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SUNHILL VALLEY LLC RES

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RES 3984524

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

FOR

NORTH ARROW RANCH



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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
NORTH ARROW RANCH**

THIS DECLARATION of Covenants, Conditions, and Restrictions is made this 8th day of February, 2005, by Arizona Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 140002 ("Declarant"). Declarant is the owner, as Trustee, of North Arrow Ranch, a planned area development in Yavapai County, Arizona, as more particularly described herein. The Development will be comprised of single family residential lots platted and recorded from time to time in the Office of the County Recorder of Yavapai County, Arizona. Sunhill Valley, LLC, an Arizona limited liability company, is the Developer of the property as set forth in section 1.9 below.

It is desirable to provide uniform restrictions for all single family residential subdivision lots of the development for the purpose of establishing:

- a. A plan for the individual ownership of real property estates consisting of a lot and the improvements contained thereon.
- b. A uniform plan for the use of the property in all single family residential subdivision lots of the Development, and the establishment of regulations to maintain quality neighborhoods.
- c. The formation of a nonprofit corporation with membership of the Lot Owners with specific powers of regulation and control affecting single family residential lots located within the Development.
- d. The ownership and management of Common Areas by the nonprofit corporation, North Arrow Ranch Homeowners Association.

In order to establish the nature of the use and enjoyment thereof, Declarant does hereby declare said premises subject to the following expressed covenants, 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 premises and with each and every part and parcel thereof to wit:

1. **DEFINITIONS.** Terms used in this Declaration shall have the meanings specified for such terms in the Zoning Code or Subdivision Ordinances for the County of Yavapai unless otherwise specifically defined or illustrated on the plat of record for the subdivision or in this Declaration or unless the context hereof otherwise dictates. All references to the plat, lots, easements, etc., mean those in North Arrow Ranch.

- 1.1 "Additional Properties" shall mean properties added in accordance with Article 4 hereof.



- 1.2 **"Articles"** means the Articles of Incorporation of the Association that are filed in the office of the Arizona Corporation Commission, as the Articles may be amended from time to time.
- 1.3 **"Association"** means North Arrow Ranch Homeowners Association, an Arizona nonprofit corporation, its successors and assigns, formed as an entity through which the Owners may act in accordance with the Declaration and its Articles and Bylaws.
- 1.4 **"Board"** means the Board of Directors of the Association.
- 1.5 **"Committee"** means the Developer or the Association's Architectural Control Committee.
- 1.6 **"Common Property"** or **"Common Area"** is that property designated as such on the plats of the development.
- 1.7 **"Declarant"** shall mean Arizona Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 140002, its successors, and assigns, if such successors or assigns would acquire more than one undeveloped Lot from the Declarant for the purpose of development.
- 1.8 **"Declaration"** means this instrument, as the same may be amended from time to time.
- 1.9 **"Developer"** means Sunhill Valley, LLC, an Arizona limited liability company, its successors, and assigns.
- 1.10 **"Development"** means North Arrow Ranch, a planned area development in Yavapai County, Arizona, comprised of Lots 1 through 25 and open spaces and common areas, the Final Plat of which was recorded on 3/7/06, 2005, in Book 56 of Maps, page 27, Recorder of Yavapai County, Arizona, and such Additional Properties as shall become a part of such Development.
- 1.11 **"Guest"** means an agent, servant, tenants, licensee, or invitee of an Owner or any person or entity who has acquired any title or interest in a lot by or through an Owner, including a lessee, mortgagee, or any agent, servant, tenant, invitee, or licensee or such person or entity.
- 1.12 **"Lot"** means a residential lot as platted on a plat or plats of the Development that was or were approved by the County of Yavapai, and additions thereto.
- 1.13 **"Member"** means any person or legal entity who is a member of the Association.
- 1.14 **"Mortgage"** means mortgage, deed of trust, or other security instrument which is a lien on a lot.
- 1.15 **"Owner"** means the record owner, whether one or more persons or entities of equitable or beneficial title (or legal title if equitable title has merged therewith) to a Lot. Owner does not include a person or entity holding an interest in a lot merely as security for the performance of any 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.

1.16 **"Property"** means all of the Lots, private roadways, open spaces, and Common Areas platted on the recorded plats of the Development and any additions thereto, and excludes only the streets dedicated to the County of Yavapai.

1.17 **"Transition Date"** means that date on which the Association holds its first meeting at which a Board of Directors is elected by the Owners. Such meeting shall take place within ninety (90) days after the Developer gives management of the Association to the Owners or after all Lots in the Development are sold, whichever first occurs.

2. COVENANTS, CONDITIONS, AND RESTRICTIONS.

2.1 **Architectural Control.** No structure shall be commenced or erected on any of said Lots until the design, location, exterior color, floor elevations, and kind of materials to be used and the locations and height of walls and fences and direction of the facing of the main residential structure have been approved in writing by the Committee.

