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**RESTATED DECLARATION OF  
 COVENANTS, CONDITIONS AND RESTRICTIONS  
 FOR NEWPORT HEIGHTS**

RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
NEWPORT HEIGHTS, also known as Prescott Summit

THIS DECLARATION is made on the date hereinafter set forth by Fountainhead United, L.L.C., an Arizona limited liability company, hereinafter referred to as ("Declarant").

WHEREAS, a Declaration of Covenants, Conditions and Restrictions for Newport Heights, subdivision of Yavapai County, according to Book 33 of Maps, page 5 (the "Property") was recorded in Book 3183 of Official Records, page 60, records of Yavapai County, Arizona ("Original Declaration"), and

WHEREAS, the undersigned Declarant constitutes in excess seventy five percent (75%) of the Voting Owners and is the owner of in excess of 75% of the lots within Newport Heights subdivision, and,

WHEREAS, the authority of the Newport Heights Homeowners Association has been revoked by the Arizona Corporation Commission, and Prescott Summit Property Owners Association, Inc. ("Association"), has been formed and filed with the Arizona Corporation Commission in its place and stead, and

WHEREAS, all action taken hereunder has been approved by resolution of the Association, and

WHEREAS, Declarant is desirous of amending and restating in full, along with the approval of the Association, the covenants, conditions and restrictions for Newport Heights, also known as Prescott Summit, and thereby terminating all provisions of the Original Declaration,

NOW THEREFORE, Declarant, desiring to establish a general plan for the improvements, development, use and enjoyment of the Property, hereby declares that the Original Declaration is terminated, and that the covenants, conditions and restrictions are restated in their entirety, and that the Original Declaration is of no force and effect, and that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Articles of Incorporation" or "Articles: shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 2. "Association" shall mean and refer to the Prescott Summit Association, an Arizona nonprofit corporation, its successors and assigns.

Section 3. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 4. "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time.

Section 5. "Common Area" shall mean and refer to all real property, easements, licenses, rights, right of way and other interests in real property, including the improvements and personal property located thereon, owned or maintained by the Association for the common use and enjoyment of the Owners. The wned by the Association shall be tracts A, B, C and D as shown on any subdivision Plat of any portion of the Property, or otherwise so designated or conveyed to the Association.

Section 6. "Constituent Documents" shall mean and refer to this Declaration, the Articles of Incorporation and Bylaws of the Association, the Plat, Plat amendments, the rules and regulations of the Association and all other documents governing the Property, the Association and its members.

Section 7. "Declarant" shall mean and refer to the above recited Declarant or any person to whom Declarant rights hereunder are specifically assigned by recorded instruments. Notwithstanding anything herein to the contrary, Declarant may sell lots from time to time to a builder who will construct units. Unless so specifically assigned, no other person shall be entitled to exercise the rights reserved to the Declarant hereunder. A Declarant's rights may, however, be hypothecated to an institutional lender as security for the performance of any legal obligation and if such lender thereafter succeeds to the Declarant's rights by foreclosure, or conveying in lieu thereof, or any other legal remedy, such lender shall be entitled to all of the rights of a Declarant hereunder, provided that any such successor shall be bound by all of the terms of this Declaration as it relates to the rights of all parties now or hereafter affected hereby.

Section 8. "Declaration" shall mean and refer to this instrument by which the Property is subjected to certain easements, covenants, conditions and restrictions, as such Declaration may from time to time be amended.

Section 9. "Holder" shall mean and refer to any bank, savings and loan association, insurance company, mortgage company or other entity or person holding a recorded first mortgage on any lot.

Section 10. "Insurer" or "Guarantor" shall mean and refer to any person or entity which insures a recorded first mortgage on any lot or any governmental entity which guarantees a recorded first mortgage on any lot and provides the Association with its name and address and the address of the lot.

Section 11. "Lot" shall mean and refer to any Lot of land shown upon any recorded subdivision map of any portion of the Property, excluding that which is reserved for the Common Area; as used herein, "Lot" may include the improvements on a Lot. Unsubdivided portions of the Property shall not be considered "Lots" for purposes of this Declaration, and shall not be entitled to Article V, Membership and Rights, nor responsible for assessments pursuant to Article VI.

Section 12. "Majority" or "Majority of Owners" shall mean and refer to the Owners of more than 50% of the Lots.

Section 13. "Mortgage" shall mean and refer to a realty mortgage and includes a deed of trust; "Mortgagee" includes a beneficiary under a deed of trust; "Mortgagor" includes a trustor under a deed of trust; and "Foreclosure" includes a trustee's sale proceeding pursuant to a deed of trust.

Section 14. "Occupant" shall mean and refer to a person or persons, including an Owner, legally in possession of a Lot.

Section 15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, and the person(s) or entity(ies) who are purchasers under a valid and outstanding recorded agreement for sale with respect to a Lot, but excluding those having such interest merely as security for the performances of an obligation.

Section 16. "Person" shall mean and refer to a natural entity capable of holding title to real property.

