and power to determine when a person resides "permanently" at the Property.

(1) Occupancy of Dwelling Units. The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) (the "Fair Housing Act") prohibits discrimination in the sale, rental and financing of dwellings based on familial status; that is, discrimination based on the domicile of individuals under eighteen (18) years of age. Therefore, housing facilities generally are not permitted to prohibit occupancy by persons under eighteen (18) years of age. However, the Fair Housing Act provides that a housing facility is exempt from this restriction if the following requirements (as more fully set forth in the Fair Housing Act and supplemented by the regulations promulgated thereunder, the "Requirements for Exemption") are satisfied:

A. at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit;

B. the housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons; and

C. policies and procedures are published and adhered to which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

Developer intends that the Property comply with the Requirements for Exemption of the Fair Housing Act. Therefore, (i) at least one occupant in each Dwelling Unit must be at least fifty-five (55) years of age or older, except as hereinafter set forth; (ii) the Association is hereby directed to provide for or arrange for the provisions of significant facilities and services specifically designed to meet the physical or social needs of older persons as contemplated by the Fair Housing Act and the regulations promulgated thereunder; and (iii) the Association is hereby directed to publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons fifty-five (55) years of age or older.

(2) Board Discretion. The Requirements for Exemption contemplate that up to twenty-percent (20%) of the units in a housing facility may be occupied by persons all of whom are under the age of fifty-five (55) without loss of the exemption, and that the eighty percent (80%) requirement does not apply until twenty-five (25%) of the units in the housing facility are occupied. Accordingly, the Board, upon application by an Owner, tenant, purchaser or proposed lessee, shall have the right and option, at the Board's sole and absolute discretion, to allow a Dwelling Unit to be occupied only by individuals under the age of fifty-five (55), provided at least one (1) occupant of the Dwelling Unit is at least forty (40) years of age and provided that the Board takes appropriate action to comply with the Requirements for Exemption. The Board shall exercise its discretion based upon criteria that the Board shall determine, which criteria shall include, by way of example and not limitation, information then known to the Board concerning potential or pending charges in occupancy of other Dwelling Units in the Property, if any, and the ages of any likely remaining occupants of such Dwelling Units, proximity to age fifty-five (55) of those occupants of other Dwelling Units in the Property then under such age, and any other information known to an deemed relevant by the

Board in its sole discretion. The Association, acting through the Board, shall have the right to promulgate rules and regulations necessary to comply with the Requirements for Exemption.

(3) Developer Rights; Limitations. Notwithstanding the provisions of paragraph (2) above, Declarant and Developer shall have the right to convey Dwelling Units owned by the Declarant and Developer to purchasers who intend that the Dwelling Units be occupied only by persons under fifty-five (55) years, but for so long as the Fair Housing Act is in effect, Developer must take reasonable action to adhere to policies to comply with the Requirements for Exemption. Each Dwelling Unit shall at the first change of occupancy thereafter be subject to the requirement that at least one (1) occupant be fifty-five (55) years of age or over unless waived by the Board pursuant to the provisions of paragraph 3 above.

(4) Notice to the Association. In the event there is a change in the occupants of the Dwelling Units (e.g., a death or a divorce) so that at least one (1) of the occupants is no longer fifty-five (55) years of age or older, the Owner must immediately notify the Association of such change in writing.

(5) No Liability. Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that although it is the intent of Declarant, Developer and the Association that the Project be exempt from the familial status provisions of the Fair Housing Act and that persons eighteen (18) years of age or younger be prohibited from residing permanently at the Property, no representation or warranty is given that the Property will comply with the Requirements for Exemption. If for any reason the Property is not exempt from the familial status provisions of the Fair Housing Act and, therefore, it is unlawful to discriminate at the Property on the basis of familial status, neither Declarant, Developer nor the Association shall have any liability in connection therewith.

b. Amenities. Except with the prior written approval of the Board of Directors, if an Owner's Dwelling Unit is rented, the Owner of the Dwelling Unit will not be allowed the use of the Amenities until such time that Dwelling Unit ceases to be rented.

c. Owner's Obligation Concerning Tenants, Guests and Invitees. Each Owner shall assume responsibility and liability for such Owner's tenants, guests or invitees. It is the responsibility of each Owner to provide a tenant with a copy of this Declaration, the Architectural Rules and the Association Rules. All tenants, guests and invitees are subject to the provisions of this Declaration, Architectural Rules and the Association Rules.

Section 5. Exemptions. The Architectural Committee shall have the right, in its sole discretion, to grant exemptions from these restrictions upon demonstration satisfactory to the Architectural Committee by the requesting Owner that such waiver shall not, by the nature of the exemption sought or its duration, materially interfere with the use or enjoyment of other portions of the Property, or the aesthetic characteristics of the Property. Any such exemption shall be granted only upon specific written request, detailing the

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exemption requested, the location thereof, the need thereof and the anticipated duration thereof. No exemption granted shall be broader in terms of activity, location or time than is reasonably required. Any exemption, approval or authorization granted by the Architectural Committee may be made expressly subject to conditions or limitations imposed by the Architectural Committee, which shall be an integral part of a condition of such exemption. The granting of any exemption shall not require the same exemption to be granted or extended at any other time. Any determination by the Architectural Committee shall be final and binding, subject to the provisions in Article XI, Section 4 of this Declaration.

Section 6. Enforcement; Waiver. In addition to any other rights or remedies provided by this Declaration, the Board and the Architectural Committee shall have the right to enforce any covenant or other provision of this Declaration, and to seek any remedy available at law or in equity, including injunctive relief and specific performance. If the Board or the Architectural Committee retains an attorney or brings suit in order to enforce any provision of this Declaration, it shall be entitled to recover, in addition to any other right or remedy, all attorneys' fees, court costs, and other expenses incurred in connection with its enforcement efforts. Failure to enforce any of the use or other restrictions or limitations contained herein shall not be construed or held to be a waiver thereof, or consent to any further or succeeding breach or violation thereof.

ARTICLE IV

ASSESSMENTS

Section 1. Purpose of Assessments. The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the Residents in the Project and for the improvement and maintenance of the Association Land as provided herein and for the common good of the Project and shall be uniform for all Lots. Annual Assessments shall include an adequate reserve fund for maintenance, repair and replacement of the Association Land and the improvements which the Association is responsible for maintaining.

Section 2. Annual Assessment. The Board may fix the Annual Assessment for each Assessment Period which may not exceed a certain amount hereinafter referred to as the "Maximum Annual Assessment". The amount of the Annual Assessment shall be computed to reflect and permit maintenance of operating expenses and reasonable reserves, as determined by the Board in its sole discretion. For purposes of making estimates and allocations concerning Annual Assessments, the Board may elect to utilize the services of accountants and/or other advisors, but shall not be required to do so. Estimates made in good faith by the Board shall be conclusive and binding upon all Owners and others concerned. The Board may at any time revise its estimates and thereby increase or decrease the Annual Assessment (not in excess of the applicable Maximum Annual Assessment), if it determines that its initial estimates are inaccurate. In

making each such Annual Assessment, the Board shall assess each Lot and its Owner, and each Lot shall be charged and subject to a continuing lien for the amount of the separate assessment which shall be deemed the "Annual Assessment" against such Lot.