TO INSURE QUALITY CONSTRUCTION, AN ARIZONA LICENSED GENERAL CONTRACTOR, ARCHITECT, OR ENGINEER SHALL BE RESPONSIBLE FOR ALL NEW CONSTRUCTION WITHIN THE DEVELOPMENT, AND BE APPROVED IN WRITING BY THE COMMITTEE.

The design, location, and kind of materials of the structures to be built on the Lots shall be in harmony with existing homes within the Development. A landscape design must be submitted with the building blueprints for approval by the Committee.

In the event there is no Committee or the Committee fails to approve or disapprove a proposed structure within thirty (30) days after written request to do so, then approval will not be required.

The design review process has been established, encompassing the following two phases:

2.1.1 The Preliminary Design Submittal, at which time the Committee can review conceptual plans to ensure conformance with the standards before the Owner finalizes the design.

2.1.2 The Final Design Submittal, at which time the Committee can review final construction documents to confirm that they are consistent with the previously approved preliminary plans.

The Committee may establish such rights of appeal as it deems appropriate.

2.2 **Plans and Specifications.** The plans and specifications shall show the design, structural details, materials, finishes, exterior colors, site location, grades, and



dwelling elevations and shall include a site plan of the building site proposed to be improved. Structures on certain Lots may require landscape sprinkler systems. A copy of the plans and specifications as finally approved shall be retained in the records of the Committee until final construction has been completed.

2.3 Site Plans. Site plans shall show on a two-foot interval contour map the:

- 2.3.1 Location of all trees over three inches in trunk diameter measured one foot from the ground.
- 2.3.2 All trees to be removed to permit any on-site construction.
- 2.3.3 Locations of all easements.
- 2.3.4 Dimensions and bearings of the boundaries of the Lot.
- 2.3.5 Existing grades and proposed grade changes.
- 2.3.6 Location of all proposed structures.
- 2.3.7 Front, side, and rear setbacks.
- 2.3.8 Driveways and parking areas.
- 2.3.9 Color and types of exterior finishes.
- 2.3.10 Drainage plan, including corrugated metal pipe under driveway, if necessary.
- 2.3.11 Detailed landscape plan for the front yard.

2.4 Changes to Plans. Any exterior change in the original design, i.e. additions, landscaping, exterior colors, textures, drainage, retaining or decorative walls or fences, must be approved in writing by the Committee prior to the commencement of the construction.

2.5 Timeliness of Construction. When construction is commenced, it shall be pursued diligently, and all buildings are to present a finished exterior appearance within twelve (12) months thereafter, barring strikes, acts by other persons beyond the control of the Owner or contractor, and Acts of God. Front yard landscaping shall be completed within sixty (60) days after issuance of the certificate of occupancy by the County of Yavapai or other document that allows occupancy issued by the appropriate governing agency. 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 control. Extensions will be reviewed on a case by case basis by the Committee.

2.6 Tree Removal. No trees on any Lot, except diseased or dead trees, shall be removed unless the same occupy a portion of the ground upon which the dwelling structure or garage is to be constructed, excepting such approval thereof as shall be given by the



Committee in writing. The native trees and shrubs are one of the primary amenities of the Development; thus, everything possible must be done to preserve and protect the natural environment of the property. The committee may, at the Owner's expense require:

- 2.6.1 The replacement or substitution of landscaping for trees or shrubs cut or removed without prior approval.
- 2.6.2 Enter upon any lot and remove any tree infested with IPS beetles and/or other destructive insects or disease if, within five (5) days after receiving notification from the Committee, such removal is not accomplished by the Owner.
- 2.7 **Landscaping.** Landscape irrigation will be limited to an area no greater than five thousand square feet (5,000 sq. ft.) on each Lot. All landscaping will incorporate, as much as feasible, planting of native species, rocks, and materials that are native or compatible with the surrounding natural landscape in color and texture, and be designed and placed so as to be compatible with surrounding natural areas. Irrigated lawns and other irrigated ground covers are discouraged.
- 2.8 **Utilities.** All utility service lead-ins will be underground, including propane tanks, which are to be buried. No well houses will be permitted.
- 2.9 **Land Use and Building Type.** No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling, which may include patio walls, swimming pool, garages, servants' quarters, guest houses, ramadas, or other similar residential structures, and generally not to exceed one (1) story with a twenty (20) foot height limitation. Two-story houses with a height limitation of twenty-eight (28) feet may be permitted on appropriate lots with the approval of the Committee. The height limitation will be determined by a comparison of (a) the average elevation of the highest and lowest points of the building footprint on the original, natural grade, and (b) the elevation of the highest point on the building. Use of all Lots shall comply with the County of Yavapai building code. Walk-out basements may be permitted with the consent of the Committee.
- 2.10 **Lot Ownership, Dimensions, and Assessment Rules.** None of said Lots shall be re-subdivided into smaller Lots nor conveyed or encumbered in less than the full original dimensions of such Lot, except for public utilities, provided that this restriction shall not prevent the conveyance or encumbrance of adjoining or contiguous Lots or parts of Lots in such a manner as to create parcels of land in a common ownership having the same or a greater street frontage than originally provided and described for any one of the Lots, portions of which are so conveyed or encumbered. Thereafter, such part of adjoining or contiguous Lots in such



