

2017-12653

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Requested By: Pccv Hqa

Navajo County Recorder - Doris Clark

08-21-2017 12:07 PM Recording Fee \$18.00

**THIRD AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
PINETOP COUNTRY CLUB VILLAGE**

WHEREAS, the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pinetop Country Club Village recorded in Doc. No. 2006-20340 in the official records of Navajo County, Arizona ("Second Declaration") binds the following property:

LOTS 1-10 and 12-39 inclusive, and TRACT "A" of PINETOP COUNTRY CLUB VILLAGE, a subdivision, as recorded in Book 12 of Plats at Page 15 in the Records of Navajo County, Arizona ("Property").

WHEREAS, the Second Declaration, in Article XIII, provides that its provisions may be amended by the vote or written consent of Owners representing sixty-six percent (66%) of the Lots;

NOW, THEREFORE, Owners representing sixty-six percent (66%) of the Lots have adopted the following Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pinetop Country Club Village which shall replace and supersede the Second Declaration and shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each Owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1.1 Association. "Association" shall mean and refer to Pinetop Country Club Village Homeowners Association, an Arizona non-profit corporation, its successors and assigns.

Section 1.2 Assessment. "Assessment" shall mean the Annual, Special and Individual assessments levied by the Association against each Lot pursuant to Article IV of this Declaration, including all attorneys' fees, interest, late charges, and costs incurred in collecting same.

Section 1.3 Common Area. "Common Area" shall mean all property owned by the Association for the common use and enjoyment of the Members of the Association as set forth on the plat of record for the Property and any amendments thereto. The Common Area shall include all improvements thereon including, but not limited to, recreational facilities, community facilities, landscaping, pavements, and streets.

Section 1.4 Lot. "Lot" means a parcel of land within the Property intended for independent ownership and use designated as such on the plat of record, including the individual residential unit and improvements thereon.

Section 1.5 Member. "Member" shall mean and refer to every person or entity, holding Membership in the Association.

Section 1.6 Owner. "Owner" shall mean and refer to the record holder of the legal title to the fee interest in any Lot, regardless of whether such holder actually resides on any part of the premises, and regardless of whether such holder has sold the Lot under a contract of sale.

Section 1.7 Rules and Regulations. "Rules and Regulations" shall mean the rules, policies and practices adopted by the Board of Directors pursuant to its authority set forth in the Association's Bylaws.

## ARTICLE II MEMBERSHIP AND VOTING

Section 2.1 Membership. Membership in the Association shall be limited to Owners of Lots on the property described above. An Owner of a Lot shall automatically, upon becoming the Owner of such Lot, be a Member of the Association, and shall remain a Member of the Association until such time as his Ownership ceases for any reason, at which time his Membership in said Association shall automatically cease. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such Lot, and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association.

Section 2.2 Voting. Each Lot is entitled to one vote per Lot and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he/she was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event that more than one vote is cast by a Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

Section 2.3 Suspension of Voting Rights. In the event any Lot shall be in arrears in the payment of any Assessment for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, said Lot Owner's right to vote as a Member of the Association shall be automatically suspended and shall remain suspended until all payments are brought current and all defaults remedied.

ARTICLE III  
COVENANT FOR ASSESSMENTS

Section 3.1 Obligation to Pay Assessments. The Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- A. Annual Assessments as fixed by the Association's Board of Directors;
- B. Special Assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided; and
- C. Individual Assessments.

The Annual, Special, and Individual Assessments, together with interest thereon, late charges, costs of collection, and attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such Assessment is made. Each such Assessment shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due, but such personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

Section 3.2 Purpose of Assessments. The Annual and Special Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners, and for the improvement and maintenance of the Common Areas.

Section 3.3 Annual Assessments. The amount and due date of any Annual Assessment will be determined by the Board of Directors and based upon the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Association expenses including, but not limited, to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Areas and improvements thereon; (ii) the cost of taxes, management fees, administrative expenses, insurance premiums, professional services, supplies and other expenses required for the administration and operation of the Association; and (iii) such amounts as may be necessary to provide general operating reserves and reserves for contingencies and replacements.

