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Declaration of
RESTRICTIVE COVENANTS

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DECLARATION OF RESTRICTIVE COVENANTS FOR PALMER HILL RESIDENTIAL LOTS 1-17 IN PRESCOTT, ARIZONA

Book 39 pg 16-17

I. APPLICABILITY, INTENT, AND PURPOSE OF RESTRICTIVE COVENANTS

1. Applicability

HAMBLIN BOWDITCH, LLC, an Arizona Limited Liability Company, is the owner and Developer of PALMER HILL, a subdivision adjacent to the Senator Highway in Prescott, Arizona. Palmer Hill is comprised of 17 single family residential lots platted and recorded in the office of the Yavapai County Recorder, Prescott, Arizona. The four townhome lots shown on the Palmer Hill subdivision plat (Lots 18-21) are *not* covered by or subject to these restrictive covenants. Residential Lots 1-17 *are* covered by and subject to the terms of this Declaration of Restrictive Covenants, which shall run with the land and bind all Owners and buyers of Lots 1-17 their heirs, successors, and assigns, except as may be expressly set forth to the contrary herein.

Therefore, in order to establish the nature of the use and enjoyment of Palmer Hill Residential Lots 1-17, Hamblin Bowditch LLC, does hereby declare Palmer Hill Residential Lots 1-17 subject to the following expressed covenants, conditions, stipulations, and restrictions as to the use and enjoyment thereof, all of which are to be construed to be restrictive covenants running with the title to said Lots and Common Areas and with each and every part and parcel thereof, except as may otherwise be specifically set forth to the contrary below. These covenants and restrictions shall run with the land and shall be binding on all persons owning Lots until January 1, 2010, at which time the covenants and restrictions shall be automatically extended for successive periods of ten years, unless by a vote of at least two-thirds of the then Owners of the Lots, it is agreed to change the covenants and restrictions in whole or in part. Deeds of conveyance for Palmer Hill Lots and Common Areas shall refer to these restrictive covenants by reference to this Declaration, but whether or not such reference is made in such deeds or any part thereof, each and all of such restrictions shall be valid and binding upon all respective grantees, heirs, assigns, and successors in interest.

Hamblin Bowditch shall have the right to annex other land owned by it into the coverage of this Declaration by recording, in the land records of Yavapai County, a Declaration of Annexation describing the real property to be brought within the coverage of this Declaration. Any such Declaration of Annexation may supplement this Declaration with such additional provisions as Declarant may deem appropriate for the real property annexed.

BK	FEE
	\$
MAP	\$4
PCL	\$5
	\$1
\$	

2. Intent, and Purpose of These Guidelines and Restrictions

The development guidelines and restrictions set forth herein, particularly those addressing architectural design and site planning, have been created to provide direction to Lot Owners for the improvement of their properties and to ensure capability with the unique neighborhood being created on Palmer Hill.

It is not the purpose of these standards to create look alike residences or improvements, or to suggest that they all have identical colors and materials, but to create a harmonious architectural approach.

The guidelines and restrictions set forth in this Declaration of Restrictions may be viewed by each Owner as his or her protection that the special environment of the Palmer Hill neighborhood will be preserved and enhanced over time.

II. THE DESIGN REVIEW PROCESS

1. Site-Sensitive Design

Site-sensitive, site-specific home design is a fundamental requirement at Palmer Hill. Therefore, Owners and their architects or designers should refrain from approaching a site with a predetermined design expecting to make it work. Conversely, home designers should carefully plan a design after doing a comprehensive study of the site to make it as site compatible as possible.

2. Purpose of Design Review Procedures

The Design Review Process is intended to provide adequate checkpoints throughout the design and development phases so that time and money are not wasted on plans and designs which do not adhere to the Guidelines and Restrictions set forth herein. Therefore, it is extremely important that these steps be followed in their entirety and in the correct sequence.

3. Applicability of Architectural Controls and Design Review Procedures

No home or site construction activity may begin until all of the plans and procedures set forth below have been followed and approved in writing by the Design Review Committee.

4. Professional Plans and Construction

It is strongly recommended that each Owner retain competent professional services, preferably an architect, for planning and design of all residences and improvements. This is to insure a thorough analysis and understanding of each particular Lot and the Owner's special needs and living patterns. An architectural design professional can provide readily comprehensible conceptual drawings and plans to the Design Review Committee and help insure compliance with the restrictions set forth in this Declaration. If an Owner elects to try to do his own design or to retain nonprofessional services

and the result in either case is not approved by the Design Review Committee, the Design Review Committee has the right to require that the Owner thereafter utilize professional design services. To insure quality construction, an Arizona licensed general contractor, architect or engineer shall be responsible for all new construction. Owner-built projects by Owners other than the Developer are not allowed.

5. Design Review Committee and Procedures

A Design Review Committee has been established and charged with the responsibility of ensuring that these principles and purposes are adhered to throughout all phases of development. The Design Review Process encompasses five phases:

1. *The Pre-Design Conference*, during which each Owner along with his architect/designer reviews their ideas and the natural aspects of the lot with a representative of the Design Review Committee before any plans are prepared. It is preferable that this meeting take place on site whenever possible.
2. *The Preliminary Submittal*, at which time the Design Review Committee reviews conceptual plans to ensure conformance with the Guidelines and Restrictions set forth herein before the Owner finalizes his design.
3. *The Final Submittal*, at which time the Design Review Committee reviews final construction documents to confirm that they are consistent with the previously approved preliminary plans.
4. *The Pre-Construction Conference*, during which each builder reviews the construction regulations with a representative of the Design Review Committee to ensure an understanding of and future compliance with these regulations.
5. *The Final Inspection* of the improvements by a representative of the Design Review Committee to determine whether actual construction has been completed in strict compliance with the approval plans and development standards.

Plans and specifications must be submitted to the Design Review Committee in accordance with the procedure set forth above and the submittal requirements and review procedures as detailed below.

6. Design Review Fee

A design review fee of \$400.00 must be paid at the time of the Preliminary Submittal. No plans will be considered by the Design Review Committee until said fee has been paid. If for any reason a design is not approved, the design review fee for all subsequent submittals is \$200.00.

7. The Pre-Design Conference

Prior to submission of the Preliminary Submittal, the Pre-design Conference described above must take place. It is mandatory that the Owner and/or his architect meet with a representative of the Design Review Committee to discuss proposed plans as they relate to the topography of the Lot

and to go over the building and site restrictions set forth in this Declaration of Restrictive Covenants.

8. Preliminary Design Submittal

The design, location, and materials of all structures to be built on the Lots shall be in harmony with existing homes within Palmer Hill. The Preliminary Design Submittal must include the plans and exhibits set forth below. No review will commence until the submittal is complete. The following are required in the Preliminary Design Submittal:

1. A *site plan* showing the location of the proposed residence, all other proposed structures and improvements, the driveway, parking area, and area to be landscaped.
2. A *survey* by a registered land surveyor or licensed civil engineer showing lot boundaries and dimensions, all applicable lot setbacks, all recorded easements, topography (2 feet contours or less), major terrain features, all trees of 12 inch diameter or greater, the edge of the Palmer Place or any shared driveway, and all utility locations.
3. *Floor plans* of the house, garage, and other structures showing the proposed finished floor elevations.
4. *Scaled drawings or depictions* of each side of the residence and garage showing what it will look like, the existing and proposed grade lines, plate heights, ridge heights, roof pitches, and a preliminary indication of all exterior materials and colors.
5. If the Committee deems it appropriate due to slope considerations or complexity of design, a *study model* may be required (same scale as site plan), which accurately depicts all the proposed improvements and their relationship to the site.
6. Any other drawings, materials, or samples requested by the Design Review Committee.

The Preliminary Design Submittal shall consist of one set of prints which shall be retained by the Design Review Committee.

9. Preliminary Design Review

The Design Review Committee will review the plans and respond in writing within 15 days after the Preliminary Design Submittal is complete. If members of the Design Review Committee are on vacation or otherwise unavailable, they make take up to 30 days.

No Owner, architect or builder shall have the right to attend any meeting of the Design Review Committee.

Any response an Owner may wish to make regarding the results of a design review must be addressed to the Design Review Committee in writing.

10. Final Design Review

After preliminary approval is obtained from the Design Review Committee, the following documents must be submitted for final review. No review will commence until the *Final Design*

Submittal is complete as required below. The Final Design Submittal must include the following:

1. *A site plan* (scale at 1" = 10' or 1" = 8') showing the entire property, location of the building envelope, the residence, all other structures and improvements, driveway, parking area, existing and proposed topography, finished floor elevations, trees to be removed, all utility sources and connections, and all walls to be constructed on the site.
2. *Floor plans* (scale 1/4" = 1' 0") showing finished floor elevations.
3. *A roof plan* (scale 1/4" = 1' 0") showing all roof pitches and an artist's or architect's three dimensional drawing or other rendering of what the roof will look like, or alternatively, top, front, and side views of the entire roof.
4. *Final building plans and drawings* (scale 1/4" = 1' 0" or larger) that clearly show what each side of the house, garage, and other structures will look like and specifically describe all of the materials to be used on the exterior of each. These plans and drawings must also show all wood, rock, masonry, and roof patterns to be used. All exterior gutters and down spouts must be shown along with a description of the materials of each.
5. *An elevation plan* showing all exterior elevations (scale 1/4" = 1' 0"), both existing and proposed grade lines, plate heights, roof pitches, and chimney
6. *Paint chips, material samples, and literature* as requested by the Design Review Committee depicting or describing all exterior materials.
7. *A landscape plan* (scale 1" = 10" OR 1" = 8') that complies with section 12. of the *Site Guidelines and Restrictions* set forth below. The *landscape plan* must include the size, type and location of all trees and shrubs and ground cover to be planted on the lot, as well as all walks, patios, fences, and decks as they relate to the landscape elements. It must also specifically describe the types of rock and gravel to be used, as well as details of the irrigation system.
8. *A mailbox enclosure* scale drawing or rendering that compliments the design of the home must be submitted in compliance with section 17. of the *Site Guidelines and Restrictions*.
9. *A grading plan* prepared by a registered civil or professional engineer or architect that shows existing contours, flow lines, and finish grades. Drainage patterns on the site, down spouts from the house, points of conversion and the entire length of all planned drainage ditches must be shown.
10. *An exterior lighting plan* that shows all lights outside of the main residence in sufficient detail to show compliance with section 13 of the *Site Guidelines and Restrictions* set forth below.