Lot. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for public utilities, in which event the remaining portion of any such Lot shall, for the purpose of this provision, be treated as a whole Lot. Adjusting common property lines to improve Lots will be allowed if mutually agreed between Owners and approved by the Committee. Any Lot that is reconfigured and considered one Lot as set forth above shall be considered one Lot for assessment purposes at the election of the Owner. If the Owner elects to treat the reconfigured Lot as one Lot for assessment purposes, the property may not thereafter be reconfigured into separate Lots.

- 2.11 **Erection of Buildings and Setbacks.** No building shall be erected on any area that is reserved for road purposes or is now designated for streets or easements, nor upon any area subsequently granted for utilities or drainage purposes. All structures shall be constructed within building envelopes designated on the Final Plat for the development. No buildings or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction. No structure of a temporary nature, such as a trailer, shack, garage, barn, or other outbuildings, shall be used on any Lot at any time, either temporarily or permanently; however, the Developer is specifically allowed to have a temporary sales trailer located on any lot owned by the Developer. Topography exceptions as allowed by the County of Yavapai will be accepted by the Committee.
- 2.12 **Size.** The main living area of the dwelling, exclusive of porches, garages, patios, or any other similar extensions or projections, shall not be less than two thousand two hundred (2200) square feet of living space except in unusual cases where topography or other factors as the Committee sees fit warrants a departure. In any event, the design, location, and kind of materials of the structure shall be in harmony with the existing homes within the Development.
- 2.13 **Garages.** Detached garages may be allowed and may require a connecting driveway with the approval of the Committee. A detached garage must be the primary garage and must match the design of the residence. An enclosed garage for each residence is required and shall be included as part of the original design. Carports are not allowed.
- 2.14 **Driveways and Walks.** All driveways and walks shall be constructed of concrete or masonry unless other materials are allowed with the approval of the Committee. No gravel will be permitted unless, due to unusual circumstances, it is otherwise deemed appropriate by the Committee.
- 2.15 **Fences.** Fencing is allowed behind residences for specific purposes such as screening, child containment, animal control, or architectural effect. Fencing with the use of natural materials may be allowed in the front of residences with the approval of the Committee. Plans showing the length, height, design, material, finishes, and



colors of fences must be submitted to and approved in writing by the Committee. Fences shall be no higher than five (5) feet unless otherwise approved by the Committee. Colored chain link fencing may be allowed on Lots backing Williamson Valley Road with the approval of the Committee.

- 2.16 **Reflective and Window Covering Materials.** Prior to the installation of any reflective materials for use on windows or any portion of any structure, approval must be obtained from the Committee. No windows of the house shall at any time be covered with aluminum foil, bed sheets, newspapers, or any other like materials. Appropriate drapes, blinds or shutters will be allowed.
- 2.17 **Screening.** All laundry drying areas, trash, and waste material must be screened from the public view. Unless written permission to the contrary is given by the Committee, fences and screens shall be painted, stained, or of a material so as to blend with the natural surroundings, and the location, design and height of fences and screens shall require the approval of the Committee.
- 2.18 **Off-street Parking.** Owners shall be responsible for providing a minimum of two (2) off-street parking spaces, which shall be in the unit driveway, and for seeing that, insofar as possible, the moving traffic street lanes adjacent to their Lots are kept free of parked vehicles.
- 2.19 **Obstructive Materials.**
- 2.19.1 No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed, or maintained on any part of the premises, excepting with the permission of the Committee; provided, however, that satellite dishes will be permitted with the approval of the Committee so long as the dishes are not visible from any roadway. Any radio tower must be of the electrically or automatically raised type when in use, and lowered from view when not in use.
- 2.19.2 Air conditioners and coolers may be mounted on the roof if architecturally integrated and with the approval of the Committee.
- 2.19.3 Roof mounted solar panels or devices are to be architecturally integrated into the original home design. Where the provision of solar panels or devices is a post new-construction addition, these panels or devices will be screened and/or placed to insure they are integrated or not visible.
- 2.19.4 Firewood, repair materials, storage, landscaping equipment, machinery or machinery parts, household effects, boats, boxes, bags, tools and other temporary or permanent equipment, and other items that shall in appearance detract from the aesthetic value of the property shall be screened or stored as to be concealed from the public view.