The Board or its designated representative shall from time to time give each Owner notice as to the amount of the Annual Assessment as computed above, any revisions thereof, the time or times at which the Annual Assessment is payable (which shall be at least thirty (30) days after transmission of such notice and may in the Board's discretion be payable in a lump sum or in equal or unequal installments due as frequently as monthly) and the address to which remittance shall be made.

Until the Class B Membership is terminated pursuant to Article IX, Section 2. (a)(ii), neither Declarant nor Developer shall be liable for the payment of Assessments with respect to Lots owned by Declarant or Developer, but Developer shall be responsible for prompt payment on a current basis of all operating costs and expenses of the Association in the event and to the extent that the funds available to the Association are inadequate for payment of such operating costs and expenses on a current basis.

After the Class B Membership is terminated pursuant to Article IX, Section 2(a)(ii), Developer shall pay full Annual Assessments on any Lot owned by Developer or Declarant and improved with a Dwelling Unit for which a certificate of occupancy has been issued prior to the Annual Assessment due date. For any Lot(s) owned by Declarant or Developer but not improved with a Dwelling Unit for which a certificate of occupancy has been issued prior to the Annual Assessment due date, Developer may elect to pay (i) the full Annual Assessment when due or (ii) the sum of (a) 25% of the Annual Assessment on or before the due date of the Annual Assessment and (b) as it occurs, any excess of operating costs and expenses of the Association over the funds available to the Association for payment of such operating costs and expenses but only until Developer has paid such excess in an amount equal to the remaining 75% of the Annual Assessments for such Lot(s).

Section 3. Increase in Maximum Annual Assessments. The Maximum Annual Assessments may (but need not) be increased by the Board, in its discretion, from Assessment Period to Assessment Period by the greater of: (a) an amount in direct proportion to the increase in actual costs borne by the Association experienced during the prior Assessment Period (or completed portion thereof at the time the calculation is made) over the proceeding Assessment Period (or corresponding portion) which shall be computed to reflect and permit maintenance of reasonable reserves (reflecting an increase therein) all as determined by the Board in its sole discretion, or (b) by the amount of increase during the prior Assessment Period in the Consumer Price Index for All Urban Consumers (all items), U.S. city Average, published by the United States Department of Labor, Bureau of Labor Statistics, or in the event said index ceases to be published, by any successor index. The amount of the increase in each year authorized pursuant to alternative (a) shall be computed by multiplying the Maximum Annual Assessment by the weighted percentage increase in all such costs (i.e. all costs for the prior year divided by all costs for the year preceding that year including for the purpose allowance for increase

in reserves). Increases in the Maximum Annual Assessment in excess of the foregoing may be authorized, subject to prior approval of the Board, by affirmative vote of two-thirds (2/3) of the votes of each class of Members, in person or by proxy, at a meeting duly called for such purpose.

Section 4. Special Assessment. In addition to any other Assessment, the Association may levy, in any Assessment Period, one or more Special Assessments applicable to that period only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of improvements upon the Association Land, including fixtures and personal property related thereto, any unanticipated expenses of the Association or any shortfall in Association funds, provided that such Special Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members, in person or by proxy, at a meeting duly called for such purpose. Any such Special Assessment shall be assessed against Owners and their Lots in the same proportions as they bear the most recent Annual Assessment levied by the Association.

The provisions of this Section are not intended to, and do not, preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes. All Special Assessments under this Section shall be due at the time and times and in the amounts authorized when the Special Assessment is approved, but in no event sooner than 30 days following such approval.

Section 5. Transfer Fee. In addition to any other Assessment, upon the transfer of legal or equitable title to any Lot, or upon any change in the first mortgagee, the Association will assess a Transfer Fee against the transferee or against the Owner in the case of a change in the first mortgagee. Such Transfer Fee shall be reasonably calculated to offset any expenses of the Association in connection with the required revisions of its records and in transferring membership in the Association on its books and records, or otherwise incurred as a result of such change. The transferee of title to the Lot must acknowledge receipt of a copy of this Declaration, the Architectural Rules and the Association Rules.

Section 6. Establishment of the Assessment Period. The initial Assessment Period shall be the calendar year. The Board in its sole discretion may from time to time change the Assessment Period by recording an instrument with the County Recorder of Yavapai County, Arizona, specifying a different fiscal year as the new Assessment Period. The first Assessment Period shall commence on the date of recording of this Declaration and end on December 31 of such year. Any partial Assessment Period resulting from commencement or change in Assessment Periods shall be counted as a full Assessment Period, except that Annual Assessments for any partial Assessment Period shall be prorated.

Section 7. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt, rescind and amend rules and regulations setting forth procedures for the purpose of making, billing and collecting Assessments provided that

said procedures are not inconsistent with the provisions hereof. The Association Rules may also set forth a schedule of "late" or similar charges. The failure of the Association to send a notice or bill to an Owner shall not relieve him of his liability for any Assessment under this Declaration, the Architectural Rules or the Association Rules or defeat the imposition of any lien therefor imposed under this Declaration, the Architectural Rules or the Association Rules. No offsets shall be made or permitted against any Assessment for any reason. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period. Successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case an Owner becomes liable for payment of any sum (or an increase) during an Assessment Period, he shall immediately notify the Association but his failure to notify the Association shall not relieve him of his liability for such amounts. The amount of the Annual Assessment against Owners who become such during an Assessment Period shall be prorated and such new Owner shall not be liable for any previously levied Special Assessments. The Board shall have the right to report any delinquency to any credit reporting agency.

Section 8. Collection Costs and Interest on Delinquent Assessments and Charges. Any Assessment, or any installment thereof not paid when due shall be deemed delinquent and shall, in addition to any late charges, bear interest from such due date at a "Default Rate of Interest" which shall mean an annual rate of interest equal to the rate announced by Bank One, Arizona, N.A., as its "prime rate" from time to time while interest is accruing (with interest hereunder adjusted as and when said prime rate is adjusted), plus 6% per annum, but never less than 18% (so that if during any periods while interest is accruing said prime rate plus 6% per annum is less than 18%, interest shall accrue during said period at 18% per annum). Notwithstanding anything herein to the contrary, if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of Interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said periods shall be the highest lawful rate. If Bank One, Arizona, N.A. should cease doing business or no longer announce its prime rate as described above, the Association may compute interest hereunder upon the announced prime rate of any other bank doing business in Arizona. If banks should cease announcing prime rates, the Association may elect to use 18% as the Default Rate of Interest or may, for purposes of the computation hereunder, specify the rate, in lieu of said prime rate, which the Association would reasonably have to pay to borrow money at the time. The Owner shall additionally be liable for all late charges, interest and all costs, including attorneys' fees, which may be incurred by the Association or others in collecting the same. The Board may also record a Notice of Delinquent Assessment and Lien against any Lot as to which an Assessment, or installment thereof is delinquent and may establish a fixed fee to reimburse the Association for the Association's cost in recording such Notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost secured by the Assessment Lien.