Section 17. "Plat" shall mean and refer to a subdivision plat of any portion of the Property, as recorded in the Office of the County Recorder of Yavapai County, Arizona, as may be amended from time to time by Declarant without consent of any Owner,

Holder or other lienholder.

Section 18. "Property", "Development" or "Premises" shall mean and refer to that certain real property hereinbefore described.

Section 19. "Record" or "Recording" shall mean and refer to record or recording in the Office of the Yavapai County Recorder of Yavapai County, Arizona.

Section 20. "Unit" shall mean and refer to a residential living unit constructed upon a separately designated Lot, without limiting or restricting the definition of Lot referred to in Section 11 above, which also may include any improvements on a Lot.

## ARTICLE II

### USE RESTRICTIONS

Section 1. Residential Use. All of the Lots in the Development shall be known and described as, and limited in use to residential purposes. The floor area of the dwelling, exclusive of porches, garages, patios, terraces or any other similar extension or projections, shall not be less than 1600 square feet of living space for lots 82-117 inclusive, except in unusual cases where topography or other factors as the Architectural Committee "the Committee" sees fit warrants a departure, and not less than 1200 square feet for lots 1-81 inclusive, except in unusual cases where topography or other factors as the Committee sees fit warrants a departure. Each Lot shall be limited to one (1) single family detached residence.

Section 2. Construction. All Units and structures on the Lots shall be of new construction and no buildings or structures shall be moved from any other location onto any of the Lots. Erection of modular, modular type construction, or manufactured housing shall not be permitted on said Lots. This shall not prevent the use of manufactured components in the construction of the single family structures.

Section 3. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used as living quarters on any Lot at any time either temporarily or permanently.

Section 4. Completion. Upon commencement of construction, such construction shall be diligently pursued to completion. The exterior on any structure shall be completely finished within six (6) months from the issuance of the building permit by the City of Prescott.

Section 5. Business or Offensive Activities. No trade 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 business activity (i) is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling unit; and (ii) consistent with the residential character of the real property subject to the Declaration 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 a Lot, as may be determined in the sole discretion of the Board. The terms "business" or "trade", as used in the previous sentence, shall be constructed 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 provider receives a fee, compensation or other form of consideration regardless of whether (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; (iii) a license is required therefor. No Lot shall be used or maintained as a dumping ground for rubbish, or storage of non-operating vehicles. Lots, fence lines, ditches, road rights of way shall be kept free of weeds and unkempt grasses, so as not to become a fire hazard or a nuisance to adjacent properties. There shall be no outside toilets. All permitted plumbing shall be connected to the central sewage system.

Section 6. Signs. No signs or billboards used as advertising or promotional devices shall be placed on any property, unless approved by the Architectural Committee.

Section 7. Outside Lighting. Except as may be initially installed by Declarant, all outside lighting, except porch lights and other customary, indirect, low intensity, non-colored lighting, shall be subject to the prior written approval of the Architectural Committee pursuant to Article IX below.

Section 8. Animals, Pets. All animals must be fenced or kept on a leash so as not to interfere with any other Lots.

Exotic animals shall not be allowed except as family pets only and shall be properly housed. There shall be no more than two (2) such animals per residence regardless of the size of the Lots.

No more than four (3) adult dogs and four (3) adult cats may be kept per residence, regardless of the size of the Lots.

Section 9. Fences and Walls. All fences and walls shall be subject to Architectural Committee approval and must be

constructed in workmanlike manner. No barbed wire fences are allowed. Maximum fence or wall height shall not exceed six (6) feet. No fences or walls shall interfere with the natural drainage.

Section 10. Applicable Zoning. All owners are also subject to applicable zoning requirements.

Section 11. Trucks, Trailers, Campers, Boats and Motor Vehicles. It is the intent of the Declarant to eliminate on-street parking as much as possible; motor vehicles shall be kept in garages or driveways. No overnight parking shall be permitted on the streets shown on a Plat. No motor vehicle exceeding a one ton manufacturer's rating, mobile home, travel trailer, 5th wheel, camper shell, detached camper, all terrain vehicle, boat, boat trailer or other similar equipment or vehicle shall be parked, maintained, constructed, reconstructed or repaired on any Lot unless screened from view from the neighboring Lots, street or Common Area, in a manner approved by the Architectural Committee. Temporary facilities may be used by Declarant in connection with the construction of the Property, as more fully provided for in Section 30 below. No automobile, motorcycle, or other motor vehicle shall be constructed, repaired or, if inoperable, stored upon any street, nor on any Lot so as to be visible from a neighboring Lot, the Common Area or a street, without the Architectural Committee approval, provided, however, that the foregoing provision shall not apply to repairs of an emergency or temporary nature.

Section 12. Garages. Two car garages are mandatory. Garages shall be used only for purposes of storage of automobiles and similar vehicles and such related purposes for which garages are customarily used. Garages shall specifically not be converted for use or otherwise used as additional residential living space unless there is a replacement garage as approved by the Architectural Committee.