11. Deferral of Landscaping, Exterior Lighting, and Material and Color Sections

An applicant may wish to delay the confirmation of landscaping intentions and final color or stonework selections until some point in time after the start of construction in order to better visualize landscaping considerations, or to test an assortment of potential colors with actual materials intended for use. An Owner may do so with the written permission of the Design Review Committee, provided that no landscape work may be started, nor color or material applied, until such time as the

Committee has had the opportunity to review and has consented in writing to the final selections. Consent should be obtained before the placement of any orders for materials to avoid potential restocking costs in the event of denial. The application of any material, coating or finish without the requisite submittal to the Design Review Committee shall have the effect of voiding the approval in its entirety.

12. Final Design Review Approval

The Design Review Committee shall review the plans and respond in writing within 15 days after the Final Design Submittal is complete. If members of the Design Review Committee are on vacation or otherwise unavailable, they make take up to 30 days.

No owner, architect or builder shall have the right to attend any meeting of the Design Review Committee.

Any response an owner may wish to make regarding the results of a design review must be addressed to the Design Review Committee in writing

13. Resubmittal of Plans

In the event of any disapproval by the Design Review Committee of either a Preliminary or Final Design Submittal, a resubmission of plans should follow the same procedure as an original submittal. An additional design review fee of \$200 is required as indicated in section 6. above.

14. Final Approval and Commencement of Construction

Upon receipt of final written approval from the Design Review Committee, and having satisfied all Yavapai County review processes, the Owner shall satisfy all conditions and commence the construction or any work pursuant to the approved plans within one year from the date of such approval.

If the owner fails to begin construction within this time period, any approval given shall be deemed revoked.

15. Timeliness of Construction

When construction is commenced, it shall be pursued diligently, and all buildings are to present a finished exterior appearance within seven months thereafter, and landscaping substantially completed within nine months from the commencement of construction, barring strikes, acts by other persons beyond the control of the Owner or contractor, and acts of God. The Committee may grant exceptions for houses and landscaping where the size, detail, amount of custom work or unique architecture makes the above time frame impractical. Financial inability of the Owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond the control of the Owner or contractor. Extensions will be reviewed on a case by case basis by the Committee.

If the Owner fails to comply with this schedule, the Design Review Committee shall have the

right to either remove the improvement or have the exterior of the improvement completed in accordance with the approved plans, with all expenses incurred to be reimbursed to the Design Review Committee by the Owners. Such non-compliance shall also subject the Owner to fines and liens as set forth in the enforcement provisions of these Restrictive Covenants.

The Developer and members of Hamblin Bowditch are exempt from this provision for the reason that they intend to build homes and do extensive landscaping that exceeds the minimum restrictions set forth herein and necessarily takes longer to build and install.

16. Inspection of Work in Progress

The Design Review Committee may inspect all work in progress and give notice of noncompliance. Absence of such inspection or notification during the construction period does not constitute an approval by the Design Review Committee of work in progress or compliance with these guidelines and restrictive covenants.

17. Changes to Plans During Construction

All changes during construction to approved site, exterior, exterior lighting, elevation, and landscaping plans, including all color and material changes, must be submitted to the Design Review Committee for approval prior to making such changes or additions.

18. Final Release

Upon completion of any residence or other improvement, the Owner shall give written notice of completion to the Design Review Committee. Within 30 days of such notification, a representative of the Design Review Committee must inspect the residence or other improvements for compliance. If all improvements comply with these Restrictive Covenants, the Design Review Committee shall issue a written approval to the Owner within 30 days, constituting a final release with respect to the improvements by the Design Review Committee.

If it is found that the work was not done in strict compliance with the approved plans or any portion of these Restrictive Covenants, the Design Review Committee shall issue a written notice of noncompliance to the Owner within 30 days of the final inspection.

The Owner shall then have 30 days from the date of notice of noncompliance within which to remedy the noncompliance portions of the improvement. If, by the end of this time period the Owner has failed to remedy the noncompliance, the Design Review Committee may take action to repair or remove the noncomplying improvements and such other action as is authorized in the enforcement provisions of these Restrictive Covenants, including, without limitation, injunctive relief and the imposition of a fine.

19. Non-enforcement and Waiver

The negligence or other failure of the Design Review Committee to enforce any provision of these restrictive covenants with respect to any particular Lot or Lots shall not constitute a waiver or

acceptance of such non-compliance with respect to the remainder of the Lots. Any enforceable waiver or acceptance of non-compliance found to exist by any court of law shall only apply to that particular provision or subject and shall not apply to all other provisions of these restrictive covenants. The approval or granting of an exception by the Design Review Committee of any plans, drawings, or specifications for any work done or proposed shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing or specification subsequently or additionally submitted for approval.

The Design Review Committee reserves the right to waive or vary any of the procedures set forth herein at its discretion for good cause shown.

III. SITE GUIDELINES AND RESTRICTIONS

1. General Site Plan Considerations

The building plan should be designed to respond to sloping sites and to reduce building mass. Square, rectangular, and barn-like box houses are discouraged and may be disapproved by the Design Review Committee. Residences and other improvements should preserve as many of the natural evergreen trees and manzanita bushes as possible, but homeowners are encouraged to rid their lots of the scrub oak and other dense brush that could present a fire hazard. Builders should orient their houses and windows to take into account the sun and prevailing views.

2. Building Envelopes

All homes, other than in section 3 below, must be built within the building envelopes shown on the final Palmer Hill recorded plat.

3. Ownership of multiple lots and Compounds

Except for compounds resulting from the combined development of two or more lots, no more than one residence may be constructed on any lot. Such compounds are subject to approval by the Design Review Committee. Other outbuildings such as detached garages may be constructed, provided they are a visual extension of the main residence. New building envelopes will be designed for any compounds on more than one lot. If a single structure is planned to be built across the internal property lines of two lots, then the internal line must be eliminated. This will require preparation of a tentative parcel map, which must be approved by the Design Review Committee and by the City of Prescott. If approved, the tentative parcel map and legal description shall be recorded as a single parcel. When approving a new tentative parcel map, the Design Review Committee shall have the right to add new conditions or restrictions to the subject parcels.

Each Lot, regardless of whether it was part of a multiple Lot purchase, shall be treated as an individual Lot for the purpose of this Declaration and the Palmer Hill Property Owners Association. Therefore, the payment of appropriate assessments shall be based on the number of original (pre-combination) Lots the Owner has purchased.

4. **Lot splits**

No Lots may be split.

5. **Guest Rooms and Quarters**

If allowed by City of Prescott zoning regulations, attached or detached guest rooms and quarters are permitted on Lots 18,000 square feet or larger, provided they are designed to visually harmonize with the main residence in color, material and style, and are visually related by a common breezeway, common walls, courtyards, or landscape features. Any guest facilities must be built within the applicable building envelope.

6. **Grading, Excavation, and Drainage**

No excessive cutting or fill will be permitted on any Lot except where specifically allowed by the Design Review Committee due to terrain considerations. Dirt or fill not retained by a wall or other approved structure may not be pushed down the western slope of Palmer Hill, although the Developer may use fill as necessary to support Palmer Place (road) as it goes up to the top of Palmer Hill. Any fill to remain on a Lot must be landscaped and retaining walls may be required, as set forth in section 8. below, depending on the amount of fill. Site grading and drainage must occur with minimum disruption to the Lot, without altering natural drainage patterns as runoff leaves the Lot, and without causing conditions that could lead to unnecessary soil erosion.

7. **Utilities, On-site Equipment, Antennas, and Satellite Dishes**

Individual utility meters must be screened from adjacent properties, street and neighborhood views, and all screening materials used must be consistent with the architecture of the residence. The location of all meters must be clearly shown on all plan submittals to the Design Review Committee.

All utility lines must be underground and shown on the site plan. Once buried, all utility trenches must be landscaped.

Satellite dishes, air conditioners, antennas and other on-site mechanical equipment are subject to the screening and other restrictions set forth in section 14 below and section 19 of the *Home Building Guidelines and Restrictions* of this Declaration.

Utility maintenance structures and cabinets located on Lots or Common Areas are exempted from these restrictive covenants, although the Design Review Committee has the authority to require as high a level of conformance with these standards as is allowable pursuant to applicable utility regulations.

8. **Retaining Walls, Walls, Gates and Fences**

Site walls or fences must appear as a visual extension of the residence, using similar materials and finishes. Privacy or screening walls may not exceed six feet in height, measured from existing natural grade, and they may not encroach into any required setback. The use of ornamental iron or

other metal fencing is subject to approval by the Design Review Committee. Chainlink, wire, and stainless steel bar or pipe fencing is prohibited.

Structural retaining walls may not exceed an above-grade height of six feet. Multiple terraced retaining walls must be utilized where the overall height of retained earth exceeds six feet. There must be at least three horizontal feet between retaining walls, and the space between these retaining walls must be planted with bushes and shrubs. Retaining walls may be constructed of split block or exposed aggregate concrete. Other types of cast concrete masonry units must have all exposed wall surfaces and edges covered with stone or cultured stone so as to blend unobtrusively with the natural surroundings. Any such surface must be compatible with other block, stone, or other surface materials used on the home. Battered (non-masonry natural rock and boulder) retaining walls may be used, provided that non-river run rocks are used. Granite, sandstone, and flagstone are preferred. Landscape timbers, not including railroad ties, may also be used.

Planted landscape berms are also permissible, subject to the approval of the Design Review Committee.