Section 9. 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 (including interest, late charges, fees, costs and attorneys' fees, if any) have been paid with respect to the specified Lot as of the date of such certificate or (b) if all such amounts have not been paid, the amount of such Assessments (including interest, late charges, fees, costs and attorneys' fees, if any) against such Lot 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 Lot in question.

ARTICLE V

IMPOSITION OF LIEN; EXEMPTIONS; OWNER'S AGREEMENT

Section 1. Imposition of Assessment Lien and Priority of the Lien. Each Lot shall be charged with and subject to a continuing servitude and lien (the "Assessment Lien") effective from and after the date of recordation of this Declaration for the amount of all Assessments (together with interest, late charges, fees, costs, and attorneys' fees in connection with any such Assessments or Charges) which may at any time be assessed and levied against each such Lot. The "Assessment Lien" against each such Lot shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each such Lot, except as provided in Article VI, Section 3, and except that such Assessment Lien shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior.

Section 2. Property Exempted from Assessments. Exempt Property shall be exempt from the assessment of the Annual Assessments, Special Assessments, Transfer Fees and Maintenance Charges (except as provided in Article XII, Section 3); provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any Assessment Period, the same thereupon shall be subject to all Assessments prorated as of the date the Exempt Property became Assessable Property.

Section 3. Owner's Promise Regarding Assessments and Assessment Lien. Each Owner, by becoming such, for himself, his heirs, executors, administrators, trustees, personal representatives, successors and assigns, covenants and agrees (regardless of whether such covenants or agreements are expressed in the Deed by which the Owner acquired title to the Lot and regardless of whether the Owner signed the Deed): (a) that he will pay to the Association when due all Assessments assessed by the Association in each Assessment Period against the Owner's Lot; (b) that the Owner has acquired the Lot subject to all Assessments and the Assessment Lien; and (c) the Owner shall be, and

remain, personally liable for any and all Assessments assessed against the Owner's Lot prior to and during the time the Owner holds title to the Lot; and (d) that the Owner waives the benefit of any homestead or exemption laws with regard to the Assessment Lien.

ARTICLE VI

ENFORCEMENT

Section 1. Association as Enforcing Body. The Association, through its Board (and the Architectural Committee, where appropriate) as agent and representative of the Owners, shall have the exclusive right, but not the obligation, to enforce the provisions of this Declaration, the Association Rules and the Architectural Rules. If the Association (or the Architectural Committee, where appropriate) fails or refuses to enforce this Declaration, the Association Rules and the Architectural Rules for an unreasonable period of time (which shall exceed at least 30 days) after written request to do so, then any Owner may, whether at law or in equity, file suit or other proceedings, in a court of competent jurisdiction to enforce them on behalf of the Association.

Section 2. Association's Remedies. If the Owner of any Lot or other person or entity breaches any provision of this Declaration, the Association Rules or the Architectural Rules (including but not limited to any failure to pay an Assessment, when due), the Association (or the Architectural 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 Architectural Committee does not by election or otherwise prejudice or waive its right to exercise any other remedy):

- a. Bring an action to recover money damages and costs (including, without limitation, court costs and reasonable attorneys' fees);
- 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 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 of foreclosed and to acquire, hold, mortgage, lease, sell or otherwise deal with the same.

Section 3. Subordination of Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first priority mortgage lien or first priority deed of trust. First priority shall mean in first position for collection whether

by order of recording, subordination or otherwise. The sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a first priority mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser or transferee of the Lot (unless such purchaser or transferee is the delinquent Owner) shall take title to the Lot free of all Assessments (together with interest, late charges, fees, costs and attorneys' fees thereon) that have accrued up to the date of issuance of a sheriff's or trustee deed or the execution and delivery of a deed in lieu of foreclosure, but such purchaser or transferee shall take title to the Lot subject to all Assessments (together with interest, late charges, fees, costs and attorneys' fees) accruing on and subsequent to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure. Any Assessments or other amounts so relieved may, however, be collected by assessment of such amount (by special assessment or in the next Annual Assessment) against all Lots (including the subject Lot) and shall be secured by the Assessment Lien against such Lots. No exemption under this Section shall release any defaulting Owner of his personal obligation for amounts so exempted.

Section 4. Costs to be Borne by Owner in Connection with Enforcement. In any action taken pursuant to this Article, the delinquent or breaching Owner shall be personally liable for, and the Assessment Lien shall be deemed to additionally secure, the amount of the Association's costs, including but not limited to actual attorneys' fees whether or not a collection or enforcement action or proceeding is actually commenced against the Owner.

Section 5. Sanctions. In the event any Owner shall be delinquent in the payment of any amount due under any of the provisions of this Declaration, the Association Rules or the Architectural Rules or shall be in default in the performance of any other obligation provided or contemplated by this Declaration for a period in excess of fourteen (14) days, in addition to any other available remedies, such Owner's right to vote or to hold office and his other rights and privileges as an Owner and as a Member of the Association (including rights to use of all or a portion of the Association Land or Amenities) shall be suspended and shall remain suspended until all such payments are brought current and all such defaults remedied, unless specifically otherwise determined by the Board.

ARTICLE VII

USE OF FUNDS; BORROWING POWER; INSURANCE

Section 1. Purposes for which Association's Funds may be Used. The Association shall apply all funds and property collected and received by it for the good and benefit of the Project, in the Board's discretion, including among other things, the acquisition, construction, alteration, maintenance, street repair and replacement, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or

without the Property, which may be necessary, desirable or beneficial in the Board's discretion to the general common interests of the Project, the Owners and the Residents.

Section 2. Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as the Board deems necessary or appropriate.

Section 3. Association's Rights in Spending Funds from Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Assessments, or otherwise), and may carry forward as surplus any balances remaining. The Association shall also not be obligated to apply any such surpluses to the reduction of the amount of the Annual Assessment any the succeeding year, but may carry forward from year to year such surplus as the Board in its discretion may determine to be a reasonable reserve fund to provide for the greater financial security of the Association and the effectuation of its purposes.

Section 4. Administration of Special Use Fees. The Association is authorized to establish, bill for, sue for, collect, administer and disperse all Special Use Fees in such manner as it deems appropriate, and the payment thereof shall be secured by the Assessment Lien; provided, however, that all Special Use Fees collected shall, if imposed to benefit a particular improvement, be separately accounted for as to each separate improvement and shall be expended only with respect to the particular improvement to which they pertain.

Section 5. Insurance. The Association shall have the power to purchase such public liability, officers' and directors' liability and indemnity, casualty and other insurance and such fidelity bonds as the Board shall deem necessary and appropriate from time to time. Such policies shall be on such terms and conditions as the Board shall direct. All such policies shall be administered by the Board.

ARTICLE VIII

ORGANIZATION AND RIGHTS AND POWERS OF THE ASSOCIATION

Section 1. Formation of Association. The Association shall be a non-profit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be made available for inspection by the Owners for proper purposes at the office of the Association during reasonable business hours. Copies of the Articles and Bylaws may be purchased by the Owners for proper purposes for such reasonable fees as may be prescribed by the Association.