Section 13. Windows, Awnings and Solar Panels. No reflective materials, including, but not limited to aluminum foil, reflective screens or glass, mirrors, or similar type items shall be permitted to be installed or placed on the outside or inside of any windows or any other part of a Lot which can be seen from the outside of the Development or from any other portions of the Development. Visible solar panels are allowable provided they are approved by the Architectural Committee. The coloration of the exterior side of all drapes, curtains or other window coverings shall be approved by the Architectural Committee. Further, no metal or rigid plastic awnings of any nature whatsoever shall be permitted to be placed or installed on or attached to the outside of any of the Units, or elsewhere on a lot.

Section 14. Screening Areas, Fences. All screening areas and fences, hedges or walls shall be maintained upon the Premises in accordance with their original construction or installation, except as otherwise approved in accordance with Article IX. No additional walls or fences of any kind shall be erected, placed or permitted to remain on any Lot, except as otherwise approved in writing by the Board pursuant to Article IX, and constructed so as to not interfere with natural drainage.

Section 15. Accessories. No clotheslines, service yards, wood piles, freestanding mailboxes or newspaper receptacles, exterior storage areas, sheds or structures, heating or air conditioning equipment, evaporative coolers and pre coolers, or other exterior fixtures, machinery or equipment shall be permitted except with the prior written approval of the Architectural Committee pursuant to Article IX below. Any such use or equipment as is approved and authorized shall be attractively screened or concealed (subject to all required approvals as to architectural control). All heating and air-conditioning systems shall be ground mounted.

Section 16. Waste Disposal. No incinerators shall be permitted on the Premises or any part thereof, nor shall trash be burned on any part of the Premises. No garbage, rubbish, trash or debris shall be placed or allowed to accumulate on the Property. Owners shall keep their Lots free of all garbage, rubbish, trash and other debris.

Section 17. Underground Utilities. All electric, gas, power, telephone, water and other service and utility lines, pipes and/or other structures and media for transmission thereof shall be placed and maintained underground, except above-ground service pedestals and switch cabinets, and except to the extent (if any) such underground placement may be prohibited by law, and except for such above-ground structures and/or media for transmission as may be originally constructed by Declarant or as may be otherwise approved in writing by the Architectural Committee.

Section 18. Noisy Equipment. No equipment which emanates disturbing sounds or loud noises will be allowed. All speakers, amplifiers, radios and other means of emitting sound, whether located inside or outside of a Unit, shall be subject to regulation by the Association as to noise levels and time of use.

Section 19. Antennas & Flags. No radio, television or other antennas or satellite dishes (except for dishes not to exceed 18 inches in diameter) of any kind or nature shall be placed and maintained upon any Lot or the Premises or any part thereof (or the improvements located thereon) unless approved in writing by the Architectural Committee pursuant to Article IX below. No more than one standard twelve (12) foot flagpole 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 of the Architectural Committee.

Section 20. Leasing. No Owner shall lease less than the entire Lot owned by such Owner. All leases must be in writing, must be for a period of not less than thirty (30) days, shall be and must specifically provide that they are subject to the provisions of the Constituent Documents and that failure to comply with such Documents constitutes a default under any such lease. If the Owner fails to enforce a default under such lease for violation of the provisions of the Constituent Documents, including without limitation the provisions of this Section, the Board, as agent for such Owner, shall have the right to enforce such default and any defaulting lessee and the Owner shall be subject to all remedies given to the Association under Article XI below.

Section 21. Subdividing. None of the Lots shall be resubdivided into smaller Lots or conveyed or encumbered in less than the full original dimensions as shown on the Plat of the Development.

Section 22. Walls. The walls of any buildings or improvements and fences constructed on any Lot shall not exceed the height of the original construction unless approved in writing by the Architectural Committee. Setback lines shall be maintained in accordance with the original construction on each Lot unless otherwise permitted by written approval of the Architectural Committee.

Section 23. Lighting. All outdoor lighting shall comply with the City of Prescott Ordinances, as from time to time amended.

Section 24. Compliance. No Lot shall be used or maintained in violation of any applicable statute, ordinance, code or regulation of any governmental authority, the provisions of this Declaration or the rules and regulations of the Association.

Section 25. Nuisances. No lot Owner shall place or maintain any animate or inanimate object upon any Lot so as to create a nuisance to the Owners of neighboring Lots. No loud noises, or vehicles or motors of any type without mufflers shall be allowed.

Section 26. Additional Restrictions.

All fireplaces, chimneys and outlets from stoves, heating appliances and outside fireboxes must be protected from the emission of sparks by capping or screening. No campfires are

allowed.

All culverts shall be appropriately sized and approved by the Architectural Committee, so as to not interfere with the natural water flow.

No derrick equipment or other structures designed for use in boring, mining or quarrying for building, stone, oil, natural gas or minerals shall be erected, maintained or permitted on any Lot.

All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment, are to be painted to compliment the Development and are to be screened with landscape material.