- 2.19.5 Gutters are to be seamless aluminum painted to match the dwelling.
- 2.19.6 Boats, vehicles that do not run, and recreational vehicles of all types are not allowed to be parked in the street.
- 2.20 **Trash.** 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. All Lots must be picked up at the end of each workday during construction, and all Lots must be cleaned up completely when construction is finished.
- 2.21 **Structures Built Other than Onsite.** No structure in whole or part shall be moved onto the property.
- 2.22 **Tents, Trailers and Recreational Vehicles.** No trailer or any recreational vehicle shall be parked on any Lot without an appropriate garage except for the purpose of loading or unloading. 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. This paragraph shall not be construed, however, to prevent the temporary use of a portion of the Lot for children's tents or other facilities temporarily occupied for recreational purposes, provided however, that the main dwelling has already been constructed and occupied by the family using such facilities.
- 2.23 **Livestock and Poultry.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except a reasonable number of dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No dogs shall be tied or otherwise quartered outside the main residence building unless fenced between the hours of 10:00 p.m. and 8:00 a.m. inclusive.
- 2.24 **Oil and Mining.** Attempts by Owners to utilize any mineral on their Lots shall require prior written approval of the Committee. It is anticipated that such utilization would normally not be desirable in a residential area and that approval is therefore improbable.
- 2.25 **Fire.** 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 repaired and the improvement reconstructed within one (1) year after such damage. Extension may be granted under reasonable circumstances at the sole discretion of the Board.



- 2.26 **Signs.** No advertising signs will be permitted except one professionally made unlighted sign of the standard real estate sale size advertising the premises for sale, lease, or rent, located not closer than fifteen (15) feet to adjacent property boundaries nor closer than five (5) feet to a street boundary line. Contractors may erect one construction sign on a lot of a size no larger than _____ feet by _____ feet. The Board and/or the Committee reserves the right to remove and hold for pick-up any signs that do not comply with these rules. Any Committee-endorsed variance(s) from the above guidelines must also have approval of the Board. All signs are to be approved in writing by the Committee. Approval may be withdrawn if the Committee has reason to believe that the dwelling is being used as a sales office.
- 2.27 **Property Maintenance.** All vacant Lots in the Development shall be at all times kept free of rubbish and litter. The yards and grounds in connection with all improved properties shall be at all times kept in neat condition to any extent sufficient to maintain appearance not out of keeping with that of typical improved properties in the Development. During prolonged absence, the Owner of a Lot agrees to arrange for the care of the property during such absence.
- 2.28 **Mailboxes.** Each mailbox shall be installed on a 2' X 2' column to match the exterior of the residence and with a light and shall be located in the one-foot shoulder between the back of the curb and any drainage ditch in the front of the lot.
- 2.29 **Sanitary Facilities During Construction.** At all times during construction, each Lot shall be provided with a trash dumpster and a chemical toilet or suitable sanitary facility.
- 2.30 **Grading and Drainage.** 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 or adversely affect downhill Lot Owners.
- 2.31 **Roofing.** Roof materials shall be compatible with the exterior wall materials and the design style of the residence but in no case will reflective roof surfaces which cause excessive glare be allowed. The minimum requirement for roofing materials shall be 25-year architectural shingles. No roof shall exceed a six (6) to twelve (12) pitch. Any flat roof must be screened.
- 2.32 **Vehicle Maintenance.** No repair or maintenance work shall be performed on any motor vehicle or other equipment within the Development except wholly within a garage.
- 2.33 **Offensive Activities Prohibited.** No noxious or offensive activity shall be carried on, or allowed by the Owner, on any Lot, nor shall anything be done thereon that may be or become an annoyance or nuisance to the neighborhood.



- 2.34 **Restrictions on Motorcycles, Bicycles, and Motor Vehicles.** Motorcycles, mini-bikes, trail bikes, and other motor vehicles may not be ridden or driven on any of the Property 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 Association and limited to paved surfaces. Any such vehicles are to be used only for transportation purposes to and from a residence.
- 2.35 **Non-liability of Committee or Developer.** Neither the Committee, any member thereof, the Declarant, nor the Developer, shall be liable to the Association or to any Owner or other person for any loss or damage claimed on account of the approval or disapproval of any plans, drawings, and specifications, whether or not defective.
- 2.36 **Exemption of the Developer from Restrictions.** The Developer shall have the right to use any property owned or leased by the Declarant or 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. However, no such signs shall be placed on any Lot not owned or leased by the Developer except with written permission of the Lot owner, or in the case of Common Areas, with written permission of the Board.

3. **EASEMENTS AND RIGHTS FOR CONSTRUCTION AND DEVELOPMENT.** With respect to each Lot, easements and rights-of-way as set forth in the recorded plats of the property are hereby reserved unto the Declarant and its assigns, for construction, installation and maintenance of all utilities, including but not limited to water, sewer, electricity, gas and cable TV. The Developer shall have the right to enter upon any Lot for the purpose of developing and installing drainage facilities on a drainage easement along the Lot line. The Developer or its duly appointed agent shall have the right of ingress or egress over, upon, and across the easements and rights-of-way and the right to store materials therein and make such other use thereof as may reasonably be necessary or incident to construction, development, maintenance, and sale, and the overall Property of which the Lot is a part.