Section 2. Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. The Board may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board, be responsible for the day-to-day operation of the Association.

Section 3. The Association Rules. By a majority vote of the Board, the Association may, from time to time adopt, amend and repeal rules and regulations to be known as the Association Rules. The Association Rules may, without limitation, govern use of the Property, including restricting or imposing a charge for the use of any portion of the Property by Owners, Residents or others, and interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Association Rules shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed shall be maintained in the office of the Association and shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery by first class mail, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. It is every Owner's responsibility to remain informed with respect to the current Association Rules and Architectural Rules, as amended from time to time. Notice of Amendments to this Declaration, the Association Rules and the Architectural Rules may be given by hand-delivery or first class mail at the address for each Owner last shown in the records of the Developer. No Owner, Resident or other person shall be exempt or relieved from compliance with the provisions of this Declaration, the Association Rules or the Architectural Rules by reason of the fact that such Owner, Resident or other person did not receive a copy thereof.

Section 4. Association's Rights of Enforcement of Provisions of other Instruments Affecting the Property. The Association, as the agent and representative of the Owners, shall have the right, but not the obligation, to enforce any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any Declaration, deed or other instrument affecting all or any part or parts of the Property, provided such instrument shall have been executed pursuant to, or subject to, the provisions of this Declaration, or shall otherwise indicate that the provisions of such instrument may be enforced by the Association.

Section 5. Contracts with Others; Interested Parties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with other persons or entities, including Developer, its subsidiaries and affiliates, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors of the Association is employed by or otherwise connected with such other person or entity (including Developer, its subsidiaries or affiliates) provided that the fact of such interest shall be disclosed or known to all the directors acting upon such contract or transaction, and provided further that the transaction

or contract is fair and reasonable; and any such interested director may be counted in determining the existence of a quorum at that meeting of the Board which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction with like force and effect as if he were not interested.

ARTICLE IX

MEMBERSHIP

Section 1. Membership in the Association. Each Owner, by virtue of being an Owner, shall automatically be a Member of the Association, and shall thereafter remain a Member for so long as the Owner continues to own the Lot. Such membership shall be appurtenant to and pass with the title to any Lot and may not in any manner be alienated or encumbered except as an appurtenance thereto; provided, however, that no such change of ownership shall be effective for any voting or notice purposes under this Declaration or otherwise, unless and until the Association is given actual written notice of such transfer and is provided satisfactory proof thereof in the form of a recorded Deed or recorded transfer of title. When more than one person or entity holds an interest as an Owner in any Lot, all such persons and entities shall jointly be the Member with respect to such Lot.

Section 2. Voting Rights. Voting rights shall be vested and shall be exercisable only at such time and in such manner as shall be provided herein and in the Articles and Bylaws.

a. Classes. The Voting Owners shall comprise two classes:

(i) Class A. Class A Voting Owners shall initially include all Owners except Developer, and each such Voting Owner shall be entitled to one (1) vote per Lot; provided, however, that there shall not be more than one Voting Owner on account of more than one person having an ownership interest in a Lot. If the Voting Owner consists of more than one person or entity, such persons or entities shall designate to the Association in writing who among them shall be the Voting Owner and cast the vote appurtenant to the Lot. Absent such written designation by the Owner, the Secretary of the Association may make such designation, as he deems appropriate in his discretion. Until a designation is made, no vote shall be eligible to be cast with respect to such Voting Owner.

(ii) Class B. The only Class B Voting Owner shall be the Developer, who shall be entitled to eight (8) votes per Lot owned by Declarant or Developer; provided, however, that the Class B membership shall cease and be converted to a Class A membership (which Class A membership shall be entitled to one (1) vote each Lot) as follows:

- (A) At the time that 90% of the Lots have first been conveyed to Owners other than Declarant or Developer; or
- (B) The seventh anniversary date of the date of recording of this Declaration.
- (C) Such earlier time as the Developer, in its sole discretion, shall designate in writing.

Class A and Class B voting rights shall also be subject to the provisions of the Articles and Bylaws concerning, among other things, notice and record dates.

ARTICLE X

EASEMENTS AND RIGHTS OF ENJOYMENT IN ASSOCIATION LANDS

Section 1. Owners' and Residents' Easements and Rights of Enjoyment in Association Land. Subject to the controls, restrictions and limitations set forth in this Declaration and the Association Rules, every Owner, by reason of such ownership, shall have the right and easement of enjoyment in and to all Association Land in conformance with their contemplated uses, which right and easement shall be appurtenant to and non-severable from (except as expressly set forth in Section 5 of this Article) and shall automatically pass with the title to each Lot upon transfer to a new Owner. Subject to such right and easement, all right, title and interest in and to all Association Land shall remain vested in the Association.

Section 2. Rules Regulating Use of Association Land. All rights, easements and privileges granted and conferred under this Article shall be subject to the Association Rules, which may, for example include provisions prohibiting access to areas such as landscaped rights-of-way not intended by the Association for use by Owners, or others Residents.

Section 3. Fees Chargeable to Certain Classes of Users of Association Land. All rights, easements and privileges granted and conferred under this Article shall further be subject to the exclusive right of the Association to charge Owners, Residents and other persons, initiation, admission and other fees in connection with the use of any or all of the Association Lands. In establishing or adjusting the amount of such fees from time to time, the Board, in its absolute discretion, may establish reasonable classifications as or among Owners, Residents and other persons.

Section 4. Suspension of Rights of Enjoyment in Connection with Enforcement of the Covenants. The Association shall have the right to suspend the rights, easements and privileges of any Owner, Resident or other person with respect to Association Land or Amenities for (a) any period during which any Assessments or other charges assessed to such Owner remain delinquent and unpaid, or (b) any reasonable

period up to but not in excess of 90 days in connection with the enforcement of this Declaration or the Association Rules; such period, however, to be subject to extension for continuing violation.

Section 5. Delegation of Use. Any Owner may, in accordance with this Declaration and the Association Rules and the limitations therein contained (if any) delegate the Owner's right of enjoyment in the Association Land to the members of his family, his tenants, or his guests or invitees. Nothing in this Section shall give any delegatee any greater rights than those held at any time by the Owner making such delegation.

ARTICLE XI

ARCHITECTURAL CONTROL

Section 1. Architectural Committee. The Board shall establish an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. The Architectural Committee shall consist of three regular members and two alternate members. The Developer shall have the exclusive right, in its sole discretion, to appoint the members of the Architectural Committee for so long as (i) Class B Memberships remain outstanding, or (ii) such earlier time as the Developer shall designate in writing, whichever first occurs. All vacancies shall also be filled by the Developer during such period. Following the expiration of such period, Architectural Committee members shall be appointed, and vacancies filled, by the Board. The appointees shall serve for a term of one year, or for such other term as the person or entity making each appointment may from time to time determine; provided, however, that each appointment made by the Developer shall expire upon the appointment of a replacement by the Board upon expiration of the period during which the Developer is entitled to make such appointments.