In the event the Owner at any time fails to properly maintain his/her Lot, the Association or, Declarant or its agent, in each's sole discretion, may enter upon and correct any violations and may charge the violating Lot Owner for the cost of curing such violations, immediately obligating the Owner for payment of such charges.

Section 27      Landscaping

Landscaping of the front yard of any lot shall be completely installed within 120 days from the date of the Certificate of Occupancy. All landscaping design, colors, and materials are subject to Architectural Committee approval.

Section 28.      Setbacks

No building shall be erected on any area, which is reserved for road purposes or is dedicated for streets or easements, nor upon any area subsequently granted for utilities or drainage purposes. For lots 82-117, no building shall be constructed closer than 10 feet of the front and 10 feet of the rear of the property lines. The side setbacks must be at least 7 feet on each side. Lots 1, 35, 46-51, 61-68, 70-71, & 77-78 include 10'-20' varying front setback and 5' side setbacks measured to the edge of the eave or overhang portion of the structure. No building shall be closer than 10' of the front and rear property lines. Lots 2-34, 36-45, 52-60, 69, 72-76, & 79-81: include the same setback distances as typical except that the setback distance shall be measured to the foundation of the building.

Section 29.      Height

Special consideration must be given to building placement and height to insure that views from adjoining properties are protected as much as feasible when determining structure location and height. The Architectural Committee shall make all decisions as to rooflines, configurations, and heights, and their decisions

shall be final. Owners of lots 82-117 inclusive, can anticipate that their height will be restricted, and will not likely be more than 18 feet or one (1) story. No structure shall be over 24 feet to the highest point of the roof. In the case of uphill or downhill oriented lots, all elevations must meet Prescott City restrictions.

Section 30. Limitation of Restrictions on Declarant.  
Declarant will be undertaking certain construction work with regard to the property. The completion of that work is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and the Property established as a residential community, nothing in this Article or elsewhere in this Declaration shall be understood or construed to:

(a) Prevent Declarant, their contractors or sub-contractors from doing on the Property whatever is necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or their representatives from erecting, construction and maintaining, on any part of the Property, such structures as may be reasonable or necessary for the conduct of its business of completing said work and establishing the Property as a residential community and disposing of the same by sale, lease or otherwise; or

(c) Prevent Declarant from maintaining such sign or signs on any of the Property as may be reasonable or necessary for the sale, lease or disposition thereof, including, but not limited to, such sign or signs as may be required or requested by the institution(s) providing the major financing for the Development.

(d) Prevent Declarant from maintaining sales offices and other facilities necessary, in their opinion, to conduct its business operation, free of the limitations herein imposed.

The foregoing limitations of the application of the restrictions to the Declarant shall terminate upon the respective Declarant no longer having an ownership interest in any of the Property.

### ARTICLE III

## PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners of the Lots and is necessary for the protection of all Owners. Such easement of enjoyment is, however, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of an Owner and/or the right to the use of the recreational facilities, if any, by an Owner, an Owners tenants and/or an Owners licensees for any period during which any assessment against such Owners Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by a majority of the members has been recorded; and

(c) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with this Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations of the Association, his/her right of enjoyment to the Common Area and any recreational facilities to the members of his family or to his/her tenants who reside on the Property.

## ARTICLE IV

### EASEMENTS

Section 1. Blanket Easement for Utilities. There is hereby created a blanket easement upon, across, over and under

the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, telephone, cable television, gas and electricity. By virtue of said easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary facilities and equipment on the Common Area. Notwithstanding anything to the contrary contained in this Section, no easements shall be created nor shall any sewers, electrical lines, water lines, or other facilities for utilities be installed or relocated on the Common Area except as initially created, programmed and approved by Declarant or thereafter created or approved by Declarant or the Association. This provision shall in no way affect any other recorded easements on the Property.

Section 2. Common Area Easements. There is hereby created a blanket easement upon and across the Common Area in favor of (1) each Lot Owner and his tenants, guests and invitees for the purpose of providing ingress and egress to the Lot owned by said Owner, (2) the Association and its invitees, employees or independent contractors for the purpose of providing landscaping or other maintenance to the Common Area, and (3) the Declarant and its invitees, employees or independent contractors for the purpose of providing landscaping, improvements or other maintenance to the Common Area, and for any activities related to the promotion and sale of and the construction of homes on any of the Lots.

Section 3. Access Easement. There is hereby reserved to Declarant, its successors and assigns, together with the right to grant and transfer the same, easements over the Property for the purpose of access, ingress and egress over, to, from and upon the Common Area and each Lot.

## ARTICLE V

### ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Purpose. The Association shall be a nonprofit corporation organized under and by virtue of the laws of the State of Arizona for the general welfare and benefit of the Property Owners in the Development. The Association, through its Members and Board, shall take the appropriate action to manage and maintain, repair, replace and improve the Common Area together with improvements located thereon, to perform related activities, and to perform all other functions and duties assigned to the Association by this Declaration, all in accordance with this Declaration and with the Articles of Incorporation and Bylaws.