Driveway and entryway gates are allowed if made out of high quality, decorative wrought iron or steel. No chain link or stainless steel gates are allowed. Prefabricated metal bar and pipe gates are not allowed unless the gate has a high level of quality and distinct artistic design which is approved by the Design Review Committee.

The following are not permitted for walls and fences: wood lattice, chain link, fiberglass, precision block other than split face, stucco or plaster finish (for more than 25% of the wall area), wire mesh, tubular or stainless steel, and square tube machined steel. Rock faced walls are preferred. The Design Review Committee may grant exceptions for high quality metal bar fences with a distinct artistic design, or high quality metal fences used in combination with masonry or rock.

9. Garages and Carports

One detached garage may be erected on each Lot in addition to the main dwelling, the location and design of which shall be subject to the approval of the Committee. If allowed by City of Prescott zoning regulations, a detached garage on a Lot 18,000 square feet or larger may contain guest dwelling quarters therein but shall not be used as a main dwelling. An enclosed two car garage for each residence is required. Carports are not allowed.

As a general rule, garages shall not front upon Palmer Place (road). However, the Design Review Committee may provide exceptions to this rule where the small size or topography of the Lot makes it unreasonably difficult or expensive to comply with this provision. In such cases, the Design Review Committee may require the Owner to set the garage back a minimum distance of five feet from the building facade to decrease garage visibility.

10. Driveways, Walkways, and Offstreet Parking

Because of the terrain of Palmer Hill, driveways should attempt to minimize cutting and filling. Where fill is used to support a driveway, the fill must be either fully landscaped or supported by a retaining wall subject to section 8 above. Driveway design must provide turnaround space unless the size or topography of the Lot reasonably prohibits this.

Uncolored concrete driveways and sidewalks are not allowed at Palmer Hill. The following paving materials may be used: stone, earth-toned colored concrete, earth-toned exposed aggregate concrete, quarry tile or paving brick in earth tones, cobblestone textured or stamped colored concrete, pea gravel in colored concrete, large, rough-textured precast colored pavers, and interlocking pavers in earth tones. Asphalt may not be used except for the common driveway easement across Lots 7 and 8. Those portions of the driveways serving Lots 6, 7, 8, and 9 which are not on this common driveway easement *are* subject to the restrictions of this provision.

11. Swimming Pools, Spas, and Sport Courts

Due to the terrain of Palmer Hill, tennis and other sport courts are not permitted. Wall-mounted or free-standing basketball backboards are allowed provided that the support posts and backboard are painted to blend unobtrusively with its visual backdrop surroundings.

Pools and spas should be designed so they do not impact adjoining properties with light or sound. Pool heaters and pumps must be screened from view, sound insulated from neighboring homes and streets, and constructed with materials compatible with the home. Pools and spas shall have a low noise filtering pump. If a neighbor can hear it from his or her property, it's too noisy. Only in ground pools are allowed. Above ground spas must be screened or faced with materials consistent with the exterior of the house or garage behind it.

12. Landscaping, Yard Ornamentation, and Play Areas

Because Palmer Hill is a prominent Prescott hilltop viewable from many parts of town, appropriate landscaping is of the utmost importance. Owners are encouraged to retain as many natural evergreen trees and manzanita bushes on the site as possible, while thinning out the scrub oak and other brush that could cause a fire hazard. The purposes of the landscaping on Palmer Hill should be to soften the transition between the building and the site, control erosion from construction scars, break up the visual height of plan walls (especially tall stem walls), and to provide screening from neighbors and shade from the sun. Natural, low maintenance landscaping which blends in with the native Palmer Hill environment is encouraged. Drip irrigation systems which cut down on both maintenance and water usage are recommended. All irrigation controls, boxes, and valves must be installed in below grade boxes. Lawns are also encouraged if the Owner is willing to properly maintain them. The landscaping plan should include the sizes, types and placement of all landscaping materials to be used on the lot. The extent of landscaping required is dependent on the particular site, but at a minimum the front and side yards to the back of the houses must be landscaped. The Design Review Committee can require additional landscaping where all or parts of the yard are prominently visible from the Senator Highway, Palmer Place, or significant portions of town, or where it is otherwise required by the City of Prescott.

Pursuant to a Development Agreement with the City, the Owners of Lots 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 must have at least 15 feet of naturally vegetated or vegetative landscaping to the west of their houses (excluding driveways), and the Owners of Lots 1, 2, 3, 4, 7, 8, 12, 13 14, 15, 16, and 17 must have at least 20 feet of naturally vegetated or vegetative landscaping to the east of their houses (excluding driveways).

Certain Lot Owners are also obligated to do further landscaping pursuant to the terms of the Development Agreement. The Development agreement provides that the road scars on the south, west, and east sides of the hill must be revegetated. Therefore, the Owners of Lots 1, 2, 3, 4, and 7 must revegetate the road scars on their lots. The Owners of Lots 5 and 6 must relandscape the road scars on the west side of the hill. The Owners of Lots 13 and 14 must landscape the old reservoir road that crosses their lots.

Other landscaping requirements not covered by the Development Agreement are as follows. All fill not held by a retaining wall must be landscaped. All cuts into the hill not covered by a retaining wall must also be landscaped. Rock lawns and desert landscaping are prohibited. Crushed gravel or rock may be used as part of landscaping plan, but must not be the dominant feature and cannot cover more than one-third of the total area landscaped. River run rock may be used only to line drainage ditches. The landscaping must be completed within the time limits set forth in section 15. of the above *Design Review Process* rules and restrictions, or in any event prior to the time the home is offered for sale. Lots held by the Developer or any member of Hamblin Bowditch are exempt from these time restrictions, as major, extensive landscaping that will take more time is planned on these Lots.

Children's play areas, including play equipment, may be incorporated into a landscaping plan. Trampolines must be installed so that the surface area of the top is at ground level or otherwise screened from view. Any large gym equipment must be screened from view or painted to blend in with the surroundings.

Flagpoles, other poles, and towers are prohibited, except as allowed in section 15. of the *Home Building Guidelines and Restrictions* below. Yard art is acceptable, and well-done, original (not mass-produced) outdoor art is encouraged.

Any ornamentation or statuary item described above which is to be attached to or intended to be a part of an integral part of an approved structure or deck shall first be submitted to the Design Review Committee for approval.

13. Exterior Lighting

A design philosophy of Palmer Hill is to maximize the viewing of city lights from all of the Lots. The objective is to allow for the minimum lighting necessary to provide for safety and security of Palmer Hill residents, while not competing or interfering with the dramatic nighttime panorama of the City lights of Prescott and the starry sky. As excessive lighting in the Palmer Hill neighborhood interferes with this objective, street lights have not been included in the subdivision design. Similarly, Lot Owners may not install any street or other post lights anywhere on their property, although Owners may install lighting within their mailbox enclosure (see section 17. below) provided that the light is of low wattage and is encased or concealed so that the light shines down and no direct light is visible to any adjacent Lot or person walking along Palmer Place.

Exterior lighting attached to the residence, garage or any other structure shall be encased or concealed so that no direct light shines onto the street, a neighbor's Lot, or Common Areas. Such lights shall be of low wattage so as to minimize glare to neighboring homeowners' residences, other neighboring structures, and the Common Areas. Street, walkway, driveway, and landscape lighting, if any, shall also be of low wattage and installed within the landscaping or walls as close to ground

level as possible with only indirect light visible.

Christmas lights are exempt from this provision, and are encouraged, as Palmer Hill is in Arizona's Christmas City and the lights can be seen from many parts of town.

14. Screening of Trash, Equipment, Firewood, Laundry, and Other Storage.

Outdoor areas housing trash containers, firewood, maintenance or other mechanical equipment, air conditioners, satellite dishes, antennas, and miscellaneous personal belongings must be screened from public and neighbors' views. All screening walls, fences, and containers must be constructed of the same design and materials as used on the main residential structure or as set forth in section 8. above. Such enclosures may not be in front of the residences. No clotheslines are allowed.

The storage, collection and disposal and removal of all debris, garbage, and trash must be in accordance with applicable government requirements. All debris, garbage, and trash shall be in appropriate trash containers and screened from public view at all times except when placed curbside on days regularly scheduled for the purpose of collection.

All outside fires for trash burning or other purposes, shall be considered dangerous and shall not be permitted unless confined to a well-built and protected fireplace designed specifically for said purpose. Barbeques are excepted from this provision.

15. Tanks

All water, sewer, and fuel tanks must be installed underground. Tanks used with barbeques are excluded from this provision, but may not exceed five gallons in size.

16. Non-Site Built Structures

No prefabricated or other non-site built structure may be moved onto the property.

17. Mailboxes

Mailboxes must comply with U.S. Postal service regulations, be within a structure at least 24 inches in diameter, a minimum of 42 inches and a maximum of 60 inches above ground level, and built of or faced with rock compatible with the design of the home. Lights within the mailbox structure are allowed subject to the restrictions of section 13. above, but no freestanding lights may be placed on top of the mailbox enclosure.

18. Home Identification and Signage

Address identification signs must be placed either on the mailbox structure or on the home itself. Political signs are not allowed on any Lot. The Developer and any member of Hamblin Bowditch may place sale, lease, and directional signs as allowed by city ordinance. Homeowners may erect for sale or lease signs not to exceed one and a half square feet, which must be brown or

beige with black letters. No additional signs of any kind are allowed. Construction signs are limited to one six square foot sign and allowed only during construction. The Committee and Association reserves the right to remove and hold for pick-up any signs that do not comply with these rules.

IV. HOME BUILDING GUIDELINES AND RESTRICTIONS

1. General Considerations and Standards

As the homes to be built on Palmer Hill will be prominently visible from many parts of the community, *architectural and aesthetic considerations are of the utmost importance with respect to home design*. As indicated above, square, rectangular, and barn-like box houses are discouraged and may be disapproved by the Design Review Committee. The building plan should be designed to respond to sloping sites and to reduce building mass. Home design should be unique and varied, incorporating the extensive use of native materials such as rock and wood. Architectural articulation of facades and roof planes should be accomplished through the introduction of subelements such as projections, roof ridge jogs, roof overhangs, building face trims, recessed doorways, bay windows, and porches. As neighborhood general architectural themes, the use of cantilevers for decks and roof overhangs is encouraged, while the use of tall support posts and pillars is discouraged (and restricted as set forth below in section 5). Also, the use of non-reflective, raised-seam metal roofs is encouraged.