The appointees need not be architects, directors, Owners or Residents and do not need to possess any special qualifications of any type except such as the Developer or the Board may, in their respective discretion from time to time, require. The Architectural Committee shall hold regular meetings, a quorum for such meeting shall consist of two members, and the concurrence of two members shall be necessary for any decision of the Architectural Committee. An alternate member may participate at any meeting at which a quorum of regular members is not present, may count toward a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. The Architectural Committee shall hold meetings in such manner and upon such notice as provided for by the Architectural Rules.

Section 2. Architectural Control. The Architectural Committee shall have the responsibility and authority to control the architectural and aesthetic character of the Project. Except as otherwise expressly provided in this Declaration, no building, improvements, alterations, repairs, rebuilding, excavation, grading, landscaping or other work which in any way temporarily or permanently alters the exterior appearance of any of the Property or any improvements located thereon, from its natural or improved state

existing on the date such portion of the Property was first subject to this Declaration shall be commenced, made or maintained without the prior written authorization and approval of the Architectural Committee. All subsequent such work shall similarly be subject to the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications approved by the Architectural Committee for any such work shall be made without the prior written approval of the Architectural Committee. In determining whether to approve or disapprove plans and specifications, the Architectural Committee shall have the exclusive right to disapprove any such plans or specifications which, in its sole opinion, are not suitable or desirable with respect to the individual plan or specification, the particular or surrounding locations concerned, or the Property as a whole. In this regard, the Architectural Committee shall have the right to take into consideration the matters mentioned above, as well as the aesthetics of the proposed plans and specifications, the harmony thereof with the surroundings, their effect on the view of or from the adjacent or neighboring property and the effect on the Property as a whole. Approval is for the purpose of reviewing harmony and aesthetics of design and location and ensuring consistency with the overall development of the Property, and neither the Association, the Architectural Committee, the Board, the Declarant, the Developer nor any other person or entity shall have any liability in connection with the granting of any approval for any technical, structural or other defects in the plans or specifications so approved.

Section 3. Architectural Rules. The Architectural Committee may (but need not) from time to time establish, amend and repeal Architectural Rules, which shall be the guidelines and standards to be used in rendering its decisions. Such Architectural Rules need not be the same for all portions of the Property and nothing shall preclude the Architectural Committee from granting variances therefrom.

Section 4. Appeal to Board. For so long as the Developer has the right to designate the members of the Architectural Committee, all decisions of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. Thereafter, any Owner or other Resident objecting to a decision of the Architectural Committee may appeal the decision to the Board in accordance with procedures to be established by the Board (including fixing of time limits and allocations of expenses). In the event the decision of the Architectural Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Committee shall be deemed modified to the extent specified by the Board and, for the purposes of this Declaration, such decision, as so modified, shall thereafter be deemed the decision of the Architectural Committee.

Section 5. Fee. The Board may establish a reasonable processing fee to defer the costs of the Association and the Architectural Committee in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted. No such fee shall be applicable to model homes constructed by Developer or its affiliates or to any Dwelling Unit built on a Lot by Developer or its affiliates for any

other Owner if the Dwelling Unit is based on the design of one of Developer's model homes or standard plans.

Section 6. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of filing with the Architectural Committee of a building permit duly issued by a proper municipal or other governmental authority for any improvement, said improvement shall, in favor of purchases and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article, unless notice of noncompliance or noncompletion, executed by or on behalf of the Architectural Committee, Developer or the Declarant shall appear of record in the Office of the County Recorder of Yavapai County, Arizona, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 7. Exception. Notwithstanding anything contained in this Declaration to the contrary, nothing in this Declaration shall be construed to subject the activities of the Developer upon the Property to the architectural control and review provisions of this Article or, without limiting the foregoing, otherwise to prevent Developer from (i) constructing and operating model homes, (ii) operating an office or public information center and any related improvements on the Property for use in connection with Developer's marketing or development activities with respect to the Property, or (iii) maintaining any size, style or number of signs, billboards, banners, flags, or other means of outdoor advertising on the Property with respect to such activities. All model homes and all standard plans of Developer approved by the Architectural Committee prior to the change in control of the Architectural Committee in Section 1 of this Article, and all reasonable variations or adaptations thereof, shall be deemed approved by the Architectural Committee. Any Dwelling Unit proposed to be built according to such plans need not be approved by the Architectural Committee except for limited site plan review (without fees) for items such as setback, building envelope, etc.

ARTICLE XII

MAINTENANCE

Section 1. Association Land. The Association, or its duly appointed agents, shall maintain and otherwise manage all Association Land, including, but not limited to, any landscaping, walkways, riding paths, parking areas, streets, buildings, and other structures or improvements located upon the Association Lands. The Board shall use a reasonably high standard of care, as determined in its discretion, in providing for the improvement, repair, replacement, management and maintenance of the Association Lands, so that the Project will reflect a high pride of ownership. Any action necessary or appropriate to the claim, collection or application of insurance proceeds relating to the Association Lands shall be authorized and taken by the Board or by its duly appointed agents. The Association may enter into cooperative agreements concerning the Association Lands

(including maintenance thereof) with other persons, entities or public bodies (including Developer, its subsidiaries or affiliates).

Section 2. Assessment of Costs of Maintenance and Repair of Association Land and Buildings. In the event that the need for maintenance or repair of Association Land (including improvements thereon) is caused through the willful or negligent act of any Owner or Resident, his family, guests, tenants, invitees, designees, agents or employees, the cost of such maintenance or repairs shall be added to and become a part of the Assessments to which such Owner and his Lot(s) are subject, shall be secured by the Assessment Lien and shall be due upon demand.

Section 3. Improper Maintenance or Use of Other Portions of the Property. In the event any portion of the Property, other than Association Lands, is so maintained as to present a public or private nuisance or as to detract from the appearance or quality of the surrounding Lots or other areas of the Project, or in the event any portion of the Property is being used in a manner which violates this Declaration, the Association Rules, the Architectural Rules, or other instruments, rules or regulations applicable thereto, and all as determined by the Board in its discretion, the Board may make a finding to this effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner (who shall be liable and responsible for the acts or omissions of his family, guests, tenants, invitees, designees, agents or employees) that unless corrective action is taken within fourteen (14) days, the Board will cause such action to be taken at the Owner's cost. If, at the expiration of the 14-day period, the requisite corrective action has not been taken or, if taken, is not being diligently prosecuted in the discretion of the Board, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the assessment to which the offending Owner and such Owner's Lot(s) are subject, shall be secured by the Assessment Lien and shall be due upon demand.