Section 2. Membership. Membership in the Association shall be limited to the Owners of Lots as hereinabove defined,

and such membership shall be subject to all the provisions of this Declaration and to the Association's Articles of Incorporation and Bylaws. An Owner of a Lot shall automatically, upon becoming the Owner of a Lot, be a Member of the Association. An Owner shall remain a Member of the Association until such time as his/her ownership for any reason ceases, at which time his/her membership in the Association automatically shall cease. Ownership of a Lot shall be the sole qualification and criterion for membership. The foregoing is not intended to include persons or entities who hold an interest merely as appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. A membership in the Association shall not be transferred, pledged or alienated in any way except by the sale of such Lot and then only to such purchaser who shall automatically become a member of the Association after such conveyance, or by intestate succession, testamentary disposition, foreclosure of a Mortgage of record, or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. At the discretion of the Board, no certificates of membership need to be issued, and if certificates are not issued, membership shall be evidenced by an official list of Members kept by the Secretary of the Association.

Section 3. Voting Rights. The total number of votes in the Association shall be on the basis of one (1) vote per Lot, provided the Declarant shall each have nine (9) votes for each Lot owned. In the event any such Lot is owned by two (2) or more persons, the membership to such Lot shall be joint, and a single membership for such Lot shall belong to all Owners of the Lot, and they shall designate to the Association in writing one of their number who shall have the power to vote such membership, and in the absence of such designation, and until such designation is made, the Board shall make such designation.

Section 4. Power and Duties. In addition to the power and duties enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Enforce the provisions of this Declaration by appropriate means, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules, which shall include the establishment of a system of fines or penalties enforceable as Special Assessments;

(b) Own, maintain and otherwise manage all of the Common Area and all facilities, improvements and any landscaping thereon, and all other property acquired by the Association;

(c) Pay any real and personal property taxes and other charges assessed against the Common Area;

(d) Obtain, for the benefit of all the Common Area, all water, sewage, gas and electric services and refuse collection;

(e) Grant easements where necessary for egress and ingress, utilities, sewer facilities and CATV over the Common Area to serve the Common Area and the Property.

(f) Collect assessments to defray expenses associated with the Common Area from owners of parcels within the Property which are subject to covenants, conditions and restrictions of record obligating the owners thereof to pay such assessments and burdening such parcels therewith;

(g) Maintain such policy or policies of insurance as the Board of Directors of the Association deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(h) Employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association;

(i) Establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.

## ARTICLE VI

### COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) periodic assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Provided, a Declarant shall not be responsible for assessments on any Lot it owns. However, Declarant shall provide labor, material, or monies in sufficient amounts, not to exceed the amount of the normal Lot assessment for each Lot they own, if necessary in Declarant's judgment to properly fulfill the Association's maintenance and repair responsibilities. The periodic and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Lot and

shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successor in title unless expressly assumed by such successor.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purposes of promoting the general benefit, recreation, health, safety and welfare of the Owners and Occupants of the Property. Such purposes shall include, but shall not be limited to, the Association's rights and powers shall include (in addition to the rights and powers set forth in this Declaration and in the Association's Articles of Incorporation and Bylaws) provision for the improvement, construction, repair, maintenance, care, upkeep and management of the Common Area and the improvements and facilities thereon, the payment of taxes and assessments, if any, which may be assessed against and levied upon any property owned by the Association, and all premiums for hazard and public liability insurance, together with all other costs and expenses related to the management and maintenance of the Common Area.

Section 3. Basis of Assessments. The Board, subject to the provisions of this Article, shall determine and establish a budget and make assessments upon the Owners of Lots on the basis of costs and expenses incurred or estimated to be incurred by the Association. The Owner of each Lot, for said Owner and for said Owner's heirs, executors, administrators, personal representatives, successors and assigns, covenants and agrees that each Lot shall be subject to an assessment in an amount to be determined, which amount shall be the said Lot's pro rata share of the following:

(a) The actual cost to the Association of all taxes and improvement assessments (if any), water, utilities, insurance, management and administrative costs and repair, construction, replacement and maintenance of the Common Area and the improvements and facilities located thereon, and other services benefiting the Owners, and all other charges necessary or appropriate to carry out the purposes of the Association as set forth in this Declaration, the Articles of Incorporation and Bylaws of the Association, and its rules and regulations; and

(b) Such sums as the Board shall determine to be fair and prudent for the establishment and maintenance of an adequate reserve fund for maintenance, repair and replacement of the Common Area and the improvements and facilities located thereon and for taxes, insurance,



management and administrative costs and other charges as specified herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the majority of the votes of the members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall set forth the purpose of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, annually or other basis as determined by the Board.

