DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR LOTS 1 THROUGH 36 INCLUSIVE
ACCORDING TO THE PLAT OF AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1
AND DECLARATION OF EASEMENTS

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION, made on the date hereinafter set forth by
YAVAPAI HILLS, INC., hereinafter referred to as "Declarant/Developer".

WHEREAS, Declarant as present owner of the beneficial interest
in Continental Service Corporation, Trust Number 907998, being properly
authorized so to act by terms of the Trust, and Continental Service
Corporation, as Trustee, thereunder, hereinafter called "Trustee", solely
as bare legal title holder and not personally, and acting at the proper
direction of said Beneficiary - "Developer", executes this Declaration
of Covenants, Conditions and Restrictions, to run with the real
property herein described for the purposes as hereinafter set forth;

Lots 1 through 36 inclusive, AERIE TOWNHOUSES at Yavapai Hills,
Unit 1, according to the plat thereof recorded in Book 24 of Maps,
Page 46-47, of the official records of the County Recorder of
Yavapai County, Arizona;

and desiring to establish the nature of the use and enjoyment thereof,
does hereby declare the said Premises subject to the following
express covenants, conditions, stipulations and restrictions as
to the use and enjoyment thereof, all of which are to be construed
as restrictive covenants running with the title to said Premises and
with each and every part and parcel and Lot thereof.

NOW, THEREFORE, YAVAPAI HILLS, INC., as the present owner of
the beneficial interest, hereby declares that all of the
lots described above shall be held, sold and conveyed

Yavapai Hills
Box 2547

Premall, P.G. Weller

Instrument #326386
Recorded Official Records
of Yavapai County, Arizona
JUN 29 1984 - 1 30 PM

Yavapai Hills

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subject to the following covenants, conditions, restrictions
reservations, easements, liens and charges, all of which are for
the purpose of enhancing and protecting the value, desirability
and attractiveness of, and which shall run with, the real
property and be binding on all parties having any right, title or
interest in the described properties or any part thereof, their
heirs, successors and assigns, and shall inure to the benefit of
each owner thereof.

1. RULES OF CONSTRUCTION

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

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

2. DEFINITIONS

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

2.1 "Articles" means the Articles of Incorporation of the
Association which are filed in the office of the
Corporation Commission of the State of Arizona, and as
the same may be amended from time to time.
2.2 "Association" means Yavapai Hills Home Owners Association, a non-profit corporation its successors and assigns, incorporated under the laws of the State of Arizona for the purpose of performing the functions and duties enumerated in this Declaration and for such other purposes as set forth in the Articles of Incorporation.

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

2.4 "By-Laws" means the by-laws adopted by the Association and as the same may be amended from time to time.

2.5 "Committee" means the Architectural Committee or Committees appointed or that will be appointed as hereinafter provided, and as the same may from time to time be appointed.

2.6 "Common Areas and Facilities" means those areas or facilities owned or acquired by the Association or placed under the jurisdiction of the Association for the common use and enjoyment of the owners, including but not limited to open spaces, recreation areas, sewage treatment plant sites and equipment, drives, walks, guard houses, parks, lakes, picnic areas, club houses, recreational facilities and improvements and personal property used in conjunction with the foregoing.

2.7 "Constituent Documents" shall mean this Declaration, the Plat, the Articles of Incorporation of the Homeowners' Association, the By-laws of the Homeowners' Association, and any amendments to any of the foregoing.

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

2.9 "Developer" shall mean YAVAPAI HILLS, INC., a Delaware corporation, and its successors and assigns, if such successors or assigns should acquire more than four (4) undeveloped Lots from the Declarant or the Developer for the purpose of development. "Original Developer" shall mean YAVAPAI HILLS, INC., a Delaware corporation.

2.10 "Lot" shall mean the separately designated Lots numbered One (1) through Thirty Six (36), inclusively, as shown on the Plat, together with any improvements thereon.
2.11 "Lot Owner" means the owner or owners of a residential lot.

2.12 "Member" means any person, corporation, partnership, joint venture or any other legal entity who is a member of the Association.

2.13 "Owner" shall mean the record owner, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) of any Lot which is part of the Properties. Any Owner does not include a person or entity who holds an interest in a Lot merely as security for the performance of an obligation. Also the words "Owner" or "Owners" or "Owners of Record" as used herein, in addition to their recognized legal meaning, shall include a purchaser or purchasers under an agreement of sale or beneficiaries of any trust owning or purchasing a Lot.

2.14 "Plat" shall mean that certain plat of APACHE TOWNHouses AT YAVAPAI HILLS, UNIT 1 recorded by Declarant in Book _____ of Maps, Page _____ of the official records of the County Recorder of Yavapai County, Arizona.

2.15 "Properties" or "Premises" or "Development" or "Subdivision" shall mean only that certain real property shown on the Plat as Lots 1 through 36, inclusive, and such additions hereafter be brought within the jurisdiction of the Association, together with all common areas as defined in Section 2.6.

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

2.17 "Unit" shall mean and refer to a separately designated Lot at such time as a townhouse residential living unit has been constructed thereon, without limiting or restricting the definition of Lot referred to in Section 2.10 above which also may include any improvements erected on a Lot.

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

3.1 Animals. No animals, livestock or poultry shall be kept on any Lot, other than customary household pets, and only such number shall be allowed which will not create a nuisance. All animal wastes shall be disposed of in accordance with applicable city or county regulations.

3.2 Businesses. No stores, offices or other places of business of any character, or any institution or other place for the care or treatment of the sick or disabled, physically or mentally, shall be placed or permitted to remain on any of said Lots, nor shall any theater, bar, restaurant, saloon, or other place of entertainment ever be erected or permitted on any Lot or any part of the Premises, and no business of any kind or character whatsoever shall be conducted in or from any residence. Notwithstanding any provision contained herein to the contrary, it shall be expressly permissible for the Developer to maintain, during the period of construction and sale of Units or Lots, on such portion of the Premises as Developer may from time to time select, such facilities as in the sole opinion of Developer shall be reasonably required, convenient or incidental to construction and sale of Units or Lots, including but without limitation business offices, storage areas, trailers, temporary buildings, construction yards, signs, models, and sales offices; and further provided that nothing herein shall restrict the use of the Common Areas and common facilities for social and recreational use consistent with the other provisions herein.

3.3 Fences.

3.3.1 Wherever the word "fence" or "fences" or "fencing" appears in this Declaration, it includes block walls used as a fence or fences.

3.3.2 Except as may be installed by the Original Developer or as may be otherwise required by law, no side or rear fence and no side or rear wall, other than the wall of the building constructed on a Lot, shall be more than four (4) feet in height. No lot boundary fences or screens of any kind shall be erected or maintained on any residential lot. Fences for private patios, swimming pools, tennis courts or pet runs must be first submitted to the Architectural Committee for approval but in no case may they project beyond the property line setback for structures. No hedge shall be maintained on any lot which shall unreasonably or restrict or block the view from an adjoining Lot, or which shall materially impair the continuity of the general landscaping plan of Yavapai Hills. In no event shall any hedge be maintained which shall exceed four feet in height without the prior approval of the Committee.
3.3.3 Notwithstanding the foregoing, however, the prevailing governmental regulations and the provisions of Section 4 ("Basements") herein shall take precedence. In such case the provisions of such regulations and provisions are more restrictive. Unless otherwise approved by the Architectural Committee, all fencing and any materials used for fencing, dividing or defining the Lots must be of cement, block construction with mortar wash finish and of new materials, and erected in a good workmanlike manner. The color of the fencing for all Lots will be selected by the Original Developer and shall not be changed without the approval of the Architectural Committee. All fences shall be maintained in good condition and repair, and fences, upon being started, must be completed within a reasonable time. In the event any fence is wholly or partially damaged, it shall be removed in its entirety and be thereupon replaced, or returned to its original condition; provided, however, any fences installed by the Developer must be promptly restored to their original condition. All Lots, when developed, shall be improved with fences as approved by Original Developer or Architectural Committee.

3.3.4 Fences which may be constructed upon the dividing line between Lots (or near or adjacent to said dividing line because existing easements prevent a fence from being located on the dividing line) by the Developer shall be maintained and repaired at the joint cost and expense of the adjoining Lot Owners and fences constructed upon the back of any Lot by the Developer shall be maintained and repaired at the cost and expense of the Lot Owner on whose Lot (or immediately adjacent to whose Lot) the fence is installed. Such fences shall not be altered, or changed in design, color, material or construction from the original installation made by the Developer; provided, however, in the event any such fence is damaged or destroyed by the act or acts of one of the adjoining Lot Owners, the Lot Owner, his family, agents, guests or tenants responsible for such damage shall forthwith rebuild and repair same to its prior condition, at his sole cost and expense. All gates shall be no higher than the adjacent fence.

3.3.5 In the event of a dispute between Owners with respect to the construction, repair, or rebuilding of a fence or wall, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Architectural Committee, the decision of which shall be binding.

3.4 Garages and Outbuildings. No garages or any other building whatsoever shall be constructed on any Lots until a dwelling house shall have been erected or until a contract with a reliable and responsible contractor shall have been entered into.
for the construction of a dwelling which shall comply with the restrictions as herein contained; provided, however, that the restrictions and conditions set forth in this paragraph shall not be applicable to Developer or to any construction undertaken by Developer. Garage doors, if installed, shall be kept closed at all times, except as may be necessary for reasonable ingress and egress.

3.5 Landscaping. Unless installed by the Developer, and except as provided in Section 4.1.5 herein, the landscaping on all Lots must be installed and substantially completed in an attractive manner by the Owner within six (6) months from the date of close of escrow. Landscaping at all times must be maintained by each Owner in a neat and attractive manner. Notwithstanding the foregoing (in addition to all other rights and remedies accorded the Original Developer, the Architectural Committee, after giving the Owner fifteen (15) days written notice to cure any such default, shall have the right to cause the necessary landscaping work to be done and the Owner in default shall be responsible for the cost thereof, such cost becoming a lien on the property.

3.6 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any lot or parcel except (i) such machinery or equipment as is necessarily used in connection with the usual period of construction (during the period of construction) of a building, appurtenant structures, or other improvements; and (ii) that which Declarant of the Association may require for the operation and maintenance of AERIE TOWNHOUSES AT YAVAPA HILLS, UNIT I; or (iii) that used in connection with any business permitted under a Tract Declaration.

3.7 Mineral Exploration. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

3.8 Nuisances. Each Lot shall be maintained free of rubbish, trash, garbage, abandoned vehicles or appliances or other unsightly items or equipment, and the same shall be removed from each Lot of the premises and not allowed to accumulate thereon, and no garbage, trash or other waste materials shall be burned on any Lot. Garbage cans, retractable clothes lines, woodpiles and sheds for the storage of equipment and unsightly items shall be kept screened by adequate fencing; or other aesthetically pleasing materials as to conceal same from...
the view of adjacent Lots and streets. No noxious, illegal, or offensive activity shall be conducted on any Lot, nor shall anything be done thereon which may be a common annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each Owner of his Lot within the development.

3.9 Obligation to Maintain and Repair. Each Unit Owner shall, at his sole cost and expense maintain his Unit and keep it in good condition. Notwithstanding the above in the event of destruction by fire or other casualty loss an Owner of a Unit is not required to rebuild said Unit unless the Units are insured with a hazard insurance policy which contains a Replacement Cost Endorsement providing for replacement of a Unit from Insurance loss proceeds. In any event, the Unit Owner is required to clear the Lot within a reasonable time after Unit destruction.

3.10 Damage to Common Areas. In the event of damage to or destruction of common areas, the Association shall immediately cause such damage to be repaired or such destroyed property to be replaced or rebuilt in accordance with, or as closely as practicable to, the original plans and specifications for the Project. In the event that such damage or destruction is uninsured, the Board shall levy a special assessment pursuant to Section 5.14 for the purpose of raising sufficient capital, in the Board's discretion, to cause such damage to be repaired or such destroyed property to be replaced or rebuilt in accordance with, or as closely as practicable to, the original plans and specifications for the Project.

3.11 Outside Lighting. Except as may be initially installed by Declarant, no spotlights, floodlights or similar type high intensity lighting shall be placed or utilized upon any Residence which will direct light to any other Residence or to the Common Areas or any part thereof without written authorization of the Board. Other types of low intensity lighting which do not disturb the Owners or other occupant of the Property shall be allowed.

3.12 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot or Recess shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

3.13 Parking. It is the intent of the Declarant to restrict on-street parking as much as possible. Vehicles of any Owner, lessee, resident, employee, guests, invitee, are to be kept in garages, carparks, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a lot or parcel.
3.14 Residential Dwelling. All Lots within the Subdivision shall be known and described as residential Lots and shall be used for the residential purposes only, and construction thereon shall be restricted to single-family dwellings.

3.15 Restriction on Further Subdivision. No Lot or Parcel shall be further subdivided or separated into smaller Lots or Parcels by any Owner, and no portion less than all of any such Lot or Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Board.

Only the entire Lot, and not a portion thereof, together with the improvements thereon, may be rented, and then only to a single family. The Lot improvements thereon shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period less than 15 days, or (b) any rental if the occupants of the Unit are provided customary hotel service such as, but not limited to, room service or food and beverage, maid service, furnishing laundry and linen, and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units provided that the Lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration.

No application for rezoning of any Lot or Parcel, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot or Parcel has been approved by the Board for such Lot or Parcel and the proposed use otherwise complies with this Declaration and any applicable Tract Declaration.

3.16 Temporary Structures. No building or structures shall be moved from one location to another Lot, and all improvements erected on a Lot shall be of new construction. No structure of temporary character and no trailer, basement, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence, either temporarily or permanently. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

3.17 Occupancy of Dwelling. No Lot shall be used for residential purposes prior to the time at least one water flush toilet is installed in the dwelling or prior to the time the dwelling is serviced by water and sewer connections.
3.18 Sanitation. All bathrooms, toilets and sanitary conveniences shall be inside the buildings permitted hereunder. No use or thing shall be permitted on any Lot which may endanger the health or safety of the owner or occupant of any Lot in the AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1.

3.19 Screening Areas. All screening areas, whether fences, hedges or walls, shall be maintained and replaced on the Lots in accordance with the original construction of the improvements by the Developer, or as approved by the Architectural Committee as hereinafter set forth.

3.20 Tanks. No elevated tanks of any kind shall be erected, placed or permitted upon any Lot unless same are kept screened by adequate planting or lattice, which must be approved by the Committee, to conceal the tank from neighboring Lots or streets.

3.21 Signs. No sign or advertisement of any nature whatsoever, other than name plate signs not to exceed one square foot in area, shall be displayed or placed upon any Residence or on the outside of any Residence, nor any part of the Common Areas, except as may be permitted by the prior written consent of the Board.

3.22 Solar Collectors. Solar collectors may be installed on roofs of dwellings, provided prior written approval is obtained from the Original Developer or from the Architectural Committee.

3.23 Storage Sheds. No storage sheds or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the block fence on or adjoining such Lot or if such object is visible from the front of the Lot or from any neighboring property.
3.24 Vehicle Storage. No vehicle of any kind which is abandoned or inoperative shall be stored or kept on any Lot in such manner as to be visible from any other Lot or any street or alleyway within this Subdivision, and no automobiles or other mechanical equipment may be dismantled or allowed to accumulate on any of said Lots, whether or not visible from any other Lot or any street or alleyway within this Subdivision, it being noted expressly herein that such dismantling or accumulating of automobiles or other mechanical equipment constitutes a health and safety hazard to the owners and occupants of Lots within AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1. No camper, boat trailer, recreational vehicle, or similar type of vehicle, or commercial vehicle shall be parked in front of the Unit in a front driveway, or in an enclosed garage or carport where it can be seen from any street, except for temporary parking only. These vehicles may be kept in a fenced enclosure provided by the developer for such parking purposes at a minimal cost.

3.25 Windows and Awnings. No reflective materials including but not limited to aluminum foil, reflective screens or glass, mirrors or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows or any other part of a Residence which can be seen from the outside of the Development or from other portions of the Development. Further, no metal or rigid plastic awnings of any nature whatsoever shall be permitted to be placed or installed on or attached to the outside of any of the Residences and only canvas or any other type of awnings that shall have been first approved in accordance with Section 6 shall be allowed.

3.26 Lands Retained by Yavapai Hills, Inc. Neither the purchaser of a Lot nor any successor in interest thereof shall be deemed to have acquired any proprietary or riparian rights in land that is retained by Yavapai Hills, Inc., any improvements on such lands or in any of the lakes, irrigation ditches, or other waterways on such lands.

4. EASEMENTS

4.1 Side and Rear Yard Easements

4.1.1 Creation of Easement. Attached to this Declaration as Exhibit A and made a part hereof by this reference is a plat of AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1. As to any Lot upon which a hatched or shaded area is shown along a Lot line, an easement, located in such hatched or shaded area (the Easement Area), the width of which is five (5) feet and the length of which is as shown on Exhibit A, as further described below, is hereby created and reserved from the Lot which includes the Easement Area (the "Servient Tenement") to, and for the

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benefit of, the Lot immediately adjoining the Easement Area (the "Dominant Tenement").

4.1.2 Description of Easement. Such Easement shall be for the use of the surface of the Easement Area for drainage, recreational, patios, and garden uses, and as stated hereinafter. Such use is subject to the rights of any other easement holder such as a public utility, and is further subject to the rights of the Owner of the Servient Tenement as set forth herein.

4.1.3 Uses Permitted of Dominant Tenement.

(a) The use of the Easement Area shall be restricted to landscaping, including flowers, plants, lawn and sprinklers. The Easement Area may also be used for readily movable outdoor furniture, barbecue equipment and other portable items.

(b) The Owner of the Dominant Tenement shall protect and hold harmless the Servient Tenement and its Owner from any and all liens, claims or liabilities arising out of or connected with the use of the Easement Area by said Dominant Tenement.

4.1.4 Uses Not Permitted of Dominant Tenement. Without in any way limiting the prohibited uses, the following uses of the Easement Area are specifically prohibited: permanent installation of any sort, erection or maintenance of any structure which may impede or interfere with any necessary maintenance, repair or restoration of structural wall, or fences of the Servient Tenement; driving or attaching nails, screws, bolts, or other items to or into any structural wall, or fence of the Servient Tenement. No use shall be made of the Easement Area which will become an annoyance or nuisance to the Owner of the Servient Tenement, or which will interfere with the right of drainage from the Servient Tenement, as specified below. No painting or repainting shall be permitted in the Easement Area.

4.1.5 Rights Permitted of Servient Tenement.

(a) The Owner of the Servient Tenement shall have the right, at all reasonable times, to enter the Easement Area in order to repair, maintain, or restore any structural wall, fence or overhang located on the Servient Tenement; provided, however, that such entry shall be allowed only during daylight hours and with the prior knowledge of the Owner of the Dominant Tenement,
except in the event of an emergency necessitating an immediate repair. The Owner of the Servient Tenement shall have no liability for damage to or removal of any decoration or landscaping within the Easement Area which is necessarily occasioned by such repair, maintenance or restoration; provided, however, that the Owner of the Servient Tenement shall use reasonable care to avoid damage to decoration and landscaping within the Easement Area.

(b) The Servient Tenement shall have the right of drainage over, across, and upon the Basement Area for water resulting from the normal use of the Servient Tenement.

(c) The Owner of the Servient Tenement shall have the right to maintain eaves or projections or other architectural features of up to twenty (20) inches over the Easement Area when such eaves or features are part of the original structure located upon the Servient Tenement.

(d) The Owner of the Servient Tenement shall have no right to use said Easement Area for any uses other than those delineated hereinabove.

4.1.6 Maintenance Required of Dominant Tenement. Each such Easement Area and all landscaping and improvement in it shall be maintained continuously in good condition and repair by the Owner of the Dominant Tenement. As to each such Easement Area or portion thereof, the Owner of the Dominant Tenement shall assume all responsibility for compliance with the Declaration of this Tract Declaration and shall assume any burdens which may apply to said Easement Area or portion thereof.

4.1.7 Disputes. In the event of a dispute between the Owners of adjoining Lots with respect to the use of Easement Areas described in this Article, then, upon the written request of one such Owner to the Architectural Committee, the dispute shall be submitted to the Committee which shall decide the matter. The decision of the Committee shall be final and binding upon the parties. If the Committee shall for any reason fail or refuse to act upon a request hereunder within thirty (30) days of mailing thereof, the dispute shall be submitted to binding arbitration.

4.2 Easements for Utilities and Fences.

4.2.1 Easements for installation and maintenance of utilities and drainage facilities have been created as shown on the Plat, and additional easements may be created by grant or
reservation by the Original Developer for the foregoing purposes, or for the purposes set forth in subparagraph 4.2.3 below. Within these easements, except as may be installed by the Original Developer, no structure, planting or other materials shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the channels in the drainage easements. The easement area shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, and except for any easement area referred to in subparagraph 4.2.3 below, which may be fenced off by a fence installed by the Developer. In the latter case, the easement area shall be maintained by the Owner of the Lot who has use of the easement.

4.2.2 For the purpose of repairing and maintaining any fence or wall located upon the dividing line between Lots (or located near or adjacent thereto because of an existing easement located on the dividing line), an easement not to exceed five (5) feet in width is hereby created over the portion of every Lot immediately adjacent to any fence or wall to allow the adjoining Owner, or his agents to have access for maintenance purposes set forth herein and no other.

4.2.3 In addition to the foregoing, if a fence is not located on a dividing line between Lots, an easement is hereby created for constructing and maintaining a fence over that portion of a Lot adjacent to or near the dividing line where ever a fence may be constructed by the Developer within six (6) months after a house is constructed on any Lot. With respect to any fence not located on a dividing line between Lots, an Owner of a Lot shall have and is hereby granted, an easement over any property immediately adjoining his Lot up to the middle line of said fence for the use and enjoyment of same.

5. COMMON AREAS AND HOMEOWNERS' ASSOCIATION

5.1 Description of "Common Areas". The Common Areas of the Development shall consist of those areas designated on the plat of AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT I attached hereto as Exhibit A.

5.2 Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
5.2.1 the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

5.2.2 the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against this Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

5.2.3 the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3s of the voting members of the Association who are Lot Owners has been recorded.

5.3 Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

5.4 Association to Manage Common Area. The management of the Common Area shall be vested in the Association in accordance with the By-Laws. The owners of all Lots covenant and agree that the administration of the Development shall be in accordance with the provisions of this Declaration, the Articles, and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.5 Membership. The owner of a Lot shall automatically, upon becoming the owner of same, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

5.6 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is
appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

5.7 Voting Requirements. Only voting members of the Association who are Owners of a Lot may vote on issues pertaining to the Properties. An Owner, with the exception of the Declarant, shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in a Lot, the vote may be proportioned but in no event shall more than one vote be cast with respect to any Lot, other than by the Declarant.

The Declarant shall be entitled to three (3) votes for each Lot it owns until the happening of either of the following events, whichever occurs first:

(a) when the total votes of the Declarant equal the total votes of the other Lot Owners or
(b) on January 1, 1987.

Upon the happening of either of the above, the Declarant shall be entitled to one (1) vote per Lot owned.

5.8 Commencement of Voting Rights. Voting rights attributable to any Lot not owned by Declarant shall not vest until an assessment has been levied against that Lot by the Association pursuant to this Article.

5.9 Membership Meetings. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provision of the Bylaws of the Association.

5.10 Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which shall be established, and which shall conduct regular and special meetings according to provision of the Bylaws of the Association.

5.11 Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) regular annual assessments or charges, and (2) special assessments for capital improvements and unexpected expenses; such assessments to be established and collected as provided
herein and in the Bylaws of the Association. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge upon the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. The Association shall be entitled to use all remedies permitted by law for the enforcement and collection of such charges and assessments.

5.12 Purpose of Assessments. The assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Properties for the improvement and maintenance of the Common Area for the common good of the Properties. Annual assessments shall include an adequate reserve fund for taxes and insurance on the Common Area.

5.13 Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be ONE HUNDRED TWENTY-FIVE DOLLARS ($125.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% or specific Cost of Living Index above the maximum assessment for the previous year without a majority vote of the voting members of the Association who are Lot Owners.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% or specific Cost of Living Index by a vote of two-thirds (2/3) of the voting members of the Association who are Lot Owners and who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the Maximum.

5.14 Special Assessments. In addition to the regular annual assessments authorized above, the Board may levy, in any assessment year, a special assessment against each Lot applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area,
including fixtures and personal property related thereto, or to
defray any unanticipated or underestimated expense normally
covered by a regular assessment (and, where necessary, for taxes
assessed against the Common Area); provided that any special
assessments shall have the assent of two-thirds (2/3) of the
voting members of the Association who are Lot Owners and who are
voting in person or by proxy at a meeting duly called for this
purpose.

5.15 Notice and Quorum for Any Action Authorized Under
Sections 5.13 and 5.14. Written notice of any meeting called for
the purpose of taking any action authorized under Section 5.13 or
5.14 shall be sent to all voting members of the Association who
are Lot Owners not less than 30 days nor more than 60 days in
advance of the meeting. At the first such meeting called, the
presence of members or of proxies entitled to cast sixty percent
(60%) of all the votes of voting members of the Association who
are Lot Owners shall constitute a quorum. If the required quorum
is not present, another meeting may be called subject to the same
notice requirement, and the required quorum at the subsequent
meeting shall be one-half (1/2) of the required quorum at the
preceding meeting. No such subsequent meeting shall be held more
than 60 days following the preceding meeting.

5.16 Allocation of Assessments. The Owners of each Lot
shall bear an equal share of each regular and special assessment
and may be collected on a monthly basis.

5.17 Date of Commencement of Annual Assessment: Due Dates.
The annual assessments provided for herein shall commence as to
each Lot on the first day of the month following the conveyance
of the Common Area. The first annual assessments shall be
adjusted according to the number of months remaining in the
calendar year. The Board of Directors shall fix the amount of
the annual assessment against each Lot at least (30) days in
advance of each annual assessment period. Written notice of the
annual assessment shall be sent to every Owner subject thereto.
The due dates shall be established by the Board of Directors.
The Association shall, upon demand, and for a reasonable charge,
furnish a certificate signed by an officer of the Association
setting forth whether the assessment on a specified Lot have
been paid. A properly executed certificate of the Association as
to the status of assessments on a Lot is binding upon the
Association as of the date of its issuance.

5.18 Transfer of Lot by Sale or Foreclosure. The lien of
the assessments provided for herein shall be subordinate to the
lien of any first mortgage. Sale or transfer of any Lot shall
not affect the assessment lien. However, the sale or transfer of
any Lot pursuant to mortgage foreclosure or any proceeding in
lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

5.19 Enforcement of Assessment Obligation; Priorities; Discipline. Any part of an assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. The assessment lien on each respective Lot shall be prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, and after notice of such delinquency has been given to the property owner without the delinquency having been cured within 30 days of receipt of such notice, shall be treated as a deed of trust in the amount of the delinquency with the property owner as Trustor, Continental Service Corporation as Trustee, and the Association as beneficiary, the Association being authorized to sell or foreclose upon the property pursuant to Arizona Revised Statutes Section 33-807, et seq. or in any other manner permitted by law, however, the right to sell or foreclose upon the property shall be in addition to and not in substitution of all of the rights and remedies which the Association and Board may have in accordance with the provisions of this Declaration or otherwise. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at the Foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties and may temporarily suspend the Association membership rights of a Lot Owner who is in default after a hearing held in accordance with the Bylaws. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area or abandonment of his Lot.

5.20 Unallocated Taxes. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Lots, such taxes shall be included in the assessments made under the provision of this Article, and, if necessary, a special assessment may be levied against all of the Lots in an amount equal to such taxes, on a prorata basis (equal to the percentage interest in the Common Area which is appurtenant to each Lot).
5.21 Tax Assessments. As provided in Arizona Revised Statutes Section 33-558, no taxes, assessments or charges which may become liens on any Lot prior to any first mortgage under Arizona laws, shall affect the Common Area as a whole such taxes, assessments or charges shall only be levied separately on each Lot in its respective appurtenant percentage share of the Common Area.

5.22 Duties and Powers. In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.22.1 Maintain, repair, replace, restore, operate and manage all of the Common Area and all facilities, improvements, furnishing, equipment and landscaping thereon, and all property that may be acquired by the Association in good condition. This obligation shall not extend to the maintenance of any portion or facility of the Common Area required to be maintained by an individual Owner under this Declaration or the Bylaws.

5.22.2 Enforce the provision of this Declaration by appropriate means, including but without limitation, the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions.

5.22.3 Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members.

5.22.4 Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

5.22.5 Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.22.6 Adopt reasonable rules not inconsistent with this Declaration, the Articles, or the Bylaws relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Property and other Owners.
5.23 *Maintenance of Project by Association.* The Association shall provide maintenance of the Project as provided in the Bylaws. The Association shall not be responsible for maintaining and repairing capital improvements built or placed by an Owner on or within his Lot; or for repairs or replacements caused by any of the perils covered by a standard form fire insurance policy with extended coverage endorsement thereon, including, but not limited to, glass surfaces; or for repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner, or his guests, tenants or invitees.

5.24 *Association Easements into "Common Areas".* For the purpose of performing the maintenance authorized by this Article or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an easement over and onto all portions of the Common Areas.

5.25 *Association's Duties.* The Association shall maintain all utility installations located in the Common Area except for those installations maintained by utility companies, public, private or municipal. The Association shall pay all charges for utilities supplied to the Development except those metered or charged separately to the Lots, which shall be paid by the respective Owners of those Lots.

5.26 *Compliance with FNMA Regulations.* The Declarant intends that the Development shall comply with all requirements of the Federal National Mortgage Association (FNMA) pertaining to the purchase of FNMA or conventional home loans. Declarant and all Lot Owners therefore agree that, in the event the Development or any of the Constituent Documents do not comply with the FNMA requirements, the Board shall have the power (on behalf of the Association) to enter into any agreements with FNMA (or its designee) reasonably required by FNMA to allow the Development to comply with such requirements, and make such changes in the Constituent Documents to effectuate the same. Further in this regard, the following provisions are applicable to the Project.

5.26.1 *Notice of Action.* Upon written request to the Association, identifying the name and address of the holder, mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or any Lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable.
(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insuror or guarantor, which remains unsecured for a period of 60 days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Paragraph 5.26.

5.26.2 Other Provisions for Eligible Mortgage Holders. Eligible mortgage holders shall also be afforded the following rights:

(a) Any restoration or repair of the Development, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holder mortgages;

(b) Any election to terminate the legal status of the Development after substantial destruction or a substantial taking in condemnation of the Development, property shall require the approval of eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holder mortgages;

(c) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of a portion of the Development may be effected without the prior approval of eligible holders holding mortgages on all remaining Lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Lots subject to eligible holder mortgages;

(d) When professional management has been previously required by any eligible mortgage holder or eligible insuror or guarantor, whether such entity became an eligible mortgage holder or eligible insuror or guarantor at that time or later, require the prior consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Owner's Association are allocated and the approval of eligible holders holding mortgages on Lot estates which have at least fifty-one
percent (51%) of the votes of Lots subject to eligible holder mortgages.

5.26.4 Fidelity Bonds. The Association, by and through its Board of Directors, shall maintain in effect casualty and liability insurance and fidelity bond coverage as required by the regulations of the Federal National Mortgage Association, as such regulations may from time to time be amended or revised.

6. ARCHITECTURAL COMMITTEE.

6.1 Architectural Committee - Establishment. For the purpose of maintaining aesthetics within the Subdivision, an Architectural Committee of three (3) members has been established. Each Committee shall consist of three (3) persons, two (2) of whom shall be appointed by Yavapai Hills, Inc., and one (1) of whom shall be appointed by the Board. The persons and their successors, appointed to a Committee by Yavapai Hills, Inc., shall serve at the discretion of Yavapai Hills, Inc., and in the event such an appointee is removed, resigns, refuses to serve, dies, or is unable to serve for any reason, Yavapai Hills, Inc. shall appoint his successor. That person and his successors, appointed to such Committee by the Board shall serve at the discretion of the Board, and in the event such appointee is removed, resigns, refuses to serve, dies or is unable to serve for any reason, the Board shall appoint his successor. At such time as shall be designated by Yavapai Hills, Inc., the foregoing power of appointment of Yavapai Hills, Inc., shall be relinquished in favor of the Board, and thereafter the power of appointment for all persons on each such Committee shall be exercised and vested in each Committee as an Association Committee. Yavapai Hills, Inc. may delegate to another Corporation, association, or person its rights to appoint persons to each Committee. Until such time as Yavapai Hills, Inc. has relinquished its power of appointment as aforesaid, the number of Committees and the area of authority of each Committee shall be determined by Yavapai Hills, Inc. and thereafter by the Board.

6.2 Architectural Committee - Requirements of Approval. No buildings or improvements, fences, walls, awnings, swimming or wading pools, spas, ponds, antennas, underground TV apparatus, broadcasting tower or any other structure shall be commenced, erected, repaired structurally, replaced or altered (except as set forth below) until the plans and specifications showing the nature, kind, shape, height, material, floor plan, location and approximate costs of same shall have been submitted to and approved by the Original Developer and Architectural Committee, and a copy thereof is finally approved and lodged permanently with said Original Developer and Architectural Committee. The Architectural Committee reserves the right to disapprove of any
such items which the Architectural Committee determines in good faith to be inconsistent with the development, character and appearance of AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1. Anything to the contrary notwithstanding, all fences shall be of uniform masonry block construction and color, as determined by the Original Developer. Failure of the Original Developer or Architectural Committee to reject in writing such plans and specifications within thirty (30) days from date same were submitted shall constitute approval of said plans and specifications, provided the design, locations and kind of materials in the building or improvements to be built or altered on said Lots shall be governed by all of the restrictions herein set forth and said building or alterations shall be in harmony with existing building and structures in the Subdivision. Approval of plans and specifications shall not be unreasonably withheld and rejection of any plans or specifications must be based on reasonable judgment as to the effect such changes and alterations will have on the Subdivision as a whole. The Original Developer or the Architectural Committee shall have the right to refuse to approve any such plans and specifications or grading plans which are not suitable or desirable in their opinion for aesthetic or other reasons and in so passing upon such plans and specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed building or other structure or alteration, and the material of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. The restrictions and conditions set forth in this paragraph shall not be applicable to any original construction whatsoever undertaken by the Original Developer of the Subdivision.

6.3 Right of Hearing. Should the Committee reject or disapprove the plans and specifications as submitted, the Lot Owner, within fifteen (15) days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of such written request, shall fix the date, time and place of the hearing and shall notify the Lot Owner in writing of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the written request for hearing. At the hearing the Lot Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall then determine, by majority vote of the persons appointed
by the Committee, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Notice in writing of the Committee's decision shall be mailed to the Lot Owner within seven (7) days from the date of the hearing. The decision of the Committee shall be final if such Lot Owner fails to exercise the right of appeal in accordance with the procedures set forth in provision 6.4.

6.4 Right of Appeal. In the event the Lot Owner is dissatisfied with the decision of the Committee rendered in accordance with Provision 6.3, then and in that event the Lot Owner may appeal such decision to the Board. The right of appeal shall be exercised by the Lot Owner within fifteen (15) days from the date the Committee mails notice of its decision to the Lot Owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of a notice of appeal, shall fix the date, time, and place of the hearing on appeal and shall notify in writing the Committee and the Lot Owner of the date, time, and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the notice of appeal. At the hearing on appeal, both the Committee and the Lot Owner shall be afforded the opportunity to be heard and to present evidence, oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Board shall then determine, by majority vote of the Board whether the decision of the Committee shall be affirmed or reversed. Notice in writing of the Board's decision shall be mailed to the Committee and the Lot Owner within seven (7) days from the date of the hearing on appeal. The decision of the Board shall be final.

6.5 Time of Construction and Temporary Structures. Construction on a Lot shall be governed by the following:

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

7. MISCELLANEOUS.

7.1 Limitation of Restrictions on Declarant. Nothing in this document shall be understood or construed to prevent Declarant, its contractors, or subcontractors, from doing or
performing on the Premises, or in any Unit, all acts which are reasonably necessary or advisable in connection with the completion and development of the Premises or the Units therein, or to prevent Declarant from conducting on any part of the Premises its business of completing the work and of disposing of said Units by sale, lease, or otherwise. In the event Declarant shall convey all of its rights, title and interest in and to the Development to any partnership, individual or individuals, corporation or corporations, such partnership, individual or corporation shall be obligated to perform all such duties and obligations of the Declarant.

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

All instruments of conveyance of an interest in all or any part of the Premises shall contain (and if not, shall be deemed to contain) reference to this instrument and shall be subject to the covenants, conditions and restrictions herein as fully as through the terms and conditions of this instrument were therein set forth in full; provided, however, that the terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions or restrictions.
7.3 Invalidity and Severability. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment of court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect. No provision hereof shall be considered invalid if any reasonable construction of Declarant's intent can give effect to any such provision.

7.4 Building Activity - Other Developer. Anything to the contrary notwithstanding contained herein, the Original Developer or Architectural Committee shall have the right to promulgate reasonable rules and regulations concerning the conduct of operations and building activities of any other Developer (except the Original Developer) who shall be bound thereby. Wherever the Original Developer is granted certain rights and privileges hereunder, such Original Developer shall have the right to assign and transfer any such rights and privileges to any other Developer to be evidenced, however, by written instrument recorded in the office of the Yavapai County Recorder.

7.5 Duration of these Covenants. These covenants, conditions and restrictions shall remain in full force and effect for an initial term of twenty (20) years from the date this instrument is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

7.6 Applicability of Yavapai Hills Master Declaration. All Lots and Common Areas are included in the Development known as Yavapai Hills, and all property is subject to the terms and provisions of The Yavapai Hills Master Declaration of Conditions, Covenants and Restrictions recorded at Book 950, pages 797-714 in the records of the Yavapai County, Arizona Recorder. All Owners therefore are subject to the Yavapai Hills Master Declaration and membership in the Yavapai Hills Home Owners Association (including all Yavapai Hills Home Owners Association assessments separate and apart from any assessments required herein). In the event of any inconsistency between the Yavapai Hills Master Declaration and this Declaration, the terms and provisions of The Yavapai Hills Master Declaration shall control.

7.7 Distributions Upon Termination. Any distribution made as a result of any termination of the Development shall be accomplished on a reasonable and equitable basis.

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7.8 Annexation. Additional residential property may be annexed to the properties with the consent of two-thirds (2/3) of the voting members of the Association who are Owners of a Lot.

7.9 FHA/VA Approval. As long as the Declarant is entitled to cast three (3) votes per lot owned by it, the following actions will require prior approval of the Federal Housing Administration or Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

7.10 Deeds of Conveyance. Deeds of Conveyance of a lot or lots, or any part of a lot must contain the above covenants, conditions and restrictions and may do so by reference to this Declaration, but whether or not such reference is made in such deed, each and all covenants, conditions and restrictions, by virtue of their original recording, shall be binding upon all grantees of property within the Subdivision, their heirs, successors and assigns.

After the date hereof, each party who acquires any interest in all or any part of the property described herein, further agrees that upon such acquisition of any interest in all or part of the real property, said acquiring party shall look only to the other subsequent property owner or owners acquiring an interest in said property for any performance or relief deemed equitable or necessary for the enforcement of the covenants, conditions and restrictions contained herein.

DATED this 25th day of June, 1984.

CONTINENTAL SERVICE CORPORATION,
as Trustee under Trust 99798 and not personally, solely as bare legal title holder

by: [Signature]
Senior Trust Officer

[Stamp: 1642 and 372]
STATE OF ARIZONA )
County of MARICOPA )

Before me this 25th day of June, 1984, personally appeared Charles E. Knell, who acknowledged himself to be a Trust Officer of the Continental Service Corporation and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the Corporation as Trustee, by himself as such officer.

Notary Public

Approved:

YAVAPAI HILLS, INC.,
A Corporation

by Michael J. Klein, Jr.,
Vice-President

1642 RED 373
STATE OF ARIZONA  

County of Yavapai

The foregoing instrument was acknowledged before me this 1984 by Michael J. Klein, Jr., Vice-President of Yavapai Hills, Inc., a corporation, on behalf of the corporation.

Notary Public


Seal

Notary Public

- 30 -
AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LOTS 1 THROUGH 36, INCLUSIVE, ACCORDING TO THE PLAT OF AERIE TOWNHOUSES AT YAVAPAI HILLS, UNIT 1 AND DECLARATION OF EASEMENTS

RECITALS

Yavapai Hills, Inc., a Delaware corporation, as present owner of the beneficial interest in Continental Service Corporation, Trust No. 99798, being properly authorized so to act by terms of the Trust, and Continental Service Corporation as Trustee, solely as bare legal title holder, and not personally, and acting at the proper direction of said beneficiary recites that:

1. On June 29, 1984, an instrument captioned "Declaration of Covenants, Conditions and Restrictions for Lots 1 through 36, Inclusive, According to the Plat of Aerie Townhouses at Yavapai Hills, Unit 1 and Declaration of Easements" was recorded in Book 1642, pages 345 - 376 inclusive, Official Records of Yavapai County, Arizona, to run with the following described real property:

   Lots 1 through 36 inclusive, AERIE TOWNHOUSES at Yavapai Hills, Unit 1, according to the plat thereof recorded in Book 24 of Maps, page 46-47, of the official records of the County Recorder of Yavapai County, Arizona.
2. Yavapai Hills, Inc. and Continental Service Corporation, as Trustee under Trust 99798 and not personally, solely as bare legal title holder desire to amend paragraph 7.6 titled "Applicability of Yavapai Hills Master Declarations" of the "Declaration of Covenants, Conditions and Restrictions for Lots 1 through 36, Inclusive, According to the Plat of Aerie Townhouses at Yavapai Hills, Unit 1 and Declaration of Easements" recorded on June 29, 1984 by cancelling and revoking said paragraph and substituting in lieu thereof paragraph 7.6 titled "Properties Within Development of Yavapai Hills" as hereinafter set forth:

NOW THEREFORE, YAVAPAHI HILLS, INC. and CONTINENTAL SERVICE CORPORATION, as Trustee under Trust 99798 and not personally, solely as bare legal title holder, representing ninety percent (90%) of the Lot Owners hereby amends paragraph 7.6 titled "Applicability of Yavapai Hills Master Declaration" of the "Declaration of Covenants, Conditions and Restrictions for Lots 1 through 36, Inclusive, According to the Plat of Aerie Townhouses at Yavapai Hills, Unit 1 and Declaration of Easements" recorded on June 29, 1984, by cancelling and revoking said paragraph and substituting in lieu thereof the following:

7.6 Properties Within Development of Yavapai Hills

All lots and common areas are included in the Development known as Yavapai Hills and all lot owners are subject to membership in the Yavapai Hills Home Owners Association
(including all Yavapai Hills Home Owners Association assessments separate and apart from any assessments required herein).

DATED this 26th day of September, 1984.

CONTINENTAL SERVICE CORPORATION, as Trustee under Trust 99798 and not personally, solely as bare legal title holder.

By Charlotte A. Knoll
Senior Trust Officer

SEAL
STATE OF ARIZONA ) ss
County of Yavapai )

SUBSCRIBED AND SWORN TO before me this 26th day of September, 1984 by Charlotte A. Knoll,
Senior Trust Officer, Continental Service Corporation.

My Commission Expires: 6-9-98

Notary Public

My Commission Expires: 6-9-98

APPROVED:

YAVAPAI HILLS, INC.,
A corporation

By Michael J. Klein, Jr.
Vice-President
STATE OF ARIZONA  
County of Yavapai  

SUBSCRIBED AND SWORN TO before me this 24th day of  
September, 1984 by Michael J. Klein, Jr.  

My Commission Expires: My Commission Expires June 20, 1988  
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