Home plans should respond to the individual site, with due consideration given to topography, climatic orientation, scenic views and the house's relationship to other structures and neighboring homes. Home designs that in the Design Review Committee's opinion do not respect the site will be rejected.

Care must be taken to minimize the overall height of the structure, which is limited as set forth below in section 6. Home plans which unnecessarily block neighbor's views may be rejected.

2. Minimum Square Feet

Homes in Palmer Hill must have a minimum of livable floor area of 1,800 square feet.

3. Foundations and Stem Walls

Large expanses of stem and foundation walls must be avoided, and all such walls must be of split block, preferably colored, or at least fifty percent faced with rock, simulated rock, or wood. Remaining visible unfaced areas must receive a stucco or mortar-wash finish and shall be painted to blend unobtrusively with adjacent materials. Exposed aggregate concrete is also acceptable. On difficult steeper lots where the average slope across the area of the proposed structure exceeds 15 percent, consideration should be given to a stepped home design in which the downhill vertical height of the house is broken up by setting the downhill facing facade of the second story into the hill at least ten feet from the downhill facing facade of the lower story. On such designs, decks are often located

on the roofs above the lower story. This stepped design also provides the Owner the opportunity to increase the overall maximum height of the structure from 28 to 33 feet pursuant to section 6. below. On such homes, foundations and stem walls step down with the grade change to reduce the impact of massive foundation walls. Through careful planning, the cost of massive foundation walls (which often contain wasted space) can usually be avoided. Raised planters and retaining walls, properly proportioned, can also be used as a step down to reduce the height of the foundation and stem walls. The visual impact of stem walls greater than six feet in height must be mitigated by the adjacent downhill planting of shrubs, bushes, or small trees. Foundations vents should be placed and grouped as inconspicuously as possible and may not be made of exposed metal.

4. Porches and Entry Ways

Stairs and porches must be designed as an integral part of the structure accommodating the constraints of both the site and the floor plan in an aesthetic manner. The front entry is most important and its prominence should be reflected in the design of the home. Covered front porches that provide protection from the elements are preferred. Porches and stairs thoughtlessly placed fail to respond to the natural environment and should be avoided.

5. Pillars and Support Posts

As stated above, the use of cantilevers as an architectural theme is preferred over the use of tall pillars and support posts.

All pillars and support posts which are used are subject to the following restrictions. Square or rectangular pillars must be at least sixteen inches on each side and faced with rock or simulated rock. All round masonry pillars must be at least twelve inches in diameter. Wooden support posts must be at eight inches on each side, if square or rectangular, or eight inches in diameter, if round.

Pillars or support posts can be used to accent entryways.

Exposed pillars and support posts may not be used as a substitute for footers and stem walls, and therefore cannot support any part of the structure other than roofs or decks.

Decks may be supported by pillars or support posts provided that the verticle height from ground level to the bottom of the deck does not exceed twelve feet, and they do not rise more than five feet above the level of the deck if not supporting a roof. Any pillars or support posts holding up a roof over a deck cannot exceed an above deck height of ten feet and a below deck height of more than twelve feet. On steep lots were taller pillars or posts are desired to hold up a deck, landscaped fill or retaining walls may be used beneath the twelve foot pillar or post to provide additional height.

6. Height of Residences

No portion of a structure (except for chimney elements) may exceed a true vertical height of 28 feet above the ground level of the house at its lowest point. On difficult steeper lots, where the average slope across the area of the proposed structure exceeds 15 percent, the Design Review Committee may allow up to an additional five feet provided that the vertical height is broken up by a step-up design wherein the downhill facing facade of the second story is set back into the hill at least

ten feet from the downhill facing facade of the lower story. Such relief will be considered on a case-by-case basis, and may not be construed as a blanket waiver for sloping lots in general. The roofs on homes on stepped sites must step down with each step of the house.

No houses in excess of two stories are permitted, although basements, the stem walls of which are fully below ground level on all sides, are permitted and not counted with respect to the two story and height restrictions.

Notwithstanding the above, the following height restrictions apply to Lot 12. No portion of a structure on Lot 12 (except for chimney elements) may exceed a true vertical height of 18 feet above the ground level of the house at its lowest point. This paragraph may not be amended except by the express written consent of the Owner (s) of Lot 11, and if amended, Lot 12 shall be subject to the provisions of the preceding two paragraphs.

7. Building Projections

All projections from a residence or other structure including, but not limited to, chimney flues, vents, flashing, louvers, gutters, down spouts, utility boxes, porches, railings and exterior stairways shall match the surface from which they project, or must be painted or stained an approved color to blend unobtrusively with adjacent materials. All building projections must be contained within the building envelope.

8. Exterior Materials

The aesthetic merits of any combination of exterior materials are subject to review and approval by the Design Review Committee in order to maintain the architectural integrity and consistent visual experience of Palmer Hill. There must be continuity in the use of exterior materials. All sides of the building must be considered in order to avoid the "front only" approach. Masonry must turn all corners and extend to a natural break in the architecture so that it does not appear to have been placed merely as a facade.

The use of traditional architectural elements such as accent windows, columns, projections, entry treatments, and other breaks should be used to break up large wall masses. Careful placement and treatment of these elements helps create scale and character.

Facades (particularly front elevation planes) should be varied in placement, size, and material to avoid visual monotony, and to create interest and human scale. There should be horizontal breaks in tall wall surfaces to provide articulation to elevations. The maximum unbroken length of horizontal wall shall not exceed 35 feet, and the maximum vertical height of any wall is 28 feet.

Combinations of materials should be chosen to be aesthetically compatible. Building materials should compliment the natural environment of Palmer Hill. Contrasting materials should be selectively used to create building accents and to focus quality and elegance on entry areas. Materials other than those listed may be allowed on a case by case basis if in the judgment of the Design Review Committee the material appears compatible with the character of Palmer Hill.

Natural stone, wood siding, and standard size bricks (approx. 2 ¼ x 3 ½ x 7½) in earth tones, and natural stone are the preferred exterior materials. Cultured stone is also acceptable if it reasonably resembles its natural counterpart. Rammed earth structures are acceptable. The use of

split block as an exterior finish material is allowed, provided that it is used in surface combinations with rock, cultured rock, standard sized bricks, or wood. Plain concrete and other types of manufactured blocks and bricks are not allowed unless an exception is granted by the Design Review Committee.

As a general rule, stucco homes are not allowed. Stucco may only be used as an accent material, may not exceed twenty five percent of any wall surface, and is subject to Design Review Committee approval based on its tasteful combination with other allowed materials. The Design Review Committee may in its discretion grant exceptions for architecturally sophisticated Santa Fe, Southwest, and contemporary style homes which sufficiently incorporate traditional elements such as wooden beams, timbers, saguaro ribs, wooden doors and windows, and Anasazi style rock work.

All manufactured siding made of materials other than wood in its natural form, including wood composites and laminates, must be approved by the Design Review Committee, must reasonably resemble wood or painted wood, must be applied horizontally in slats or simulated slats no taller than six inches per slat, and must be used in combination with wood, rock, cultured rock, split block, or traditional size brick that accents foundations and corners or otherwise breaks up the visual monotony of the siding. Manufactured siding not used in conjunction with other materials or which gives a prefabricated appearance to the structure will not be approved. Log homes per se are not allowed on Palmer Hill, but the use of logs and large wooden beams as accent features is encouraged.

All stonework, excluding trim, must be laid horizontally, preferably in an uncoursed pattern. Vertically applied flagstone veneer is not allowed. Because of variations in stonework, the Design Review Committee must be shown a completed sample of the selected mason's design prior to final approval of the plans.

Decks and patio covers must be constructed of materials consistent with those used on the home.

Metal awnings are not permitted.

9. Exterior Colors

Exterior paint and other cover treatments used on walls must be continuous and consistent with all elevations of the residence in order to achieve a uniform and complete architectural design statement. Continuity of materials and colors is required on all structures and other improvements. The colors used should be consistent with the appearance of the natural landscape so that the homes, structures and other improvements do not stand out and therefore appear out of place and offensive to the eye.

Therefore, paints, stains, siding, stucco and other coverings shall be in complimentary earth tones. Neutral colors, grays, and selected contemporary accent colors shall be limited to moldings, doors, window frames, fascias, awnings, shutters, cornices, and other trim. Contrasting materials, textures, and colors may be used to add emphasis to entry areas and significant architectural features, but must relate to the architectural form and character of the home. All accent colors must be used judiciously and with restraint.

No bright colors in the primary range (red, orange, yellow, blue, green, indigo, and violet) are allowed. Nothing pink, lavender, or chartreuse may be used. White may only be used as an

accent or trim color. Reflective and gloss colors are not permitted.

All colors applied to exterior materials on all structures must be approved by the Design Review Committee.

10. Roofs

All vents, stacks and pipes must be colored to match the roof or wall material from which they project, must not be visible from the street, and are to be grouped so as to minimize roof penetrations.

Roof slopes shall have a minimum slope of 3" in 12" and a maximum slope of 12" in 12". Large roof cantilevers and overhangs are encouraged and may be flat. Elsewhere, small areas of flat roof may be allowed with Design Review Committee approval. Less steep roofs are also allowed if a Santa Fe style design is approved by the Design Review Committee and the exterior walls of the house are at least 18 inches taller than the highest point on the roof. Steep gabled roofs are permitted to help reduce the scale of a home but must be well proportioned.

Domed and conical roofs will be considered for approval on a case by case basis by the Design Review Committee if the same are carefully integrated into an overall design scheme and are not unreasonably obtrusive. Geodesic and telescope observation domes are not allowed.