Section 7. Annual Assessments. The annual assessments provided for herein shall be set by the Association, provided, however, the share of annual assessments attributable to unsold and unoccupied Units may be reasonably reduced as determined by the Board, provided that such reduced assessment shall not be less than twenty-five percent (25%) of the amount of the assessment being paid by Owners of Lots on which Units have been constructed and are occupied. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, within ten (10) days of any written request from any interested person or Mortgage Holder, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments

on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Individual Assessment for Restoration of Owner's Lot.

(a) In the event the Owner of a Lot fails to maintain his/her Lot and any easement area appurtenant to such Lot in a neat and clean condition, and generally in the manner satisfactory to the Board, the Association or the Board, through its agents, employees and/or independent contractors, shall have the right, and each Owner expressly grants and assigns the Association the right (subject to prior notice as hereinbelow set forth) to enter upon such Owner's Lot and the easement area appurtenant to such Lot and repair, maintain, rehabilitate and restore the Lot and easement area and the exterior of any and all buildings and/or other structures located thereon to the condition deemed satisfactory to the Board, or to remove structures therefrom which are, in the opinion of the Board or the Association, in such a state of disrepair or in such a condition as to be objectionable to surrounding Lot Owners. The cost thereof shall be charged against and collected from the Owner of the Lot, the amount thereof to be paid by the Owner within thirty (30) days from the date of the invoice sent to the Owner, and said amount further shall be secured by and subject to all provisions regarding the assessment lien as provided in this Article.

(b) Prior to exercising the aforesaid right of restoration, the Board shall give written notice to said Owner specifying the necessary repairs, maintenance, rehabilitation or restoration to be undertaken and granting the Owner thirty (30) days to accomplish the same. If, at the end of said period (or the work required to be performed has not been completed or has been completed in a manner unsatisfactory to the Board), or if, in the opinion of the Board, sufficient action has not been taken to effect same, then the Association or the Board shall have the right, as above set forth, to make such repairs, maintenance, rehabilitation or restoration.

(c) Nothing herein contained shall be construed as granting to the Association or the Board any right to enter into or inside of any building or buildings located on a Lot without the consent of the Owner thereof.

Section 9. Joint Ownership Payments. In cases where a Unit is owned by more than one person, such Owners shall arrange between themselves as to which one of them shall make payments of

assessments so that only one payment is made to the Association. Under no circumstances shall the Association be required to accept multiple checks or partial payments of assessments from joint owners.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/her Lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first Mortgage or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Nothing contained herein shall prohibit such Lot's proportionate share of assessments which became due prior to the foreclosure of a first Mortgage and were extinguished as a result of such foreclosure from being reallocated among and assessed against all Owners as a part of the annual assessment.

## ARTICLE VII

### MAINTENANCE

Section 1. Rights and Obligations of Association. The Board, acting for and on behalf of the Association, shall have the obligation to maintain, repair and replace the Common Area (except any portion now or hereafter maintained by any governmental agency with jurisdiction over said portion) and all landscaping, all recreational facilities and other improvements located thereon, in accordance with the terms and conditions hereof. The maintenance obligations provided herein shall include the installation and subsequent maintenance of landscaping in an attractive and viable condition and the maintenance in good condition and repair of all roadways, streets, pathways, structures or other improvements located in the Common Area. The Association may, at its option, accomplish said maintenance obligations. Any cooperative action necessary or appropriate for the proper maintenance and upkeep of the tracts above described shall be taken by the Board, acting for and on behalf of the Association. Without limiting the generality of the foregoing, the Association shall have the right at any and

all times to promulgate reasonable rules and regulations concerning the landscaping, color scheme and other related matters affecting the outside appearance of the Development as a whole, including without limitation, the appearance of all patio and balcony areas, and the individual Unit Owners shall be bound thereby. The powers, rights and duties of the Association and Board shall be as contained in this Declaration, and as may be adopted in its Articles of Incorporation and Bylaws not consistent herewith.

If, due to the act or neglect of an Owner or his invitee, guest or other authorized occupant or visitor of such Owner, damage shall be caused to the Common Area, or maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such Owner, if liable under state law, shall pay for such maintenance, repairs and replacements as may be determined by the Board, to the extent not covered by the Association's insurance.

Section 2. Rights and Obligations of Owners. Except as hereinafter in this Section specifically set forth, the Unit and all other improvements, if any, constructed upon a Lot, all fixtures and equipment installed within a Unit or Lot and all landscaping on a Lot shall be maintained and kept in repair by the Owner thereof at his/her sole cost and expense.

## ARTICLE VIII

### PARTY WALLS

Section 1. General Rules of Law to Apply. Each fence or wall which is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Lots shall constitute a party wall. In addition, each fence or wall which is built as a part of the original construction of the Unit upon the Property and placed on that portion of a building setback line extending from the rear property line of a Lot to, but not including, the portion of a Unit wall placed on a building setback line and located nearest to the rear property line of such Lot shall constitute a party wall. All walls are subject to approval of the Architectural Committee and no wall shall be constructed so as to interfere with the natural drainage. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. Subject to the provisions of Article X, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Destruction by Adjoining Owner. Notwithstanding any other provision of this Article, in the event a party wall is damaged or destroyed as a result of the negligent or willful act or omission of an Owner who makes use of the wall, his agents, tenants, licensees, guests or family, then, in such event, such Owner shall bear the whole cost of rebuilding and/or repairing such party wall.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Extension or Alteration. In addition to meeting the other requirements of this Declaration and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the other Owner who makes use of such party wall.