Section 3.4 Special Assessments. In addition to any other Assessment authorized by this Declaration, the Association may levy a Special Assessment, applicable to that year only, for the purpose of construction, alteration, demolition, or removal of any improvements on the Common Areas. Any such Special Assessment must be approved by the affirmative vote of sixty-six percent (66%) of Members eligible to vote and voting on the matter.

Section 3.5 Individual Assessments. Individual Assessments may be levied against a particular Lot for the costs of repair or maintenance performed by the Association pursuant to Article VI, Section 6.1 and Article VIII, Section 8.1 of this Declaration.

Section 3.6 Uniform Rate of Assessment. Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or other basis as determined by the Association's Board of Directors. Individual Assessments shall be levied against only those Lots which necessitated such an Assessment.

Section 3.7 Nonpayment of Assessments. Any Assessment which is not paid within thirty (30) days after the due date shall become delinquent and shall be subject to a late charge of the greater of \$15 or 10% of the amount of the unpaid assessment. This delinquent Assessment plus late charge, together with reasonable costs of collection and attorneys' fees incurred in collecting same shall become a lien upon said Owner's Lot until fully paid which lien shall be subordinate to the lien of any first deed of trust on the Lot.

Each Lot Owner expressly vests in Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the Association's lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

No Owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his Lot.

#### ARTICLE IV PARTY WALLS

The rights and duties of Owners with respect to party walls shall be governed by the following:

A. Each wall, including patio walls, which was constructed as a part of the original construction and is placed on the dividing line between Lots shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

B. In the event any such party wall is damaged or destroyed through the act of one adjoining Owner, or any of his guests, tenants, licensees, agents or Members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

C. In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, at their joint and equal expense.

D. Notwithstanding any other provision of this article, an Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. The right of any Owner to contribution from any other Owner under this article shall be appurtenant to the land and shall pass to such Owner's successors in title.

F. In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to, or rebuild his house in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

G. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, or with respect to the sharing of the cost thereof, then upon written notice of any one of such Owners addressed to the Association, the Owners involved may submit the matter to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third by the two arbitrators so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five (5) days, then any Judge of the Superior Court of Navajo County, Arizona will select the third arbitrator. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

#### ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be constructed, erected, or maintained upon a Lot, nor shall any addition or alteration be made which in any way alters the exterior appearance of a Lot or the improvements thereon (including but not limited to re-painting) until the plans and specifications for the same, showing all construction details, including the nature, shape, height, materials, color, and location thereof shall have been submitted to and approved in writing by the Association's Board of Directors pursuant to the procedures set forth in the Rules and Regulations. The Board of Directors shall have the right to deny approval of any plans or specifications which are not, in its opinion, suitable or desirable, for aesthetic or any other reasons, and shall have the right to take into consideration the harmony and conformity of the proposed project with the surrounding area, and the effect of such structure or building as seen from neighboring properties. The Board of Directors may adopt additional Rules and

Regulations governing the required data to be submitted, and the process for review and approval.

## ARTICLE VI MAINTENANCE

Section 6.1 Maintenance by Owners. The maintenance, upkeep and repairs of each Lot and the exterior and interior of the improvements thereon shall be the sole responsibility of the owner of the Lot. If any Owner fails to maintain or repair the exterior of any improvement upon his Lot, the Association's Board of Directors may make a finding to that effect, and after providing the Owner with notice and an opportunity to be heard, the Association may perform such exterior repairs and maintenance and the cost thereof shall be an Individual Assessment against such Owner's Lot. Each Owner hereby grants an irrevocable easement to the Association for accomplishment of repairs and maintenance as stated in this Section, and after reasonable notice to an Owner, the Association shall have the right to enter upon any Lot for purposes of performing any such repairs and maintenance.

Section 6.2 Maintenance by Association. Except as set forth in Section 6.3 of this Article VI, the Association, or its duly delegated representative, shall maintain and otherwise manage all of the Common Areas. The Board of Directors shall use a reasonably high standard of care in providing for such repair, management and maintenance so that the Property will reflect a high pride of ownership.