Full size (min. 12"X 24") roof samples must be provided for committee review. All roofing materials shall be of fire retardant materials.

The following roofing materials are recommended:

- non-reflective metal roofs, including copper, with raised seems and concealed fasteners
- flat shakes, shingles, and tiles made of wood, masonry, and other materials

Roofs shall have a finished surface that will not produce a glare or have reflective qualities, with an exception made for copper roofs. Roof materials shall be compatible with the exterior wall materials and the design style of the residence.

The following roofing materials are prohibited.

- Any type of curved, arched, barrel, or S-shaped shakes, shingles and tiles.
- Composition shingles
- Corrugated metal
- rock or gravel
- asphalt roll roofing
- rubber, mastic coatings, and asphalt and other petroleum based solutions
- Spray urethane foam
- Glossy or reflective materials, copper excepted
- Cap sheet

Heavy-weight, three-dimensional, thick-butt asphalt shingles with a weight of 325 pounds per square or more are permitted, but the use of asphalt shingles of standard or medium thickness is prohibited.

Roofs shall be either a non-glossy blue that blends with the natural sky or dark or muted earth

tones that reasonably blend with the natural landscape. Skylight frames shall be colored to match the surrounding roofing color.

Non-reflective glass may be used in a roof. Solar panels and other solar applications may not be used on any roof.

Skylights are to be designed as an integral part of the roof. Skylight glazing must be clear, solar bronze or gray. White or reflective glazing is prohibited. Skylight framing material must be bronze anodized or colored to match the adjacent roof. Natural aluminum is prohibited.

11. Decks

Deck plans should be designed to provide relief in both vertical and horizontal directions. They should respond to their intended use and correspond to changes in exterior grades and interior levels. Disproportionately large or long decks insufficiently integrated into the overall design of the house can be visually monotonous and aesthetically stark. As such, they make a poor transition between indoor spaces and the natural elements of the building site. Therefore, such decks subject to disapproval by the Design Review Committee. When the design of the house is being stepped down because of steep terrain, consideration should be given to integrating a deck directly above the bottom story of the house.

Cantilevered decks are encouraged. Decks using pillars and support posts are subject to the restrictions set forth in section 5. above.

Deck railings and supporting structures are important considerations relating to the overall design vocabulary of a building. Custom metal railing are acceptable and encouraged where decks are cantilevered with steel support beams. Such steel support beams must be concealed from view. Caps and railings must have detail and depth, and be a natural visible and functional extension of the main structure.

12. Windows and Doors

Detailed door, window and wall openings are desired elements of the architectural style intended for Palmer Hill. Design treatments and architectural features such as porches, small roofs, overhangs, dormer type windows, and projections to recess windows and doors are encouraged.

The glass of windows and skylights must not be highly reflective, nor may their frames consist of reflective material that is left unfinished. This especially applies to aluminum frames which must be anodized or finished with baked enamel. Clear glass in colored metal, vinyl, vinyl clad, or wood frames is recommended. Mirrored glass is prohibited.

13. Chimneys

Chimneys are to be faced with the same materials and textures as used on the home to ensure a consistency in character and style. Large stone faced chimneys are encouraged as a Palmer Hill design theme. Prefabricated chimney caps must be screened from view. Exposed metal chimneys and chimney vents are not allowed.

14. Flashing and Sheet Metal

All flashing and sheet metal must be colored to match the materials to which it is attached, unless copper is used.

15. Gutters and Downspouts

Exposed down spouts must be colored to match the house trim or the surface to which they are attached unless copper is used.

16. Garage Design

Every house must have at least one two car garage, the design of which is consistent with the main structure. Carports are prohibited. Because garages are a major element in most homes, garage entryways and doors should be fully integrated into the architectural design. Unpainted metal, plywood and fiberglass garage doors are not permitted. If, due to difficult terrain, the garage doors front on Palmer Place, they must be either faced with materials used elsewhere on the exterior of the house or made of materials approved by the Design Review Committee (standard painted plain metal doors will not be approved). Garage doors fronting on Palmer Place may not be larger than 9' wide x 7' high for a single opening or 18' wide and 7' feet high for a two car opening. Oversized doors (wider than 18' or taller than 7') will only be allowed if they do not front on Palmer Place and are either screened from neighboring properties or faced with a material used elsewhere on the house or approved by the Design Review Committee.

Garages are also subject to section 9 of the above *Site Guidelines and Restrictions*.

17. Solar Applications

All solar heating panels and equipment must be ground mounted, screened from Palmer Place, the Senator Highway, and neighboring properties, and must not reflect any glare onto neighboring properties.

18. Other On-Site Structures

All accessory structures shall be designed to compliment the main building. No building that is constructed off-site and requires transportation to any Lot, either whole or in a partial state of assembly, will be permitted. This includes mobile homes, stock modular buildings, and sheds, but not dog houses and children's playhouses.

19. Mechanical Equipment, Dishes, and Antennas

No roof, window, or wall mounted mechanical equipment, dishes or antennas are permitted on the exterior of any structure. All such exterior mechanical equipment utilized must be ground mounted adjacent to the residence and hidden from view by walls of sufficient height to also buffer

the sound of it, if any. Therefore, no air conditioners may be on the roof or inserted into windows, and no transmission or receiving antennas or dishes shall be placed on any part of the structure. All utility boxes and meters must be hidden from the street and neighbors' views. Satellite dishes and exterior antennas must ground mounted, screened from view as set forth in section 14 of the above *Site Guidelines and Restrictions*, and are also subject to Design Review Committee approval and the following additional restrictions. Maximum satellite dish diameter is 20". All antennas are restricted to the attic or interior of the residences or must be ground mounted and totally screened from view.

V. LOT USE RESTRICTIONS AND DUTIES

1. Single Family Residences

No Lot shall be used except for single family residential purposes. Guest rooms and facilities on any Lot may not be rented separately from the occupancy of the main residence.

2. Lot Splitting

No Lot shall be split or resubdivided into smaller lots, although two or more Lots may be combined into a single parcel or compound as set forth above in section 3. of the *Site Guidelines and Restrictions*. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for easements or public utilities.

3. Tents, Trailers, and Recreational Vehicles

Except for the purpose of loading or unloading, no trailer or any recreation vehicle shall be parked on any Lot unless within an appropriate garage. No trailer or any recreational vehicle shall be used as living quarters while so parked. No tents or other types of temporary buildings may be erected on any Lot except as follows. Children's tents and awnings and others shelters erected for temporary recreational or social purposes are allowed, provided that such use does not exceed one week in any month, and provided that the main dwelling has already been constructed and occupied by the family using such facilities.

4. Livestock and Poultry

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Up to five household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

5. Oil and Mining

No Lot Owner may attempt to utilize any mineral rights on his property.

6. Fire or Destruction of the Premises.

In the event any home, structure, or landscaping is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or thing, said damage must be removed within three months, if irreparable, or repaired or restored within one year, if repairable.

7. Vehicle Maintenance

No repair or maintenance work shall be performed on any motor vehicle or other equipment on any Lot except wholly within a garage, and no unlicensed vehicles or vehicles not in running condition may be parked except within a garage. Cars may be washed outside.

8. Restrictions on Motorcycles, Bicycles and Motor Vehicles

Motorcycles, mini-bikes, trail bikes, all terrain vehicles, and other motor vehicles may not be ridden or driven on Palmer Place or any Lot unless equipped with a muffler or other suitable device for the purpose of reducing noise of operation to an acceptable level as determined from time to time by the Developer or Association. Said vehicles may not be driven for recreational purposes on the unpaved part of any Lot, or on Palmer Place except for ingress and egress purposes. Seated lawnmowers and small garden tractors may be used for landscaping and snow removal purposes.

9. Property Maintenance

All vacant Lots on Palmer Hill shall be kept at all times free of rubbish and litter. The Developer and Owners of all Lots shall be responsible for so maintaining their Lots, and if necessary, the Developer or Property Owners Association may assess a reasonable fee to clean up a non-complying Owner's Lot. Absentee Owners must arrange with the Developer, Property Owner's Association or other third party to maintain their Lots.

VI. CONSTRUCTION REGULATIONS

In order to ensure that the natural landscape of each Lot is preserved and the nuisances inherent to any construction process are kept to a minimum, the following regulations shall be enforced during the construction period of all improvements at Palmer Hill. Any violation of these regulations by an Owner's agent, representative, builder, contractor or subcontractor shall be deemed a violation by the Owner.

1. Building Envelope and Landscaping

The building envelope, which is the limit of development on each lot, is also the area within which all activities related to the improvements to be constructed must be confined. To this end, the building envelope must be temporarily staked, roped, or flagged during all phases of construction.

Areas outside the building envelope must be landscaped as required and allowed by the City of Prescott. (See section 12 of the above *Site Guidelines and Restrictions*).

2. OSHA Compliance

All applicable Occupational Safety and Health Act (OSHA) regulations and guidelines must be observed at all times.

3. Construction Trailers

Upon commencement of construction, a construction trailer or portable field office may be located on the building site within the building envelope, clear of all setbacks. The field office may not be placed on-site earlier than two weeks prior to the actual onset of continuous construction activity. A construction trailer, other than those owned or operated by the Developer, may not remain on a site for a period of time exceeding six months without written approval of the Design Review Committee.

4. Trash Receptacles and Debris Removal

Owners and builders shall clean up all trash and debris at the end of each day. Any trash receptacles or dumpsters must not encroach on any lot setback and must be placed within the building envelope. Trash receptacles, if used, must be emptied on a timely basis to avoid the overflow of refuse. Disposal shall be at a suitable off-site facility. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the Lot or anywhere else on Palmer Hill. Heavy debris, such as broken stone, wood scrap, or the like must be removed from the site immediately upon completion of the work of each trade that has generated the debris.

All concrete washout, from both trucks and mixers, must occur within the building envelope of the lot in a location where it must be concealed by a structure or covered by fill. Washout in road rights-of-way, setbacks or on adjacent properties is strictly prohibited.

Any trees or branches removed during construction must be promptly cleaned up and removed from the construction site.