ARTICLE XIII

TRANSFER OF ASSOCIATION LAND AND CHANGES IN USE

Section 1. Transfer of Association Land and Procedure Thereof. Notwithstanding the rights, easements and privileges granted and conferred under Article X, the Board shall have the power and right to sell, assign, dedicate, give, convey or otherwise transfer to any person, entity or public body, all or any parts of the Association Land free and clear of all such rights, easements and privileges; provided, however, that in the event of any such sale, assignment, dedication, gift, conveyance or transfer (hereinafter collectively called "transfer") is made to some person or entity other than a public body, then such transfer may be made only after a finding by the Board that the part or parts of the Association Land to be transferred are no longer necessary or useful for the Association's purposes or that such transfer will be in the best interests of the Owners of the Property. Notice of such finding shall be mailed to all Owners by certified mail. If

during the two calendar weeks following the certified mailing of such notice there shall be filed with the Association a petition signed by ten percent (10%) of the Voting Owners (by number of votes held) protesting or objecting to the transfer, then the transfer may not be made unless such transfer is approved by sixty-six percent (66%) of the votes cast by the Voting Owners, in person or by proxy, at a meeting duly called for such purpose.

Section 2. Change of Use of Association Land and Procedure Thereof. Upon adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Association Land is no longer in the best interest of the Project, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings and other improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (a) shall be for the benefit of the Project, (b) shall be approved by the Architectural Committee, and (c) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Association Land.

Section 3. Eminent Domain. The term "taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation or in lieu thereof. The Board, and such persons as the Board may delegate, shall represent the Association in connection with the taking of all or any portion of the Association Land. The Board shall act in its sole discretion with respect to any awards offered or made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association and shall be used as the Board deems appropriate in its sole discretion, including the restoration and replacement of the Association Land so taken and the improvements thereon, by retaining any award in the general funds of the Association or distributing pro rata all or a portion thereof to the Owners based on their most recently assessed respective Annual Assessment obligations to the Association.

ARTICLE XIV

TERM; AMENDMENT; TERMINATIONS

Section 1. Term; Method of Termination. This Declaration shall be effective upon recordation hereof. As amended and supplemented from time to time, this Declaration shall continue in full force and effect to and including December 31, 2013. From and after said date, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Voting Owners casting seventy-five percent (75%) of the total votes eligible to be cast, at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if seventy-five percent (75%) of the votes eligible to be cast by each class of Voting Owners shall be cast in favor of termination at a meeting held for such purpose. Any vote pursuant to this Section shall be held by Notice

and Ballot as provided in Section 3 of this Article. If the necessary votes are obtained, the Board shall cause to be recorded with the County Recorder of Yavapai County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2. Amendments. This Declaration may be amended by recording with the County Recorder of Yavapai County, Arizona, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section 1 of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 4 of this Article, shall certify that such amendment was adopted by affirmative vote of sixty-seven percent (67%) of the votes actually cast by the Voting Owners pursuant to the provisions of Section 3 of this Article.

Section 3. Procedures for Amendments and Termination. Until ten years following the Effective Date of this Declaration, no amendment or termination of this Declaration shall be valid or effective unless the proposed amendment or termination is first presented to the Board and expressly recommended for adoption by resolution of the Board. After the expiration of ten years following the Effective Date, proceedings to amend or terminate this Declaration may also be initiated by a petition signed by twenty-five (25%) of the Voting Owners (by number of votes held) and delivered to the Board. If such a resolution is passed by the Board or if after ten years following the Effective Date such a petition shall be received, then within forty-five (45) days after the date of passage of the Board's resolution or receipt of such petition, the Board shall prepare or cause to be prepared and mailed to each Voting Owner a Notice regarding the proposed amendment or termination, a form Ballot, and an envelope addressed to the Board for enclosing and returning the Ballot. This written Ballot shall set forth the latest date the vote is due, the text of any proposed amendment, shall provide a means of clearly designating thereon the number of votes cast and whether the votes cast are for or against the adoption of the proposed amendment or for or against termination (as appropriate), and shall provide a space for the signature of the Voting Owner and a space for describing the source of each Owner's votes (as by Lot number). The results of the election shall be announced by the Board within a reasonable time (but no more than sixty (60) days) after the last date on which the Ballots are permitted to be mailed to the Board.

Section 4. Right of Amendment to Comply with Governmental Law, Rule or Regulation. Anything in this Declaration to the contrary notwithstanding, Developer reserves the right, but without the obligation to do so, at any time and from time to time, to amend all or any part of this Declaration to such an extent and with such language as may be necessary to comply with federal, state or local governmental law, rule or regulation of any agency or body or any quasi-governmental agency or body. Any such amendment shall be effected by the recordation, by Developer, of a Certificate specifying the governmental or quasi-governmental agency or body requesting the amendment and

setting forth the amendatory language required by such agency or body. Recordation of such a Certificate shall be deemed conclusive proof of the agency's body's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon the Property and all persons having an interest in the Property. Except as provided in this Section 4 and Section 5 hereof, Developer shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 2 of this Article.

Section 5. Right of Amendment to Comply with V.A and F.H.A., etc. Anything in this Declaration to the contrary notwithstanding, Developer reserves the right, but without the obligation to do so, at any time and from time to time, to amend all or any part of this Declaration to comply with the regulations and requirements of the Veteran's Administration ("V.A."), the Federal Housing Administration ("F.H.A."), and any other governmental agency or quasi-governmental agency from which the Developer has or will seek approval of the Project for purposes of financing or mortgage guarantees. The procedure for such amendment shall be the same as that set forth in Section 4 above.

ARTICLE XV

DECLARANT'S EASEMENT AND RIGHTS; RESTRICTION ON SUBDIVISIONS; UTILITY AND ACCESS EASEMENTS

Section 1. Declarant's Easement and Rights. There is hereby reserved to Declarant and its agents, successors and assigns, upon, across, in, over and under the Association Lands as the same may from time to time exist and such of the Property on which development and construction of Dwelling Units and other improvements and sales of such Dwelling Units and other improvements has not been completed, easements for access, improvement, use, development, construction, exhibit and sale purposes in connection with the improvement, development and sale of the Property. Developer and its activities (including but not limited to construction of any improvement or performance of any work) shall be exempt from the architectural control provisions of Article XI hereof. Developer specifically reserves the right to delegate, assign, share or grant all or any part of the rights, privileges or authority reserved to Developer under this Declaration (including but not limited to the easements and rights contained in this Section) or all or any part of the exemptions granted to Developer from provisions of this Declaration, whether by provision herein or otherwise, upon such conditions or subject to such restrictions as Developer shall deem appropriate, to any one or more grantees, all or any of which may mutually hold such rights, privileges, authority or exemptions concurrently with and not to the exclusion of each other and Developer.

Section 2. Restriction on Further Subdivision, Property Restrictions and Rezoning. No portion of the Property shall be subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any Lot nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written

approval of the Board and the Architectural Committee, which approval must be evidenced on the plat or other instrument creating the subdivision, easement or other interest; provided, however, that this provision shall not, in any way, limit Developer from subdividing, separating, conveying or transferring any portion of or interest in the Property at any time owned (legally or beneficially) by Developer without the need for such approval.