Section 6.3 Utility and Sewer Lines. Any utility or sewer line that services only one (1) Lot shall be maintained, repaired and replaced by the Lot's owner at his sole expense. Any utility or sewer line that services two (2) or more Lots but less than all of the Lots ("Shared Line") shall be maintained, repaired and replaced by such Lots' owners at their joint expense. If a dispute arises between Owners as to the maintenance, repair or replacement of a Shared Line or the cost thereof, it shall be submitted to arbitration in the manner set forth in Article VIII, Section 8.3. The Association hereby grants an irrevocable easement to each Owner over, under, and upon the Common Areas for accomplishment of the maintenance, repair and replacement of utility and sewer lines as stated in this Section.

## ARTICLE VII INSURANCE

Section 7.1 Insurance by Association. The Board of Directors, or its duly authorized agent, shall obtain insurance for the Common Areas and any improvements thereon against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. The Association may also obtain any other insurance which it deems necessary to protect the Association. The premiums for any insurance obtained by the Association pursuant to this Section shall be included in the budget of the Association and shall be paid by the Association.

Section 7.2 Insurance by Owners. Each Owner shall be responsible for obtaining and maintaining in full force and effect property insurance on the Lot and all improvements thereon insured in an amount equal to the current replacement value of thereof. Each Owner may obtain such other insurance as he sees fit, including, but not limited to coverage for liability for death, personal injury or property damage arising out of the ownership or use of the Owner's Lot. All policies of property insurance carried by an Owner shall be without contribution with respect to the policies of property insurance obtained by the Board for the benefit of all of the Lot Owners.

ARTICLE VIII  
PROPERTY DAMAGE OR DESTRUCTION

Section 8.1 Owner's Responsibility to Repair. In the event any Lot or the improvements thereon is damaged or destroyed, such Owner shall, within sixty (60) days from the date of the occurrence of the damage or destruction, or such longer period of time as may be approved by the Board for extenuating circumstances, repair and rebuild the exterior of said Lot and the improvements thereon and any damage to adjacent Lots and the improvements thereon in a good workmanlike manner to conformance with the original plans and specifications used in the construction of said improvements. In the event such Owner refuses or fails to so repair and rebuild any and all such damage within such time, the Association, upon written notice to the Owner, is hereby irrevocably authorized by such Owner to repair and rebuild any such Lot(s) and the improvements thereon in a good workmanlike manner in conformance with the original plans and specifications of such improvements. Any costs incurred by the Association in performing such repairs and/or rebuilding shall be an Individual Assessment against such Owner's Lot.

Section 8.2 Insurance Payments. Nothing contained in this Article X shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy, or policies, had not this Article been inserted.

Section 8.3 Disputes and Arbitration. In the event of a dispute between an Owner and the Association with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof pursuant to this Article VIII, then upon written notice of any such Owner to the Association, the Owner may submit the matter to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by the Board of Directors, one chosen by the Owner, and these two arbitrators shall then choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then any Judge of the Superior Court of Navajo County, Arizona may choose the third arbitrator. A determination by any two of the three arbitrators shall be binding upon the Owner and the Association, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE IX  
USE RESTRICTIONS

Section 9.1 Single Family Use. Lots shall be used for private residential purposes by a Single Family (a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of four (4) or less persons who are not related but who maintain a common household). No business or profession of any nature shall be conducted on any Lot except as hereinafter provided. Notwithstanding the above, home occupations shall be allowed if contained wholly within a dwelling unit, and if such occupations do not involve: solicitation of the general public; traffic of customers to or from any dwelling unit; repair; manufacturing; or noise, inconvenience, or disturbance to other residents. Home occupations may not be detectable by sight, sound or smell. An allowed home occupation shall be limited to professional services including, but not limited to, legal, accounting, arts and crafts, and drafting.

Section 9.2 Leasing.

- A. No lease may be for an initial term of less than thirty (30) days.
- B. No portion of a residence may be leased, other than the entire residence, and then only to a single family (any number of persons related by blood, marriage or adoption or not more than four (4) unrelated persons sharing a single household).
- C. At least ten (10) days before commencement of any lease term, the following information shall be provided to the Association in writing:
  - i) the commencement date and expiration date of the lease term;
  - ii) the names and contact information of any adults occupying the Lot during the lease term and their vehicle descriptions and license plate numbers; and
  - iii) the address and telephone number at which the Owner (or Owner's agent) can be contacted by the Association during the lease term.
- D. All leases must specify that failure of the lessees to comply with this Declaration and/or the Association's Rules and Regulations constitutes a default under any such lease. The Owner shall be liable for any violation of this Declaration by the lessees or other persons residing in the residence and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations.