4. **RIGHT TO ADD ADDITIONAL LANDS.** The Declarant and/or the Developer may, subject to approval of the Board, extend from time to time the area served and maintained by the Declarant and/or the Developer or the Association pursuant to this Declaration, provided such area is adjacent or contiguous to the present lands of the Development. Such additional land, when added, shall become part of Development.

Any new land subject to this Declaration shall be added as follows:

The Developer, its successor or assigns, shall record in the office of the County Records of Yavapai County, Arizona, a supplement to this Declaration (hereinafter called "Supplemental Declaration"), signed by the Developer, which Supplemental Declaration shall (a) describe the new land being subjected to these covenants, and



(b) state what additions, deletions, or other changes or modifications have been made in the provisions hereof with respect to such new land.

5. **THE ASSOCIATION, MEMBERSHIP, AND VOTING RIGHTS.**

5.1 **Organization.** The Association is a nonprofit corporation under the laws of the State of Arizona and is charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted to be inconsistent with this Declaration. In the event of the inconsistency between the Articles or Bylaws and this Declaration, this Declaration shall govern.

5.2 **Control of the Association and Maintenance of the Common Property.** When the Declarant conveys the Common Property and facilities thereon to the Association, the Association shall become responsible for the maintenance, repair, operation, and improvement of the Common Property and any facilities thereon, and shall be responsible for the payment of all costs in connection therewith, including property taxes, insurance premiums, and all utilities used in connection therewith. Assessments may be made to the Lot Owners for maintenance of the Common Property as set forth in this Declaration and in the Bylaws.

Until such time as new construction review is transferred to the Association, the Developer will retain the function of the Committee as to new construction. Thirty (30) days after the Transition Date, a new Committee appointed by the Board shall assume responsibility for new-construction review. The number of members of the Committee shall be determined by the Board prior to appointment. Notwithstanding the above, the Developer will complete the entire architectural review process for all dwellings in the design or construction process as of thirty (30) days after the Transition Date. The Developer may voluntarily (but shall not be required to), at any time transfer new-construction design review to the Association.

5.3 **Board of Directors and Officers.** Until the Transition Date, all directors and officers of the Association shall be appointed or elected by the Developer. When all Lots in the Development have been sold, the Developer shall notify the Association immediately in writing. The Association shall call a meeting of Members (Owners) for the purposes of taking over the operation, maintenance, and improvement of all Common Areas. At such meeting, the Owners shall elect, by a majority of the votes cast, no fewer than three (3) and no more than five (5) persons to the Board of Directors of said Association, all of whom shall be Owners in the Development. Quorum requirements and election of officers of the Association shall be as set forth in the Bylaws. The meeting at which the new Board of Directors is elected by the Owners shall be known as the "Transition Date." The newly elected Board of Directors shall estimate the expenses necessary to operate, maintain, and improve as



desired the Common Areas and any facilities, shall include an appropriate reserve, shall assess the Members equally for the payment of said expenses and reserve, shall set up all necessary procedures for collection and disbursement of said funds, and shall formally adopt the Bylaws.

5.4

Powers and Duties of the Association. The Association shall have the following powers herein granted or necessarily implied 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:

- 5.4.1 Employ, by contract or otherwise, a manager or an independent contractor or a professional management company to oversee, supervise, and follow out the express intention and spirit of this Declaration; and
- 5.4.2 Employ professional counsel and advice from such persons and firms such as, but not limited to, landscape architects, recreational experts, architects, planners, biologists, lawyers, accountants; and
- 5.4.3 Employ or contract for water, area maintenance, and renovation of Common Areas and open spaces, hiking and riding trails, and all future tracts, Common Areas or open spaces of the Development;
- 5.4.4 Borrow and repay monies giving notes, mortgages, or other security inferior to the rights of existing mortgages, if any, upon such term or terms as it deems necessary; and
- 5.4.5 Create, in its sole discretion, various services and make appropriate charges therefore to the users thereof and/or each individual Owner, in connection with the maintenance and management of the Association's properties, provided that such services shall be available to all Members upon the payment of charges so established, and to avail itself of any rights granted by law without being required to render such services to those members who do not assent to the same charges and to such other rules and regulations as the Association deems proper. In addition, the Association shall have the right to discontinue any service upon non-payment, while the charges remain unpaid, or to eliminate services for which there is inadequate demand or inadequate funds; and be the final judge of all aesthetic matters and acts in its sole discretion without liability to any Member, with the exception of those matters pertaining to architectural control, which shall be the responsibility of the Committee.