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore or other detriment to the other Lots in the subdivision. Any clean-up costs incurred by the Design Review Committee or the Association in enforcing these requirements shall be payable by the Owner. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public and private roads, adjacent Lots, Common Areas, driveways, and all other areas on Palmer Hill.

5. Sanitary Facilities

Each Owner or builder shall be responsible for providing adequate sanitary facilities for his construction workers. Portable toilets must be located within the building envelope, clear of all setbacks.

6. Construction Access

Construction access shall be only from Palmer Place and over any driveway easement to the Lot in question. No construction vehicles may access a Lot over an adjacent Lot without the express written consent of the Owner of the adjacent Lot.

7. Vehicles and Parking Areas

Construction workers' vehicles and construction equipment must be parked only on the side of the road upon which the home or improvement is being built, or in the parking spaces designated for public use immediately north of the entrance to Palmer Hill. Construction crews shall not park on or otherwise enter upon adjacent Lots. Changing oil or other vehicle maintenance is prohibited.

8. Excavation Materials and Blasting

If any blasting is to occur, the Design Review Committee must be notified two weeks in advance and appropriate approvals must be obtained from Yavapai County. Blasting may only be done by licensed demolition personnel, with all requisite insurance coverages as mandated by county and state statutes. The Design Review Committee shall have the authority to require in writing documentation of anticipated seismic effects including a certification that such effects will not be injurious to other persons or properties, public or private, and that all appropriate protection measures have been utilized.

All excess materials resulting from blasting, as well as all other excess excavation materials, is subject to the fill and excavation provisions set forth in *Site Guidelines and Restrictions* above.

9. Dust and Noise Control

The contractor shall be responsible for controlling dust and noise from the construction site, including the removal of dirt and mud from public or private roads that is the result of construction activity on the site.

The playing of radios or use of other audio equipment by construction crews is allowed but must be done so at a reasonable volume.

10. Material Deliveries

All building materials, equipment and machinery required to construct a residence on any Lot at Palmer Hill must be delivered to and remain within the building envelope of each Lot, clear of all setbacks. This includes all building materials, earth-moving equipment, trailers, generators, mixers, cranes and any other equipment or machinery that will remain at Palmer Hill overnight. Material delivery vehicles may not drive across adjacent Lots or tracts to access a construction site unless it is across a dedicated easement to that Lot..

11. Firearms

Other than an Owner of a Lot, no one involved in the construction process may carry or possess any type of firearm or other weapon within the Palmer Hill subdivision.

12. Alcohol and Controlled Substances

The consumption of alcohol or use of any controlled substance on any construction site or other Common Area within Palmer Hill is prohibited.

13. Fires and Flammable Materials

The careless disposition of cigarettes and other flammable materials on any construction site, as well as the build-up of potentially flammable materials constituting a fire hazard, are prohibited. At least two working Fire Extinguishers shall be present and available in a conspicuous place on the construction site at all times.

No on-site fires are allowed, except for small, confined, attended fires for the purposes of heating masonry water.

14. Pets

No pets, particularly dogs, may be brought onto the property by a member of any construction crew. Lot owners' dogs are exempt from this provision.

15. Restoration of Property

Upon completion of construction, each Owner and builder shall clean his construction site and repair all Palmer Hill property which has been damaged, including, but not limited to, roads, curbs, gutters, sidewalks, driveways, walls, planters, landscaping, gates, fences, mailboxes, utilities, drains, culverts, ditches, signs, and lighting. Grades on the Lot shall be restored according to the landscaping plan for the Lot.

In addition, the Owner and general contractor shall also be held financially responsible for site restoration and revegetation and refuse removal necessitated on any adjacent Lots or Common Areas as a result of trespass or negligence by their employees or sub-contracted agents.

16. Construction Signage

Temporary construction signs shall be limited to one sign per site not to exceed six square feet of total surface area. This sign is intended for job site identification only. Therefore, it must be located within the building envelope, facing the street frontage of the Lot. It may identify the general contractor and designer by name with address, license number and telephone number(s) and it may identify the job site by lot number or owner's name, but it may not include marketing related terminology such as "for sale", "available", or "offered by". The sign shall be free standing, not to

exceed four feet in height above natural grade. The construction sign may not be erected on a site earlier than two weeks prior to the onset of continuous construction activity and must be removed within two weeks of the issuance of a certificate of occupancy by the county, or immediately upon the passage of 30 calendar days without significant construction activity.

Individual signs, or construction sign attachments, identifying individual sub-contractors, mortgage companies, tradesmen, or suppliers are prohibited.

Attachment of signs or similar material to trees is strictly prohibited.

17. Daily Operation

Daily working hours for each construction site shall be from 30 minutes before sunrise to 30 minutes after sunset. Construction activity which generates excessive noise such as hammering, sawing, excavation work, concrete delivery, etc., is not allowed on Sunday, and must be confined to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 7:00 p.m. on Saturday.

18. Licensed Contractors

All construction must be by licensed contractors or under the supervision of a licensed general contractor. Contractors must have current licenses and insurance as required by the City of Prescott and the State of Arizona. Owner/builder projects by Lot Owners other than the Developer are not allowed.

19. Violations

Any violation of these regulations by an Owner's agent, representative, builder, contractor, or subcontractor shall be deemed a violation by the Owner and my risk the forfeiture of the deposit and/or the suspension of the building permit.

20. Construction Deposit

Prior to the commencement of construction, each Owner must post a \$1,000 deposit with the Developer or Property Owners Association to cover possible construction damage to Palmer Place and other Common Areas. At such time as construction to the respective Lot is complete, said deposit is refundable to the Owner if there is no damage. If there is damage left unrepaired by the Owner, the Developer or Association may apply the deposit toward the cost of necessary repairs and assess a lien against the Lot Owner for any additional cost of repairs.

VII. EASEMENTS

1. Express and Implied Easements

Lot Owners, the Developer, and the Palmer Hill Property Owners Association are granted

easements as specifically set forth on the recorded plat of Palmer Hill. Implied easements shall be construed and granted as reasonably necessary to carry out the intent and purposes of the provisions set forth in this Declaration. The Developer may also designate and record new easements across the Common Areas and unsold Lots until such time as control of the Palmer Hill Property Owners Association is turned over to the Lot Owners pursuant to the terms of this Declaration.

2. Driveway Easements

Driveway Easements are as shown on the Palmer Hill recorded plat. Each Owner served by a common driveway shall have and is hereby granted a nonexclusive easement for free and unrestricted pedestrian and vehicular access to his property by means of the common driveway. Easements for driveways shall be maintained in good condition and shall meet the design and construction criteria set forth in this Declaration. Maintenance expenses for driveways within an easement for common driveways shall be shared equally by the Owners of the Lots which they serve, unless the repairs are necessitated by the acts of a single Owner (for example during construction) in which case that Owner shall be solely responsible for the repairs. No holder of a driveway easement shall destroy or modify an existing driveway already paved or otherwise constructed without the consent of the other Lot Owners served by the driveway. If a dispute arises between Lot Owners entitled to use a driveway easement with respect to the construction, maintenance, or use of the driveway, the Palmer Hill Property Owners Association shall decide the issue and its decision shall be final in the absence of a court order to the contrary.

VIII. OPERATION OF THE DESIGN REVIEW COMMITTEE AND PROPERTY OWNERS ASSOCIATION

1. The Design Review Committee

The Design Review Committee shall have the responsibility for all architectural and new construction review as set forth in this Declaration. Members of the Design Review Committee shall be appointed by the Board of Directors of the Palmer Hill Property Owners Association.

2. Developer's Control of the Palmer Hill Property Owners Association

The Developer shall have control of the Palmer Hill Property Owners Association and shall select the Association's board of directors and officers until such time as homes have been built on 12 of the 17 Lots in Palmer Hill. Alternatively, the Developer shall have the right, but shall not be required to, turn control of the Association over to the individual Lot Owners entitled to be members of the Association at any time prior to that time.

3. Enforcement of Restrictive Covenants

The Palmer Hill Property Owners Association shall have the responsibility of enforcing all of the restrictive covenants, agreements, and conditions set forth in this Declaration.

4. Maintenance of Common Areas and Assessments

The Association has the responsibility for maintaining the unsold Lots and Common Areas. The Association will initially maintain the Common Areas for an annual fee of \$300, payable by each Lot Owner on July 15th of each year. At such time as control of the Association is transferred from the Developer to the individual Lot Owners, i.e., after the Transition Date, the Association shall charge such dues and assessments as it determines necessary for the maintenance, repair, operation and improvement of the Common Areas and any facilities thereon, including Palmer Place, the wall planters along it, and the entrance to Palmer Hill, including the six parking spaces to the north of it..

After the Transition Date, written notice of the amount of assessments and the due dates shall be provided to the Owners not less than 30 days prior to the due date if payable annually or not less than 10 days prior to the due date if payable monthly. Failure to provide such notice shall not relieve any Owner from the obligation to pay such assessment. The first assessment period shall commence on the first day of the first month following the Transition Date.

Upon demand, the Association shall furnish to any Owner a statement setting forth whether the assessments and charges to their Lots are paid and, if unpaid, the amount unpaid. The statement when signed by an officer or director shall be binding upon the Association as of the date of issuance.

Lots owned by the Developer shall not be subject to assessment under this Declaration until conveyed by the Developer to another Owner who is not a successor Developer. The Developer, however, will be responsible for property taxes on all Lots owned by the Developer

5. The Palmer Hill Property Owners Association

The Palmer Hill Property Owners Association is an Arizona non-profit Corporation with duties and responsibilities as set forth in these Restrictive Covenants and its own Bylaws and Articles of Incorporation. The Property Owners Association's Articles and Bylaws shall not be interpreted to be inconsistent with anything set forth in this Declaration, the language of which shall prevail in the event of any inconsistency.