Section 9.3 Offensive Activity. No obnoxious, offensive, or illegal activity shall be conducted upon the Property or any Lot, nor shall any condition which is unsightly, offensive, or which is or may become an annoyance or nuisance to other residents exist on any Lot. A determination by the Board of Directors that a Lot is in violation of this Section shall be conclusive.



Section 9.4 Animals. No animals, including but not limited to, livestock, poultry, or bees shall be kept or maintained on any Lot except that Owners may have household pets subject to the following conditions:

- A. Pets are not kept for commercial purposes;
- B. Owners do not keep or harbor any animal which by frequent, habitual or continued noise causes an annoyance or inconvenience to any resident in the Property;
- C. Animals are restrained within an enclosed portion of a yard or on a hand-held leash when outside of a residence;
- D. Owners immediately remove and properly dispose of solid waste deposited by their pets on any Lot or Common Area; and
- E. Owners comply with any Rules and Regulations concerning the keeping of pets which may include a limitation on the number of pets kept on each Lot.

The Association shall have the right to determine that, in its sole discretion, certain household pets, their number, or the manner in which they are kept constitute a nuisance, and may require the Owner of same to remove such pets from Owner's property. Pet owners shall be responsible for any damage or injury caused by their pets within the Property.

Section 9.5 Screening and Trash. All outdoor equipment, storage tanks, containers, and storage piles shall be kept reasonably screened or concealed from the view of neighboring houses and streets which screening must be approved by the Board of Directors. Trash, rubbish or garbage shall be kept in covered rigid containers until the date of pickup by a trash collection service and shall not be allowed to accumulate on the premises. No trash, rubbish or garbage shall be burned within the Association. Incinerators of any kind shall be prohibited.

Section 9.6 Antennas and Satellite Dishes. No radio or television towers, or antennas or satellite dishes exceeding one (1) meter in diameter may be installed, placed, or erected on any Lot without the prior written approval of the Board of Directors. No antenna or satellite dish may be installed below the lowest roof line of the residence.

Section 9.7 Signs. No signs shall be erected, placed or permitted to remain on any Lot except: (i) a name and address sign, not exceeding 9" x 30"; (ii) a residential "For Lease" or "For Sale" sign (no larger than five (5) square feet); (iii) political signs as defined in A.R.S. §33-1808; and (iv) such signs as are required by legal proceedings.

Section 9.8 Vehicles. No vehicle, other than personal passenger vehicles (as such term is defined in the Rules and Regulations), shall be parked in driveways or Common Area designated as guest parking. Recreational vehicles, trailers and other similar equipment shall not be parked anywhere on the Property other than in an Owner's carport/garage. The Board of

Directors may promulgate additional Rules and Regulations regarding parking in the Common Area.

Section 9.9 Re-subdividing. None of the Lots shall be re-subdivided, conveyed or encumbered in less than the full original dimensions as shown on the plat of this subdivision. Nothing herein shall prevent the dedication or conveyance of or granting of easements over portions of Lots for public utilities or other public or quasi-public purposes, in which event the remaining portions of any such Lot shall, for the purpose of these restrictions, be considered as a whole Lot.

## ARTICLE X EASEMENTS

Section 10.1 Owners Easement of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to each and every Lot. It is expressly acknowledged and agreed by all parties concerned that this Article is for the mutual benefit of all Lot Owners and the Association, and is necessary for the protection of said Owners. Any Member may delegate his right of enjoyment in and to the Common Areas members of his family, tenants, or those contract purchasers who reside on the Lot. Such right and easement of enjoyment shall be subject to reasonable Rules and Regulations as from time to time are promulgated by the Board of Directors, and which may include, but shall not be limited to:

- A. The right of the Association to limit the number of guests of Members who may use any of the Common Areas;
- B. The right of the Association to charge reasonable admission and other fees for the use of any recreational or community facilities situated upon the Common Areas;
- C. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by a vote of the Members representing at least sixty-six percent (66%) of the Lots;
- D. The right of the Association to promulgate reasonable rules and regulations governing the Common Areas and the conduct of individuals thereon; and
- E. The right of the Association to allow an Owner exclusive use of portions of the Common Area adjacent to his Lot if, in the Board of Director's sole opinion, such use does not unreasonably interfere with any other Owner's use or enjoyment of the Property.