- 5.5 **Power of Attorney.** Whenever the Association is granted rights, privileges or duties in this Declaration, the Board shall have the authority to act for the Association. Further, unless otherwise specifically restricted by the provisions of this Declaration, wherever the Association is empowered to take any action or do an act, including but



not limited to action or acts in connection with the Common Areas or sale thereof, which may at any time be deemed to require the act of an Owner or Member, the Owners and Members and each of them hereby constitute and appoint the Association as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts including but not limited to executing, acknowledging, and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest or 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, or a membership in the Association, and that each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

- 5.6 **The Association Rules.** By a majority 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 rules and regulations to be known as the Association Rules. The Association Rules may restrict and govern the use of the Common Areas by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner; provided, however, that the Association Rules may not discriminate among Owners (unless there is determined to be a logical and reasonable necessity for distinguishing the rights, duties, obligations, and benefits of Owners) and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each owner and may be recorded. Upon such recordation, said Rules shall have the same force and effect as if they were set forth in and were part of this Declaration.

- 5.7 **Personal Liability.** No member of the Board of Directors, Developer, Declarant, or any committee of the Association, or any officer of the Association, or any agent of the Board or Association shall be personally liable to any Owner or Member for any act, omission, error, or negligence of the Association, the Board, its agents, or any other representatives or employees of the Association, or any other committee, or any officer 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.

- 5.8 **Membership.** 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 (or tract) 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 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.

5.9 **Voting.** At all meetings of the Association after the Transition Date, each member shall be entitled to one vote for each Lot owned. Joint owners shall be deemed one (1) Member and may cast only one vote per Lot owned. Voting shall be in accordance with the provision of the Bylaws.

5.10 **Assessments.**

5.10.1 Until the Transition Date, the regular, annual assessment amount shall be established by the Developer. After the Transition Date, assessments shall be determined from time to time by the Board of Directors in such manner as shall be set forth in the Bylaws. No assessment may be imposed that is more than twenty percent (20%) greater than the immediately preceding fiscal year's assessment without the approval of the majority of the Owners. The Board shall further have the right to impose special assessments for any purpose related to the Common Areas.

5.10.2 The initial assessment shall be in an amount no greater than \$ 100⁰⁰. The first regular assessment for each Owner shall commence on the first day of the month following the date of conveyance to such Owner of the Lot to which such regular assessments apply.

5.10.3 Upon demand and for a reasonable charge, the Developer or Board of Directors shall furnish to Owners statements setting forth whether the assessments and charges on their residences 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.

5.10.4 Except as otherwise provided in paragraph 2.36 of this Declaration, Lots owned by the Declarant or the Developer shall not be subject to assessment under the Declaration until conveyed by the Declarant or the Developer to another Owner who is not a successor Declarant or successor Developer. The Developer, however, will be responsible for property taxes on Lots owned or beneficially owned by the Developer.

5.10.5 All rights and responsibilities of the Declarant, Developer, Association, and Owners in regard to assessments and in regard to liens that may be created by the failure of an Owner to pay any assessment or to comply with any part of this Declaration shall be as set forth in the applicable Arizona Revised



Statutes as may be supplemented by the Bylaws of the Association or by any Association Rules adopted by the Board.

5.10.6 Sale or transfer of any Lot shall not affect the assessment lien or relieve such Owner or residence 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.

5.10.7 No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or her Lot.

5.10.8 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.

5.11 **Association Easement.** An easement over the entirety of the tracts or open space, is hereby provided for the benefit of the Association in order for it to carry out its duties and responsibilities, including providing necessary utilities and services and providing access for those similar purposes.

5.12 **Records.** The Association, after the Transition Date, 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.

6. COMMON AREAS AND DRIVEWAYS.

6.1 **Common Areas and Open Space.** All areas designated for use as Common Areas and open space on the plat and easements for Common Areas and open space as shown on the plat shall be for the use and benefit of all Members of the Association and their Guests and invitees, including Members by virtue of new land added pursuant to this Declaration. These areas shall be left in their natural state, unless



used for trails, walkways, driveways, parking areas, appropriate signs, recreational amenities, landscaping, and easements for utilities (including cable television).

6.2 **Common Driveways.** The Lots, as designed by the Developer and set forth on the plat, contemplate that each Lot is to have vehicular access to the residence by means of a driveway. Some of these driveways will be located wholly within the property lines of the applicable Lot while other Lots may be served by common driveways located wholly or partially upon an adjacent property or the Common Areas. 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. Neither the Association nor any Owner of any Lot over which any portion of a common driveway traverses shall in any way interfere with the easement access thereby. Except with respect to the foregoing easement, the existence of a common driveway shall not affect the ownership of the property over which said driveway easement runs.

6.3 **Maintenance of Lots and Driveway Easements.** Each Owner shall at all times maintain the yard and landscaping thereon and the exterior of the structures thereon in neat and clean condition and repair. Any damage or destruction shall be repaired promptly. Easements for driveways shall be maintained in suitable condition for passenger car travel and shall have dust free, hard surfaces. Maintenance expenses for driveways within an easement for common driveways shall be shared equitably by the Owners of the Lots which they service, unless the repairs are necessitated by the acts of a single Owner (for example during construction), in which case that Owner shall be responsible for repairs. If the Owners cannot agree as to the responsibility for, or adequacy of, repairs, the Board of Directors of the Association shall decide.