No further covenants, conditions, restrictions, assessments, charges, servitudes, liens (other than mortgages, deeds of trust or other instruments securing loans or other borrowing including purchase money debts), reservations or easements shall be recorded by any Owner or any other person (other than Developer who shall not be subject hereto) against any Lot or other portion of the Property without the provisions thereof having been first approved in writing by the Board and the Architectural Committee. The Board or the Architectural Committee may, among other things, require inclusion of any explicit right running in favor of the Association (but not obligation) to enforce such covenants, conditions, restrictions, assessments, charges, servitudes, liens or easements as a condition to granting such approval. Any covenants, conditions, restrictions, assessments, charges, servitudes, liens or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any portion of the Property, and no applications for variances or use permits of any kind, shall be filed (other than by Developer who shall not be subject hereto) unless the proposed change and the future use has been approved by the Board and the Architectural Committee and the proposed change and the future use otherwise complies with this Declaration.

Section 3. Access Easement. The Architectural Committee, the Association and their employees and agents shall have the right of access to all portions of the Property (including any improvements thereon) to inspect the same, to check for, remove or cure violations therein under this Declaration, the Articles, the Bylaws, the Association Rules, or the Architectural Rules and to effect maintenance or repairs of improvements (including without limitation of any utility facilities, whether or not located within a utility easement) contained therein or elsewhere; provided, however, that such rights shall be exercised in a reasonable manner and at reasonable times and with prior written notification (unless emergency situations make written notification unreasonably burdensome under the circumstances) to the Owner of such portion of the Property.

ARTICLE XVI

GENERAL

Section 1. Interpretation of the Covenants. Except for judicial construction, the Association, through its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the provisions hereof.

Section 2. Construction. Wherever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Declaration becomes or is deemed invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction, or is stricken or materially amended by the action of any competent authority, or any change or modification of any such provision is required or made at the request of any competent authority, either such provisions will be deemed amended to conform to applicable laws or regulations or such required or requested changes or modifications, or, if it cannot be so amended, its invalidity shall not affect the validity or enforceability of any other provisions hereof.

Section 3. Rules Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be the members of the Board and their issue who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 4. 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.

Section 5. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association, through its Board, shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

Section 6. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, Declarant and Developer make no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land now owned or hereafter acquired by it will be subjected to this Declaration, or that any such land (whether or not it has been subjected 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.

Section 7. References to the Covenants in Deeds. Deeds to, and instruments affecting, any Lot or any part of the Property may incorporate the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person or entity claiming through any Deed or instrument and his heirs, executors, administrators, trustees, personal representatives, successors and assigns.

Section 8. Successors and Assigns of Declarant and Developer. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder by express assignment thereof, and any reference in this Declaration to Developer shall include any successors or assigns of Developer's rights and powers hereunder by express assignment thereof.

Section 9. Gender and Number; Entity. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular. The term "entity" as used herein shall include all forms of partnerships, joint ventures, corporations, trusts, limited liability companies, or other associations of any kind.

Section 10. Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

Section 11. Notices. Any notice to any Owner shall be in writing, shall be effective on the earliest 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 Lot (or any of them if more than one) unless otherwise specified in writing to the Association. Any notice to the Association, the Board or the Architectural Committee shall be mailed by registered or certified mail, return receipt requested, PDG/Prescott Development Group, L.L.C, 110 E. Gurley Street, Suite 200, Prescott, Arizona 86301 or the last known address of the Association. The address of the Association can be changed by filing an instrument with Yavapai County.

Section 12. 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 provisions hereof or to obtain any remedy with respect hereto may be brought in Superior Court, Yavapai County, Arizona, and for this purpose each Owner and Resident by becoming such hereby expressly and irrevocably consents to the jurisdiction of said court.

Section 13. Nonliability. To the fullest extent permitted by law, neither the Declarant, Developer, the Association, the Board, the Architectural Committee, any other committees of the Association, any Owner or any Member, officer, director, employee or agent 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.

Section 14. Limitation on the Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed that the Developer (including without limitation any assignee of the interest of the Developer hereunder) shall not have any personal liability to the Association, or any Owner, Member or other person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration, the Articles, Bylaws, Association Rules or the Architectural Rules except, in the case of the Developer (or its assignee) to the extent of its interest in the Property, and, in the event of a judgment against the Developer (or assignee thereof), no execution or other action shall be sought or brought against any other assets, nor be a lien upon such other assets, of the judgment debtor.

IN WITNESS WHEREOF, the undersigned has hereunto caused its name to be signed and the same to be attested by the signatures of its duly authorized officials as of the day and year first above written.

DECLARANT:

First American Title Insurance Agency of
Yavapai, Inc., an Arizona corporation, as trustee
under Trust No. 4433

By: Roger A. Yedinak
Print Name: ROGER A. YEDINAK

Its: Trust Officer

DEVELOPER:

PDG/Prescott Development Group, L.L.C.,
an Arizona limited liability company

By: M3 Builders, L.L.C., an Arizona
limited liability company, its

~~By:~~ managing agent

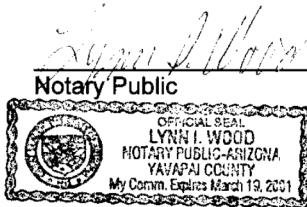
~~By:~~ The M3 Companies, L.L.C.
Its Sole Member

By: Roger A. Yedinak
Its: Member

STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 31st day of January, 2000, before me,
ROGER A. YEDINAK, the Trust Officer of First American Title
Insurance Agency of Yavapai, Inc., an Arizona corporation, as trustee under Trust No.
4433, and acknowledge to me that he, being authorized to do so, executed the foregoing
instrument for the purposes therein contained by signing the name of the corporation by
himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



My commission Expires:
3-19-2001
STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 28th day of January, 2000, before me, a notary public,
appeared Jeffrey A. Davis *, as Manager and xxxxxxxxxxxxxxxxxxxxxx as
xxxxxxxxxxxxxxxxxxxxxx of PDG/Prescott Development Group, L.L.C., an Arizona limited
liability company, and acknowledged to me that he, being authorized to do so, executed
the foregoing instrument for the purposes therein contained by signing the name of the
corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Member of The M3 Companies L.L.C., the sole member of M3 Builders, L.L.C.,
an Arizona limited liability company, the managing agent



My commission Expires:

2/28/2003

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EXHIBIT A

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VICTORIAN ESTATES

Legal Description of the Property

All that portion of the Southwest quarter of the Southeast quarter of Section 21, Township 14 North, Range 1 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