## ARTICLE IX

### ARCHITECTURAL CONTROL

Section 1. Review and Approval Rights of the Association. The Architectural Committee can impose a reasonable fee for architectural review of any plans and specifications submitted to it. No building, fence, wall or other structure, sign or outside lighting (except such outside lighting as specifically permitted by Section 7 of Article II) Lot clearing, excavation, leveling, grading or natural growth shall take place or shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, colors, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or, at the sole discretion of the Board, by an architectural committee (the "Architectural Committee" or

"Committee") composed of three (3) or more representatives appointed by the Board. The initial landscaping as installed by Declarant, or any other landscaping that is provided or approved by the Board or its designated Committee in accordance with the provisions of this Article, shall not be altered or changed (except for similar replacements, additions and rehabilitation) without the prior written approval of the Board or the Committee, or the Committee, fails to approve or disapprove any such plans and specifications within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with, provided that the building, structure or other improvement to be built or placed on the Property shall be governed by all of the Restrictions in this Declaration. In the event the Board of Directors designates an Architectural Committee, as herein specifically provided for, the written approval of such Committee shall be deemed for the purposes of this Declaration to be the written approval of the Board with respect to any matters specifically delegated to such Committee by the Board.

## ARTICLE X

### INSURANCE

Section 1. Property Insurance. The Board shall have the authority to and shall obtain a policy of insurance insuring the improvements and personal property located on the Common Area against loss or damage by fire, hazards covered by a standard extended coverage endorsement, and such other hazards as are customarily insured against in similar projects in the Yavapai County, Arizona area, including all perils normally covered by the standard "all risk" endorsement to the extent such coverage is available. Such insurance shall be in an amount sufficient to provide full replacement of any damage in an amount not less than one hundred percent (100%) of the full replacement value of the improvements located on the Common Area and all Association controlled personal property, as determined at least once each year by the Board and covered by an "Agreed Amount" or "Inflation Guard" endorsement, if available. All insurance coverage shall be written in the name of and the proceeds thereof shall be payable to the Association or to its authorized representative as Trustee for the use and benefit of the Association. Such policy of insurance shall contain a waiver of subrogation rights by the insurer against individual Owners, shall provide that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of all of the Owners and shall provide that the policy is primary in the event an Owner has other insurance covering the same loss.

Section 2. Liability Insurance. The Board shall have the authority to and shall obtain public liability insurance

covering the Common Area. Such insurance policies shall contain a "severability of interest" endorsement, which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or of other Owners. The scope of coverage shall be in the kinds and amounts required by private institutional mortgage investors for similar projects in Yavapai County, Arizona, but must include coverage for property damage, bodily injury and death in connection with the operation, maintenance or use of the Common Area. Coverage shall be for not less than One Million Dollars (\$1,000,000.00) per occurrence, for personal injury and/or property damage. In addition, the Board shall obtain liability insurance covering any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

Section 3. Fidelity Bonds. The Board shall have the authority to and may obtain and carry fidelity bond or insurance coverage against dishonest acts of its directors, management agent, management agent's employees, trustees, employees or volunteers responsible for handling Association funds, regardless of whether such individuals serve with or without compensation. A management agent that handles funds for the Association shall also be covered by its own fidelity bond. Except for fidelity bonds that a management agent obtains for its personnel, all other bonds shall name the Association as an obligee. The fidelity bond or insurance shall be written in an amount sufficient to provide protection as determined by the Board, but in no event less than one and one-half (1-1/2) times the insured's estimated annual operating expenses and reserves.

Section 4. Flood Insurance. If the Property is located within an area identified by an agency of the Federal Government as having special flood hazards, the Board shall maintain a blanket policy of flood insurance on the improvements and personal property located on the Common Area, in an amount aggregating the lesser of (i) the maximum limit of coverage available under the National Flood Insurance Program, or any successor thereto, or (ii) one hundred percent (100%) of the current replacement cost of all buildings and other property covered by such policy.

Section 5. Additional Insurance. Premiums for all of the above-referenced insurance shall be common expenses included in the annual assessment. Each Owner shall be responsible for his own insurance on his Unit, and all furnishings and personal property therein or stored elsewhere on the Property. Each Owner shall further be responsible to provide his/her own personal liability insurance to the extent not covered by the liability insurance to be provided by the Board as set forth above. No Association acquired insurance coverage, as required under this Article X, shall be brought into contribution with insurance purchased by individual Owners, or their mortgages.