At such time as the Developer gives written notice of his intent to transfer control of the Association to the individual Lot Owners, the Owners shall meet within 45 days thereafter for the purpose of taking over the operation of the Association. At such meeting, which date shall be the Transition Date, the Association shall levy an assessment on all members of the Association sufficient to operate, maintain and improve the Common Areas. The membership, powers and duties, and manner of operation of the Property Owners Association shall be as set forth in this Declaration and the Association's Articles of Incorporation and Bylaws. The affairs of the Property Owners Association shall be conducted by its Board of Directors and Officers in accordance with this Declaration and the Association's Bylaws and Articles of Incorporation.

6. Powers and Duties of the Property Owners Association

The Palmer Hill Property Owners Association shall have in addition to the powers set forth elsewhere in this Declaration, the following powers and those necessarily implied therewith which it shall exercise in its sole discretion, construing the powers herein granted and implied to the broadest extent consistent with the best interest of the Members:

- to enforce the terms of this Declaration, to levy assessments as is necessary to maintain the Common Areas, and to sue and impose fines against Lot Owners as provided herein for violations of this Declaration;
- to employ such agents, contractors, experts, and employees as is reasonably necessary to maintain the Common Areas and to enforce the terms of this Declaration;
- to select a Design Review Committee to serve in the capacity described in this Declaration with respect to all homes and improvements constructed;
- to enter into contracts and other business transactions as is reasonably necessary to carry out the duties and responsibilities of the Association and to enforce the terms of this Declaration; and,
- to sign deeds, notes, assessment liens and other instruments relative to the Common Areas and Lots subject to liens and fines imposed by the Developer or Association.

7. Power of Attorney

Whenever the Palmer Hill Property Owners Association is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association, and each Owner does herein constitute and appoint the Association as their attorney-in-fact as may be necessary for the purposes of executing, acknowledging, and delivering all instruments and documents as are necessary to perform the duties and responsibilities of the Association and to enforce the terms of this Declaration. It is acknowledged that this power of attorney is irrevocable and coupled with an interest, and that by becoming a Member of the Association by the acceptance of a deed for a Lot, by signing a contract for the purchase of a Lot, or by succeeding in any other manner to the ownership of Lot or any interest therein, each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

8. Property Owners Association Rules and Bylaws

The initial bylaws of the Palmer Hill Property Owners Association shall be those bylaws adopted by the Developer prior to the sale of Lots. By a two thirds vote of the Board of Directors, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal the bylaws of the Association and such other rules as it may adopt. The Association bylaws and rules may restrict and govern the use of the Common Areas by Lot Owners, by the family of Lot Owners, or by the invitees, licensees or lessees of Lot Owners, provided however, that the Association Rules may not discriminate among Lot Owners (unless there is determined to be a logical and reasonable necessity for distinguishing the rights, duties, obligations

and benefits of Owners), and they are not inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association bylaws and rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner upon request.

9. Membership in the Palmer Hill Property Owners Association

Every Owner of a Lot shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. A membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of a Lot to a new Owner, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or other legal process. Any attempt to make a prohibited transfer of membership shall be void and shall not be reflected upon the books of the Association. The Association shall record the proper transfer of ownership upon the books of the Association, thus effecting the issuance of a new membership to a new Owner. It is the responsibility of the new Owner and prior Owner to notify the Association in writing of the purchase of a Lot and, prior to such notification, the Association is entitled to rely on its records of ownership.

10. Voting Rights of Members in the Association

At all meetings of the Association after the Transition Date, each Member shall be entitled to one vote for each Lot owned. This voting right shall be exercised by the Owner of record of each Lot who shall be known as the "Voting Owner." The presence of five Voting Owners, which can include persons authorized in writing to vote on behalf of a Voting Owner, will constitute a quorum, and the decision of the majority of the quorum present shall be the act of the Association. The Voting Owner shall be designated by the record Owner or Owners by written notice to the Association. The designation of a record Owner as a Voting Owner shall be deemed to be automatically revoked upon notice to the Association of the death or judicial incompetency of anyone designated a Voting Owner, or upon a written instrument delivered to the Association by any record Owner or Owners. If no Voting Owner of a Lot shall have been designated, or if said designation has been revoked as stated herein, no vote shall be cast on behalf of such Lot until a new Voting Owner is designated as provided herein.

11. Suspension of Rights for the Non-payment of Assessments

If any Owner is in arrears in the payment of any amount due the Association, or in default in the performance of any provision of this Declaration, the Articles, Bylaws, or Association Rules for a period of fifteen (15) days or more after written notice of same, the voting rights of the Lot Owner to which the default or violation relates may be suspended by the Association at any time without further notice and may remain suspended until all payments are brought current and all defaults and violations are remedied.

12. Remedies for Non-payment of Assessments

Each Owner covenants and agrees to pay to the Association the assessments provided for herein on or before the due date thereof, and agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each delinquent Owner shall pay the reasonable attorney fees and costs incurred by the Association in addition to any other sums due or any other relief or remedy obtained against such Owner. In the event of a default in payment of any assessment when due, the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity.

The Board of Directors may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce the payment of any delinquent assessment. Any judgment rendered against an Owner in any such action shall include, without limitation, the amount of the delinquency, interest at 12% per annum from the date of delinquency, court costs, and reasonable attorneys' fees fixed by the court.

There is hereby created a lien, with private power of sale, on each and every Lot to secure payment to the Association of any and all assessments levied against any and all Owners, interest thereon at the rate of 12% per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including without limitation, costs and reasonable attorney fees. After the occurrence of any default in the payment of any assessment, the Association, or its authorized representative, may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. Each default shall constitute a separate lien, but any number of defaults may be included within a single suit or foreclosed as a single lien. All delinquent assessments shall constitute a continuing lien on the Lot from the date due but unpaid whether or not a claim of lien is recorded. A claim of lien may be executed, acknowledged and recorded by any officer of the Association, and shall contain substantially the following information:

- (a) the name of the delinquent Owner;
- (b) the legal description and street address of the property;
- (c) the amount due and owing including interest thereon, collection costs and reasonable attorneys' fees;
- (d) that the lien is claimed by the Association pursuant to this Declaration.

Upon the occurrence of a delinquent assessment, the lien shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Except as provided in the following paragraph, the lien shall have priority over the liens or claims created subsequent to the due date of the first delinquent assessment for which the lien is claimed. Any lien may be foreclosed by the appropriate action in a court in the manner provided by law for the foreclosure of a realty mortgage or enforcement of a trust deed, with private power of sale, as provided by Arizona law. The lien shall be in favor of the Association and for the benefit of all other

Owners. The Association shall have the right to purchase at a sale and power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage or convey any Lot. In the event of any such foreclosure or action to collect delinquent assessments or enforce such lien, reasonable attorney fees, court costs, title search fees, interest and all other costs and expenses shall be added to and constitute a part of such delinquency and lien, which shall be payable by the Owner and enforceable as provided herein. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the provisions hereof with respect to the collection and enforcement of delinquent assessments.

Sale or transfer of any Lot shall not affect the assessment lien or relieve the new Owner from liability for any assessments thereafter becoming due, or from the lien thereof, nor shall sale or other conveyance relieve the previous Owner from personal liability for assessments that became due prior to such sale or other conveyance.

An assessment lien shall be junior and subordinate to the lien of any institutional lender's first realty mortgage against an Owner's lot, and foreclosure of an assessment lien shall not affect or impair the lien of any such institutional realty mortgage. Any institutional mortgage foreclosure purchaser or grantee taking by deed in lieu of foreclosure shall take the Lot free of the assessment lien and charges that have accrued to the date of issuance of a sheriff's deed or deed in lieu of foreclosure, but shall become subject to the assessment lien and all assessments and charges accruing subsequent to the issuance of a sheriff's deed or deed given in lieu of foreclosure. An institutional lender's deed of trust under this section shall be deemed to have, to the extent permitted under Arizona law, rights and remedies equivalent to those granted above to an institutional mortgagee.

13. Records of the Property Owners Association

The Association, upon reasonable written request and during reasonable business hours, shall make available for inspection by each Owner and Member the books, records and financial statements of the Association, together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws, and Association Rules.

14. Non-liability of Hamblin Bowditch and Property Owners Association

Hamblin Bowditch, any member of Hamblin Bowditch, the Property Owners Association, the Board members and Design Review Committee of the Association, and all Members of the Association shall not be liable to the Association or to any Owner or other person for any loss or damage claimed on account of any of the following:

1. the approval or disapproval of any plans, drawings, and specifications, whether or not defective;
2. the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications;
3. the development, manner of development, or maintenance of any property within Palmer Hill;
4. the granting of or failure to grant a variance or exception to the terms of this Declaration;

5. any act, omission, error, or negligence of the Association, its Board, Design Review or other committees, its agents, or any other representatives or employees of the Association, provided that such person, committee, or agent has, upon the basis of such information as may be possessed, acted in good faith without willful or intentional misconduct.

IX. BINDING EFFECT, EXCEPTIONS, AMENDMENTS, AND ENFORCEMENT OF RESTRICTIVE COVENANTS

1. Binding Effect

By acceptance of a deed or by acquiring any ownership interest in any of the Lots subject to this Declaration, each person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereto. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of Palmer Hill and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Declarant, its successors, assigns and grantees and all Lot Owners covenant and agree that the interests and other rights created by virtue of a purchase of a Lot within Palmer Hill shall not be separated or separately conveyed, and that the covenants, conditions, and other rights and obligations of this Declaration shall be deemed to be conveyed and received with title to each Lot.

If a Lot is jointly owned, the liabilities and obligations of this Declaration shall be joint and several with respect to each of the Owners.

2. Leases

Any agreement for the leasing or rental of a residence on any Lot in Palmer Hill shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration. Said lease shall further provide that any failure by the tenant thereunder to comply with the terms of this Declaration shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his residence shall be responsible for assuring compliance by such Owner's tenant with this Declaration.

3. Exceptions

The Developer shall have the right to use any property owned or leased by the Developer for models, sales offices, or management offices. The Developer shall have the further right to maintain

such advertising signs as comply with applicable government regulations, which may be placed in any location on the property and may be relocated or removed at the sole discretion of the Developer.