COMMENCING at the Southeast corner of the said Southwest quarter of the Southeast quarter, being the TRUE POINT OF BEGINNING; thence North 88 degrees, 17 minutes, 00 seconds, West, 1080.40 feet along the South line of said Section 21, to a point on the Easterly right of way of State Route 69; thence North 34 degrees, 28 minutes, 19 seconds, East, 493.58 feet along said right of way to an Arizona Department of Transportation Brass Cap at Engineer's Station 4705+00.00, set in 1988; thence North 84 degrees, 45 minutes, 34 seconds, East, 77.99 feet along said right of way to an Arizona Department of Transportation Brass Cap at Engineer's Station 4704+50.00, set in 1988; thence South 65 degrees, 36 minutes, 26 seconds, East, 45.60 feet; thence South 58 degrees, 39 minutes, 49 seconds, East, 32.83 feet; thence South 74 degrees, 51 minutes, 20 seconds, East, 50.10 feet; thence South 34 degrees, 17 minutes, 42 seconds, East, 38.62 feet; thence South 57 degrees, 56 minutes, 05 seconds, East, 55.68 feet; thence South 70 degrees, 44 minutes, 19 seconds, East, 36.10 feet; thence South 57 degrees, 26 minutes, 58 seconds, East, 48.09 feet; thence South 60 degrees, 38 minutes, 47 seconds, East, 59.38 feet; thence South 54 degrees, 28 minutes, 57 seconds, East, 80.37 feet; thence South 58 degrees, 33 minutes, 43 seconds, East, 68.03 feet; thence North 77 degrees, 21 minutes, 00 seconds, East, 72.01 feet; thence South 59 degrees, 22 minutes, 59 seconds, East, 58.34 feet; thence North 57 degrees, 30 minutes, 19 seconds, East, 67.08 feet; thence South 87 degrees, 02 minutes, 45 seconds, East, 59.75 feet; thence South 80 degrees, 49 minutes, 28 seconds, East, 42.28 feet; thence South 88 degrees, 18 minutes, 27 seconds, East, 13.67 feet to a point on the East line of said Southwest quarter of the Southeast quarter; thence South 01 degrees, 42 minutes, 50 seconds, West, 198.83 feet along said line to the TRUE POINT OF BEGINNING.

EXCEPT all coal and other minerals as reserved in Patent to said land.

EXHIBIT A

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

LEGAL DESCRIPTION:

The Northwest Quarter of the Northeast Quarter of Section 28, Township 14 North, Range 1 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona.

EXCEPTING THEREFROM the following described parcel:

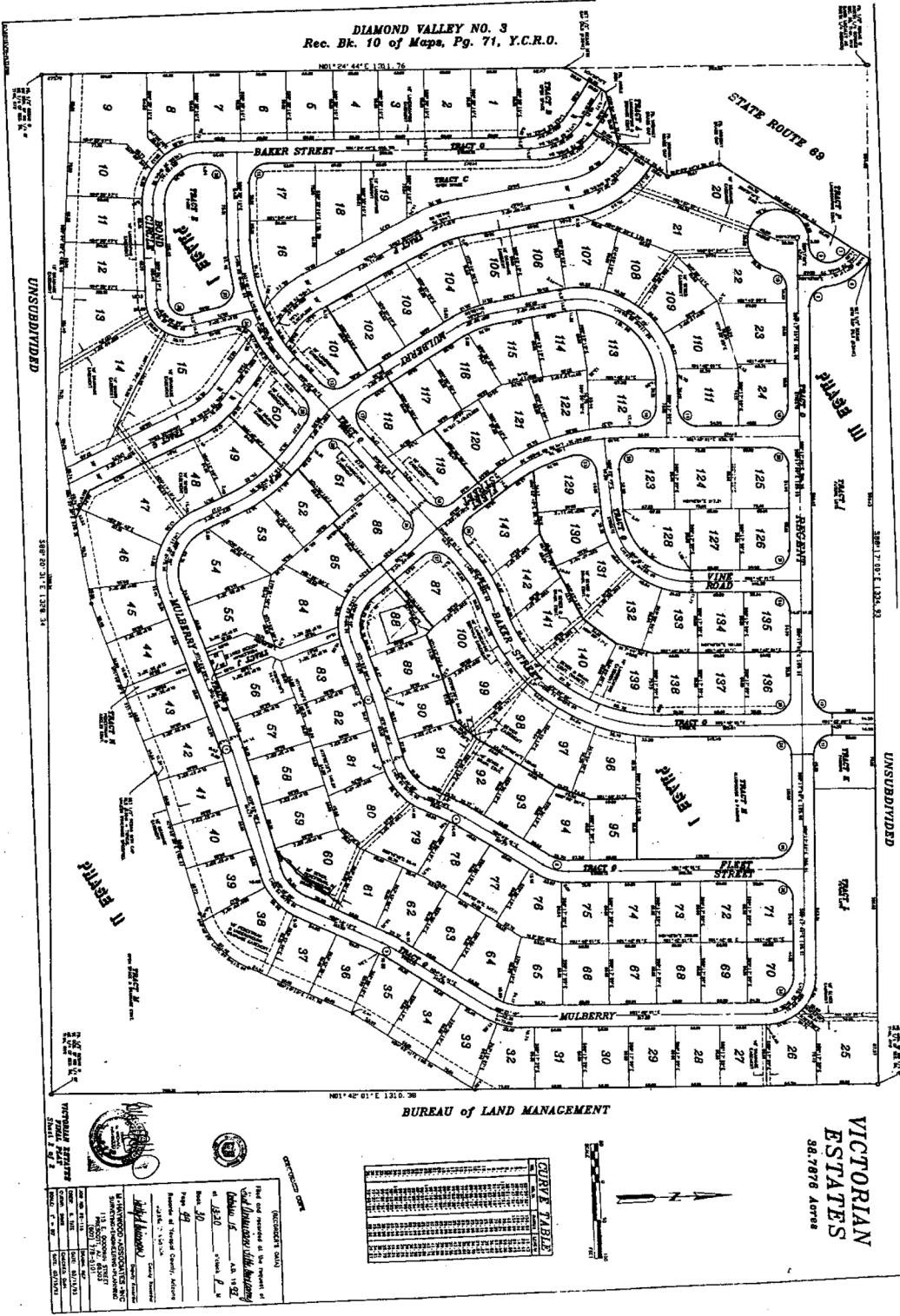
BEGINNING at the Northeast corner of said Section 28; thence North 89 degrees 15 minutes 02 seconds West along the North line of said Section 28, a distance of 2417.00 feet to the existing Southeasterly right-of-way line of State Route 69 (Cordes Junction-Prescott Highway); thence South 33 degrees 32 minutes 45 seconds West along said Southeasterly right-of-way line, a distance of 230.12 feet to the TRUE POINT OF BEGINNING; thence continuing South 33 degrees 32 minutes 45 seconds West along said Southeasterly right-of-way line, a distance of 54.69 feet; thence along said Southeasterly right-of-way line along a spiral curve to the right having an "a" factor of 0.926, a distance of 123.45 feet; thence North 78 degrees 40 minutes 40 seconds East, 71.42 feet; thence North 33 degrees 21 minutes 46 seconds East, 77.75 feet; thence North 11 degrees 27 minutes 15 seconds West, 70.71 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPT any portion lying within State Highway 69.

EXHIBIT A

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



**VICTORIAN
ESTATES**
38.7878 Acres

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

VICTORIAN ESTATES UNIT III

Located in a portion of the SW 1/4 of the SE 1/4 of Section 2, Township 14 North, Range 1 West, of the Gila and Salt River Base and Meridian, all of Tracts I and L of VICTORIAN ESTATES, as recorded in Bk. of Maps and Plats, Pg. on file in the office of the Yavapai County Recorder, Yavapai County, Arizona.

EXHIBIT A