6.4 **Non-Liability.** The Association shall not be liable for any theft, vandalism, disturbance, unauthorized entrance or other similar occurrence, accident, injury, death, or property damage which may take place on any of the Property.

7. MISCELLANEOUS.

7.1 **Interpretation.** 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 Association's interpretation of the covenants hereunder shall be final, conclusive, and binding upon all persons and upon the premises.

7.2 **Notice of Noncompliance.** The Board may, but shall not be required to, at any reasonable 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. If an Owner fails to comply within such time period, the Board or its authorized agents may, but shall not



be required to, enter the Lot and correct the violation at the expense of the Owner of such Lot, or may take whatever action it deems appropriate, including commencement of an action for specific performance.

7.3 **Enforcement.** Corrective measures shall be initiated by written notice to the Owner by the Board of the condition which requires correction. The Owner shall have a right of hearing and a right of appeal. If the Owner fails to commence and diligently pursue the corrective measures as noticed or finally ordered, the Board may, but shall not be required to, enter, or cause its agent or employee to enter, upon the Lot and accomplish the corrective measures and the cost thereof shall be assessed against the Lot as a special assessment and may be secured by a lien.

7.4 **Performance Deposit for Builders.** After approval of the Committee, but prior to the start of construction, the designated builder/general contractor shall deposit with the Association an amount to be specified by the Board, but not less than Two Thousand Five Hundred Dollars (\$2,500), for each Lot upon which construction is about to commence.

The full amount deposited shall be refunded to the builder/general contractor upon completion of construction, less the amounts, if any, deducted for any fines imposed by the Association for failure to observe and abide by the any requirements set forth in this Declaration or in any guidelines provided by the Association. The Association shall provide a current copy of the Declaration and any such guidelines to the builder/general contractor upon payment of the deposit, or earlier upon request.

The Board may establish or revise a schedule of fines from time to time, but generally fines will range from Fifty Dollars (\$50) to Two Hundred Fifty Dollars (\$250) for each offense. The Association may, in its sole discretion, elect to issue an initial verbal warning, and impose fines only if a violation is repeated or continues following such warning.

Should the amount of fines for a given Lot exceed the builder's deposit, the difference will be charged to the Owner as a special assessment on the Lot. Further, in such event, the Association shall advise the Owners of any undeveloped Lots that the builder/general contractor in question failed to observe the contractor Guidelines, and suggest that said Owners may wish to consider retaining a different builder/general contractor when they construct their future homes.

7.5 **Severability.** Invalidation of any of these covenants or restrictions by judgment or court order shall in no ways affect any other provisions, which shall be in full force and effect.

7.6 **Rule Against Perpetuities.** If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the perpetuities start to run on the



challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those that could be used in determining the validity of the challenged interest, plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Amendment. The covenants and restrictions of this Declaration shall run with and bind the land until December 31, 2040, after which they shall be automatically extended for successive periods of ten (10) years. The Declarant and/or the Developer may, at any time prior to the Transition Date, amend this Declaration except as hereinafter provided. After the Transition Date, the Owners, by a vote of fifty-one percent (51%) of the Owners, either in person or through a written consent, may amend this Declaration except as hereinafter provided. No amendment to the Declaration shall affect the rights, exclusions, or exemptions granted to the Declarant or the Developer without the Declarant's or the Developer's prior written consent, which consent shall be granted or withheld at the sole discretion of the Declarant or the Developer. No amendment may be made that allows for the right to amend this Declaration as it pertains to the rights, exclusions, or exemptions granted to the Declarant or the Developer without the Declarant's or the Developer's prior written consent, which consent shall be granted or withheld at the sole discretion of the Declarant or Developer. Any amendment shall be signed by the Declarant or its successor or by the president of the Association and must be recorded. Notwithstanding the above, the Association may not be dissolved unless some other entity has agreed to assume the operation and maintenance responsibility of the Association.

- 7.8 **Violations and Nuisances.** Every act or omission whereby any provision in this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the release sought is for negative or affirmative action, by Declarant, the Developer, the Association, or any Owner or Owners of Lots within the Development. However, any other provision to the contrary notwithstanding, only the Declarant, the Developer, the Association, or the Committee, or the duly authorized agent of any of them, may enforce by self help any of the provisions of this Declaration. 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.
- 7.9 **Violation of Law.** Any violation of any state, municipal, county, or local law, ordinance, or regulation, pertaining to the ownership, occupation, or use of any property within the Development is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.
- 7.10 **Remedies Cumulative.** Each remedy provided by this Declaration is cumulative and not exclusive.