Section 10.2 Utility Easements. There is hereby created a blanket easement upon, across, over and under the above-described premises for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or

service company to install and maintain facilities and equipment on said property and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of said houses. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities or service lines may be installed or relocated on said premises except as approved by the Association's Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

Section 10.3 Easements for Encroachments. Each Lot and the Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure is partially or totally destroyed and then rebuilt, the Owners of houses agree that minor encroachments of parts of the adjacent house units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 10.4 Maintenance Access Easement. Each Owner shall have the right to an easement for sufficient access over immediately adjacent Lots in the same building to perform reasonable roof maintenance, exterior painting and repair, sewer repair and cleaning, and such other maintenance, repair and cleaning activities as are reasonable and necessary for keeping said Owners' Lot in good condition.

## ARTICLE XI GENERAL PROVISIONS

Section 11.1 Enforcement. The covenants, conditions, charges, liens, reservations, easements and restrictions contained herein shall run with the land and shall be binding upon all persons purchasing, owning, leasing, subleasing, occupying or otherwise having any interest in any house on said property, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these restrictions may be enforced by any one or more of the following: (a) The Association or its Board of Directors, which shall have the right and duty to enforce the same and expend Association moneys in pursuance thereof; or (b) The Owner or Owners of any Lot, hereafter having jurisdiction of any nature whatsoever over or with respect to all or any part of the premises.

Section 11.2 Attorneys' Fees. In the event the Association employs an attorney for collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Owner agrees to pay reasonable attorneys' fees and costs thereby incurred by the Association in addition to any other amounts due or any other relief or remedy obtained against said Owner. Such attorneys' fees and costs shall be added to and become part of the Assessment to which such Owner's Lot is subject and shall be a lien on such Owner's Lot and the improvements thereon, and shall be enforceable and collected in the same manner as provided in Article IV hereof.

Section 11.3 Failure to Enforce. The Association's failure to enforce any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of such restriction, or a waiver of the right to enforce any subsequent breach or violation of such restriction.

Section 11.4 Severability. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law, and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this agreement invalid, this agreement shall be construed as if such invalid phrase(s), sentence(s), clause(s), paragraph(s), or section(s) had not been inserted.

Section 11.5 Gender. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 11.6 Topical Headings. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the content of the paragraphs or of this Declaration.

Section 11.7 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions this Declaration shall be final, conclusive, and binding as to all persons and property benefited or bound hereby.

## ARTICLE XII AMENDMENTS

The covenants, conditions and restrictions contained in this Declaration may be repealed, altered, or amended, or substitute covenants, conditions and restrictions adopted at any time by the vote or written consent of Owners representing sixty-six percent (66%) of the Lots. Any such amendment, executed by the President or Vice President of the Association and certifying that the amendment was made in accordance with this Section, will be effective upon its recordation with the County Recorder for Navajo County, Arizona.

IN WITNESS WHEREOF, the undersigned, being an authorized officer of Association, certifies that this Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pinetop Country Club Village was approved by Owners of at least sixty-six percent (66%) of the Lots on the Property.

PINETOP COUNTRY CLUB VILLAGE HOMEOWNERS ASSOCIATION

By: Ronald Clot Ronald Clot  
Its: President

STATE OF ARIZONA    )  
                                  ) ss.  
COUNTY OF NAVAJO    )

This instrument was acknowledged before me this 21<sup>st</sup> day of Aug, 2017 by Ronald Clot in his/her capacity as President of the Pinetop Country Club Village Homeowners Association, an Arizona nonprofit corporation.

Claudia L. Shelander  
Notary Public

My Commission Expires: 9-16-2020