## ARTICLE XI

### REMEDIES

In the event of any default by any Owner under the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or the rules and regulations of the Association, the Association, or its successors or assigns, or the Board, or its agents shall have each and all of the rights and remedies which may be provided for in the Articles of Incorporation, the Bylaws or said rules and regulation, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Owner and others for enforcement or foreclosure of the Association's lien and the appointment of a receiver for the defaulting Lot without notice, without regard to the value of such Lot or the solvency of such Owner, or for damages or injunction, or specific performance, or for a judgment for payment of money and collection thereof, or the right to sell the Lot as hereinafter in this paragraph provided, or for any combination of remedies or for any other relief. The proceeds of any such judicial sale shall first be paid to discharge court costs, other litigation costs, including but without limitation reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds after satisfaction of such charges and any unpaid assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Lot and to immediate possession of the Lot and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the Lot sold subject to this Declaration. All expenses of the Association in connection with any such action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the assessments payable to the Association, and the Association shall have a lien for all of the same, as well as for nonpayment of his respective share of the assessments, upon the Lot of such defaulting Owner and upon all of his additions and improvements thereto. In the event of any such default by any Owner, the Association and the Board, and the manager or managing agent, if so authorized by the Board, shall have the authority to correct such default and to do what-ever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, and such assessment shall constitute a lien against the defaulting Owner's



Lot. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board. The liens provided for in this Article XI shall be junior to prior first mortgages to the same extent as provided in Article VI of this Declaration, and shall be foreclosed in the same manner as the lien provided for in Article VI.

Without in any way limiting the rights of the Association as set forth in Section 1 of Article III above, if any Owner (either by his conduct or by the conduct of any other Occupant of his Lot or Unit, shall violate any of the provisions of this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, as then in effect, and such violation shall continue for ten (10) days after notice in writing from the Board or shall occur repeatedly during any ten day period after written notice of request to cure such violation, the Association, Board, Architectural Committee, a Declarant, or any aggrieved Owner shall have the power to file an action against the defaulting Owner or Occupant requiring the defaulting Owner to comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, and granting other appropriate relief, including money damages. If the Association, its successors or assigns or the Board or its agents shall violate or fail to comply with any of the provisions of this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, as then in effect, then any aggrieved Owner or a Declarant shall have the power to file an action against the Association or Board to comply with the Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any mortgage or deed of trust made in good faith and for value on any Lot but, except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any Owner whose title thereto is acquired by foreclosure, Trustee's Sale, deed in lieu of foreclosure or otherwise.

The rights reserved in this Article in favor of a Declarant, or its assignee, to enforce the provisions of this Declaration shall be limited to the period of time during which a Declarant owns one or more Lots in the Development.

## ARTICLE XII

### DURATION AND AMENDMENT

The covenants, conditions and restrictions of this

Declaration shall run with and bind the Property and shall be binding upon each Owner and his/her heirs, executors, administrators, successors and assigns and all other persons claiming an interest in and to the Property, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, executed by sixty six and two-thirds percent (66 & 2/3%) of the Owners of the Lots including the Declarant.

Any amendment must be recorded in the office of the County Recorder of Yavapai County, Arizona.

Notwithstanding the provisions of the foregoing paragraph, if this Declaration, the Articles of Incorporation, or the Bylaws require the consent or agreement of a greater percentage of Owners or require the consent or agreement of a specified percentage of Mortgage Holders, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by such percentage of Owners and/or Mortgage Holders, as required by this Declaration.

#### ARTICLE XIII

##### ADDITIONAL LOTS

The terms of this Declaration shall automatically apply to all Lots into which the Property from, time to time, is subdivided pursuant to a recorded plat. Nothing herein shall preclude the further or additional restricting of Lots within the Property by the Declarant who owns the particular Lots.

#### ARTICLE XIV

##### GENERAL

Section 1. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 2. Construction and Interpretation of Declaration. Except for judicial construction, the Association 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 Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as

to all persons and property benefited or bound by these Restrictions.

Section 3. Gender. Whenever 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.

Section 4. Captions, Titles and Headings. All captions, titles and headings of the Articles and Sections of 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 contents hereof.

Section 5. Jurisdiction. All Owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter; provided, however, as to those matters, if any, to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail.

Section 6. Notices. Notices provided for in this Declaration or the other Constituent Documents and addressed to the Association or the Board shall be in writing and shall be addressed to the Association or the Board at any address to be established by the Board from time to time by giving written notice thereof to all Owners. All notices to Owners shall be to their respective Lots. Any Owner may also designate a different address to the Board. Notices addressed as above shall be deemed delivered 72 hours after they have been deposited with the United States Postal Service, postage prepaid, or when delivered in person.

Upon written request to the Board, the Holder of any recorded mortgage encumbering any Lot shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners of the Lot subject to such mortgage.

Section 7. Amendment to Plat. A Declarant, as to Lots owned by Declarant, and the Association (after a confirming vote of a Majority of the Owners), and any other Declarant owning a portion of the Property, may amend a plat, from time to time, if such amendment affects the Common Area or the use thereof. No confirming vote shall be required if the amendment does not affect the Common Area.