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of the Developer, its employees, agents, and contractors, or parties designated by it in connection with the construction, sale, or leasing of the Palmer Hill Lots and Common Areas.

All Lots owned by the Developer shall not be subject to the assessments by the Association or monthly maintenance fees until such time as control of the Palmer Hill Property Owners Association is turned over to the Palmer Hill Lot Owners..

The Developer reserves the right to alter its construction plans and designs as it deems appropriate. Nothing in this Declaration shall limit the right of the Developer to alter the Common Areas, the planters along Palmer Place, or to construct such additional improvements as the Developer deems advisable.

4. Interpretation

Except for judicial construction, the Developer shall have the exclusive right to construe and interpret this Declaration until all Lots have been sold and escrows closed, or until such earlier date as the Developer relinquishes this right. Thereafter, the Association shall have the exclusive right to interpret and construe this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Developer's interpretation of the covenants hereunder shall be final, conclusive and binding upon all persons and upon the premises.

In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws or Association Rules, the provisions of this Declaration shall prevail.

5. Inspections, Notices of Non-compliance, Corrective Measures, and Legal Enforcement

The Developer or Association or any representative thereof may at any time inspect a Lot or improvement and upon discovering a violation of this Declaration, provide a written notice of noncompliance to the Owner, including a reasonable time limit within which to correct the violation. The Owner shall have a right to a hearing before the Board of the Association. If an Owner fails to comply within such time period, the Association or its authorized agents may enter the Lot and correct the violation at the expense of the Owner of such Lot with the cost thereof assessed against the Lot as a special assessment and secured by the assessment lien created under this Declaration. It may also take whatever other legal action it deems appropriate, including commencement of an action for specific performance.

In addition to other remedies, the Developer or Board may levy a fine of up to ten thousand dollars (\$10,000) against any Owner for failure to obtain the required approval from the Design Review Committee for any improvement, with said amount assessed against the Lot as a special assessment and secured by an assessment lien created under this Declaration

Violation of any one or more of these covenants may be restrained by any court of competent jurisdiction and damages awarded against such violators, provided however, that a violation of these

restrictions, or any one or more of them, shall not affect the lien of any mortgage which hereafter may be placed of record upon said Lot, nor shall a violation of said covenants cause a reversion of the title to the land. If there is a violation, threat or attempted violation of any of these covenants and restrictions, any Owner of a Lot who has paid all dues and assessments owned the Association may also prosecute proceedings at law or in equity to enforce them, to restrain and enjoin any violations, to recover damages, and to pursue any other legal remedies.

The Association or any Owner who has paid all dues and assessments owned the Association shall also have the right to enforce, by proceedings at law or in equity, the provisions of the Association's Articles or Bylaws and any amendments thereto. With respect to Assessment liens or any other liens or charges and Associations Rules, the Association shall have the exclusive right to the enforcement thereof.

6. Non-enforcement and Waiver.

The failure to enforce any breach or violation of any of the provisions of this Declaration shall not constitute an abandonment or waiver of any right to enforce such provision in the future or of any of the other covenants herein set forth. Any determination by any court of competent jurisdiction that any provision in this instrument is invalid or unenforceable shall not affect the validity or enforceability of the remaining provisions of this instrument, and the same shall remain in full force and effect.

7. Assignment of Right by Developer

The rights of the Developer hereunder may be assigned to any successor or successors to all or part of the Developer's respective interest in Palmer Hill by an express assignment incorporated into a recorded deed or lease transferring such interest to such successor. Declarant shall exercise its right contained in this provision in such a way as not to unreasonably interfere with the members' rights to use and enjoy the Common Areas.

8. Amendments to this Declaration of Restrictive Covenants

Prior to the time control of the Homeowners Association is transferred from the Developer to the Lot Owners, the Association may in its sole discretion amend or revoke any portion of these restrictive covenants. At such time as this control has been turned over to the Association, subject to the other provisions of this Declaration, this Declaration may be amended by the affirmative written assent or vote of not less than two-thirds of the voting power of the members, provided however, that none of the provisions of any section of this Declaration respecting rights or privileges in favor of the Developer may be amended without the prior written consent of Declarant. All such amendments shall be recorded as part of this Declaration of Restrictive Covenants. An amendment or modification that requires the vote and written assent of the members as hereinabove provided shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment or modifications has been approved as hereinabove provided, and when recorded in the official records of the Yavapai County Recorder.

9. Survival of Liability

The termination of membership in the Association shall not relieve or release any former Member from any liability or obligation incurred as a Member of the Association during the period of such membership, or impair any rights or remedies which the Developer or Association may have against such former Member arising out of, or in any way connected to, such membership and the covenants and obligations incident thereto.

10. Violation of Zoning and Other Laws

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

11. Attorney Fees

In the event the Developer or Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any assessments or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration, the Articles, Bylaws, and/or Association Rules, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorney fees incurred in any such action.

12. Notices

Any notice to be given under the provisions of this Declaration shall be in writing and may be delivered as follows:

a. Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first-class United States mail, postage prepaid, to the street address of the Lot or to the address of the record Owner in the records of the Yavapai County Recorder. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed delivered to all such co-owners.

b. Notice to the Developer shall be deemed to have been properly delivered when personally delivered, or sent first class mail with a post office return receipt signed, to the statutory agent of Hamblin Bowditch LLC at the agent's then current address as set forth in the records of the Arizona Corporation Commission.

c. Notice to the Association shall be deemed to have been properly delivered when personally delivered, or sent first class mail with a post office return receipt signed, to the statutory agent of Association at the agent's then current address as set forth in the records of the Arizona Corporation Commission.

X. DEFINITIONS

Terms used in this Declaration shall have the meanings specified for them as set forth below and as shown on the Palmer Hill recorded plat. Unless the content or Palmer Hill recorded plat clearly indicates a different meaning, the following terms as used in this Declaration are defined as follows:

“Articles” means the Articles of Incorporation of the Palmer Hill Property Owners Association which are filed in the office of the Arizona Corporation Commission, as the Articles may be amended from time to time.

“Association” means the Palmer Hill Property Owners Association.

“Board” means the Board of Directors of the Palmer Hill Property Owners Association.

“Building Envelope” means the one-half of each Lot upon which improvements can be built as shown on the recorded plat of Palmer Hill.

“Bylaws” means the bylaws of the Palmer Hill Property Owners Association.

“Committee” means the Design Review Committee of the Palmer Hill Property Owners Association as established in this Declaration.

“Common Areas” means and includes Palmer Place East, Palmer Place West, their turnarounds, the roadway entrance to Palmer Hill, the six parking spaces north of said entrance, and all areas designated “COMMON AREA” on the Palmer Hill recorded plat. For the purpose of this Declaration, where it is stated on the Palmer Hill recorded plat or in this Declaration that the Developer of Association has a responsibility to maintain certain easements across Lots, those easements shall be considered a part of the “Common Areas” to be maintained.

“Declaration” means this instrument, *Declaration of Restrictive Covenants for Palmer Hill Residential Lots 1-17 in Prescott, Arizona*.

“Declarant” is Hamblin Bowditch, LLC, an Arizona Limited Liability Company.

“Developer” means Hamblin Bowditch LLC, an Arizona Limited Liability Company, its successors and assigns.

“Development” means the entire Palmer Hill subdivision as shown on the recorded plat with the exception of Tracts (A), (A1), and (A2).

“Development Agreement” means the agreement entered into between the Developer and City of Prescott recorded in Book 3590, pages 228-245 in the records of the Yavapai County Recorder.

“Hamblin Bowditch” means Hamblin Bowditch, LLC, an Arizona Limited Liability Company.

“Property Owners Association” means the Palmer Hill Property Owners Association.

“Lot” means residential lots 1-17 of the Palmer Hill subdivision as shown on the recorded plat.

“Member” means any member of the Palmer Hill Property Owners Association.

“Owner” means each legal Owner of record, whether one or more persons or entities

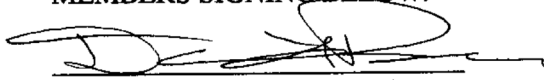
(including but not limited to the Developer) of equitable or beneficial title of residential Lots 1-17 of the Palmer Hill subdivision as shown on the recorded plat. "Owner" does not include a person or entity holding an interest in a Lot merely as security for the performance of an obligation; and shall not include a lessee or tenant of a Lot or dwelling. The Owner may, however, grant the person living on the Lot, or purchasing the Lot under an agreement or contract, the right to act in every capacity on his behalf.

"Palmer Hill" means all of the Palmer Hill subdivision as shown on the recorded plat with the exception of Tracts (A), (A1), and (A2).

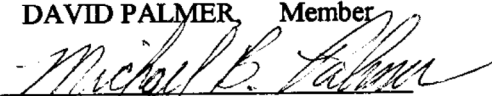
"Restrictive Covenants" means all of the restrictive conditions, agreements, and covenants set forth this Declaration.

"Transition Date" is the date the Developer turns over control of the Palmer Hill Property Owners Association to the Owners of Palmer Hill residential Lots 1-17.


THE PRECEDING COVENANTS ARE HEREIN ESTABLISHED THIS ^{26th} DAY OF JULY, 1999 BY HAMBLIN BOWDITCH, LLC, AS ACKNOWLEDGED BY ITS MEMBERS SIGNING BELOW.



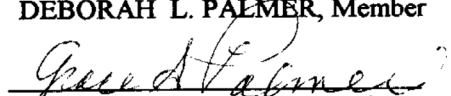
DAVID PALMER, Member



MICHAEL B. PALMER, Member




DEBORAH L. PALMER, Member



GRACE A. PALMER, Member

STATE OF ARIZONA)
)SS.
County of Yavapai)

This instrument was acknowledged before me on the ^{26th} day of July 1999, by DAVID PALMER, DEBORAH L. PALMER, GRACE A. PALMER, and MICHAEL B. PALMER, the managing members of Hamblin Bowditch, LLC.



Notary Public