- 7.11 **Delivery of Notices and Documents.** Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the last known address or addressee.
- 7.12 **Reference to Covenants in Deeds.** Deeds to and instruments affecting any Lot or any part of the Development may contain the covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and the all heirs, executors, administrators, successors, and assigns.
- 7.13 **Declaration.** By acceptance of a deed, or by acquiring any ownership interest in any of the Development, each person or entity, for himself or itself, his heirs, personal representative, 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 hereinafter imposed by this Declaration and any amendments thereof. In addition, each person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and care of the property covered thereby, and hereby evidences that his interest in all of the restrictions, conditions, rules, and regulations contained herein shall transfer with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees, 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.
- 7.14 **Gender and Number.** Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural, and words in the plural shall include the singular.
- 7.15 **Captions and Titles.** All captions, title, or headings of the sections in this Declaration are of the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the 8th day of February, 2005.

ARIZONA TITLE AGENCY, INC.

By: Mark F. Cheney
Mark F. Cheney, Senior Trust Officer



IN WITNESS WHEREOF, Developer has also executed this Declaration as of the 8 day of Feb., 2005.

SUNHILL VALLEY, LLC

By: [Signature]
Duane S. Watkins, as Trustee, Member

By: [Signature]
Cindy Sue Watkins, as Trustee, Member

By: [Signature]
Mark Lewis, Member

By: [Signature]
Janice Lewis, Member

STATE OF ARIZONA)
) ss.
County of Yavapai)

On this 8 day of February, 2005, before me, the undersigned Notary Public, personally appeared **Mark F. Cheney**, who acknowledged himself to be the Senior Trust Officer of ARIZONA TITLE AGENCY, INC., an Arizona corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

[Signature]
Notary Public

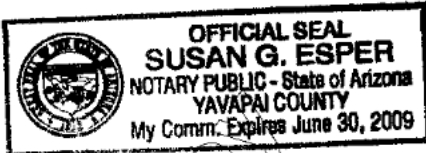
My Commission Expires: 3/15/2009

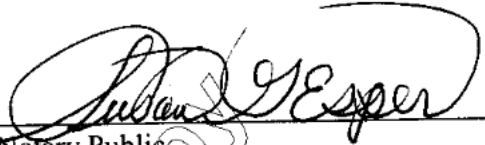




STATE OF ARIZONA)
) ss.
County of Yavapai)

On this 9th day of Feb., 2005, before me, the undersigned Notary Public, personally appeared **Duane S. Watkins**, who acknowledged himself to be one of the Trustees of the Watkins Family Revocable Trust dated March 28, 2002, and as such, one of the Members of SUNHILL VALLEY, LLC, an Arizona limited liability company, and that he, as such Trustee and Member, being authorized so to do, executed the foregoing instrument for the purpose therein contained.





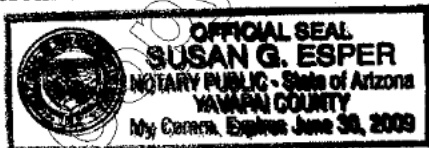
Notary Public

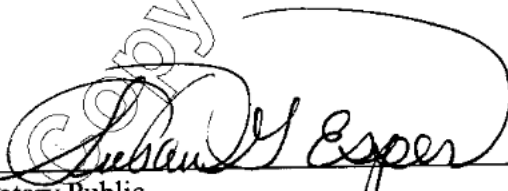
My Commission Expires:

6/30/09

STATE OF ARIZONA)
) ss.
County of Yavapai)

On this 9th day of Feb., 2005, before me, the undersigned Notary Public, personally appeared **Cindy Sue Watkins**, who acknowledged herself to be one of the Trustees of the Watkins Family Revocable Trust dated March 28, 2002, and as such, one of the Members of SUNHILL VALLEY, LLC, an Arizona limited liability company, and that she, as such Trustee and Member, being authorized so to do, executed the foregoing instrument for the purpose therein contained.





Notary Public

My Commission Expires:

6/30/09



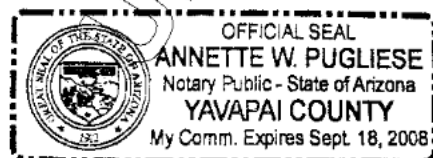
STATE OF ARIZONA)
) ss.
County of Yavapai)

On this 8th day of February, 2006, before me, the undersigned Notary Public, personally appeared **Roark Lewis**, who acknowledged himself to be one of the Members of **SUNHILL VALLEY, LLC**, an Arizona limited liability company, and that he, as such Member, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

Annette W. Pugliese
Notary Public

My Commission Expires:

9-18-2008



STATE OF ARIZONA)
) ss.
County of Yavapai)

On this 8th day of February, 2006, before me, the undersigned Notary Public, personally appeared **Janice Lewis**, who acknowledged herself to be one of the Members of **SUNHILL VALLEY, LLC**, an Arizona limited liability company, and that she, as such Member, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

Annette W. Pugliese
Notary Public

My Commission Expires:

9-18-2008

