

When recorded return to:
Flagstaff Heights Limited Partnership
4548 East Beryl Lane
Phoenix, Arizona 85028
ATTN: Tony Burd

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AMBERWOOD

THIS DECLARATION made and dated this 3 day of May, 1994, by Flagstaff Heights Limited Partnership, being the owner of all the following described property, situated in the County of Coconino, State of Arizona, to wit:

Lots 1 through 76 of Amberwood according to Book 5 of Maps Page 70 Official Records of Coconino County, Arizona ("Amberwood").

WHEREAS, the Declarant, about to convey lots on parcels of said described property hereby declares that Amberwood Unit is held and shall be conveyed subject to restrictions, conditions, covenants, charges and agreements set forth in this Declaration, to wit:

SECTION 1

DEFINITIONS

1.1 "Annual Assessment" means the assessments levied against each Lot, and the Owner thereof, pursuant to Section 5.3 hereof.

1.2 "Architectural Committee" or "Committee" shall mean the committee created pursuant to Section 4 hereof.

1669-250

1.3 "Architectural Rules and Guidelines" or "Guidelines" shall mean the rules and regulations adopted, from time to time by the Committee.

1.4 "Articles" shall mean the Articles of Incorporation of the Association which have been or will be filed in the office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

1.5 "Assessment" means an Annual Assessment, Special Assessment or extraordinary Assessment as more fully set forth in Section 5 herein.

1.6 "Assessment Lien" means the lien created and imposed by Section 5.1 herein.

1.7 "Association" shall mean and refer to AMBERWOOD COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation, its successors or assigns, which has been or will be established pursuant to this Declaration.

1.8 "Association Rules" or "Rules" shall mean the rules and regulations adopted by the Board and/or Committee as they may be amended from time to time.

1.9 "Board" shall mean the Board of Directors of the Association.

1.10 "Bylaws" shall mean the Bylaws of the Association, as much may be amended from time to time.

1.11 "Committee" shall have the same meaning as "Architectural Committee" as set forth in 1.2 above.

1.12 "Common Area" or "Common Areas" shall mean any and/or all real property, including any improvements thereto, that are now or are hereafter owned by the Association for the common use and enjoyment of the Owners. Tract A will be excluded as it is the specific intent of the declarant to sell this parcel in bulk for multiple dwelling units. Tracts E as noted on the Final Plat of Amberwood Unit I shall be a Common Area owned by the Association. Tracts B thru F as noted on the Final Plat of Amberwood Unit I and the Tentative Final Plat for Units I and II are reserved solely for Open Space and shall not be further subdivided.

1.13 "Declarant" shall mean FLAGSTAFF HEIGHTS LIMITED PARTNERSHIP, an Arizona limited partnership, or its specifically designated successors.

1.14 "Declaration" shall mean the covenants, conditions and restrictions hereinafter set forth in this entire document, as said document may be amended from time to time.

1.15 "Extraordinary Assessment" means any Assessment levied pursuant to Section 5.4 of this Declaration.

1669-251

1.16 "Improvement" shall mean the buildings, pools, fences, walls, hedges, plantings, planted trees and shrubs and any and all structures and landscaping of any type and kind.

1.17 "Lessee" means the lessee or tenant under a lease, oral or written, of any lot including an assignee of a lease.

1.18 "Lot Type A" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood other than any Common Area having square footage less than 13,000.

1.19 "Lot Type B" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood other than any Common Area sized between 13,000 and 20,000 square feet.

1.20 "Lot Type C" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood other than any Common Area having square footage greater than 20,000.

1.21 "Member" shall mean any person, corporation, partnership, or other legal entity who is a member of the Association.

1.22 "Owner(s)" shall mean and refer to the owner of record, whether one or more persons or entities, or equitable or beneficial title (or legal title if same has merged) of any Lot. "Owner" shall include any person(s) or entity(s) who hold(s) an interest in any Lot as a security for the performance of an obligation. "Owner" shall also include the family, guests, invitees, and Lessees of any Owner. "Owner" shall include Declarant so long as Declarant owns any Lot.

1.23 "Plat" means the plat for Amberwood Unit I recorded at Book ___ of Maps, Page ___, records of Coconino County, Arizona, and all amendments, supplements and corrections thereto.

1.24 "Project Documents" means this Declaration, the Articles, and Bylaws, the Association Rules and the Architectural Committee Rules.

1.25 "Residence" shall mean a building or structure devoted exclusively to single family residential use.

1.26 "Visible from Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of neighboring or adjoining property within Amberwood at an elevation no greater than the elevation of the base of the object being viewed.

1669-252

SECTION 2

USE RESTRICTIONS

2.1 Single Family Residential Use. No structure whatever, other than a Residence together with a private garage, guest house servants quarters or such other customary outbuilding(s) and structure(s), shall be erected, placed or permitted to remain on any Lot. No gainful occupation, profession, trade or other non-residential use shall be permitted on any Lot.

2.2 Minimum Livable Area. Any Residence constructed shall contain a minimum of:

- 1,500 square feet of livable area on Lot Type A,
- 2,000 square feet of livable area on Lot Type B, and
- 2,500 square feet of livable area on Lot Type C,

unless otherwise approved by the Committee. The minimum square footage includes the walls of the house, but is exclusive of open porches, breezeways, pergolas, courtyards, attached garages or any similar extension or projection. All structures shall be of new material and no buildings shall be moved from any other location onto any Lot. No prefabricated building or other structure of any nature whatsoever, permanent or temporary shall be moved or placed upon, or assembled or otherwise maintained on any Lot, provided, however that a temporary office, trailer office, tool shed, lumber shed and/or office may be used if it is removed at completion of construction or selling of the Residence for which it was maintained, whichever is later.

2.3 Setback Requirements. All buildings shall be located on any Lot within the Building Setback Lines as shown on the Final Plat or the Final Tentative Plat for Amberwood. All Residences shall have an enclosed garage capable of housing a minimum of two (2) cars. Notwithstanding the above, minimum setbacks shall conform to the Ordinances as established by the City of Flagstaff.

2.4 Plan Approval of Improvements and Alterations. No improvement, addition, alteration, repair, excavation or other work which in any way alters the exterior appearance of any improvement or any portion of any Lot from its natural or improved state as existing on the date of the Declaration and no building, fence, wall, drive approach or other structure shall be commenced, erected, maintained, improved, altered, made or done until the plans and specifications for the same in all construction details, including shape, height, materials, floor plans, colors and location, until plans have been submitted to and APPROVED OF IN WRITING BY THE COMMITTEE. The Committee shall have the right to take into consideration the suitability of the proposed improvements, materials to be used, the harmony thereof with the surroundings and any other factors as may be deemed relevant by the Committee, and to refuse to approve any plans or specifications, whether for new construction or for subsequent alteration or repair of existing improvements, which are not suitable or desirable, in its SOLE AND ABSOLUTE OPINION, for aesthetic or other

reasons. No changes or deviations in or from such plans and specifications once approved, shall be made without the prior written approval of the Committee. All decisions of the Committee shall be final and no owner or other party shall have recourse against the Committee for its refusal to approve any such plans and specifications.

2.5 Removal and Replacement of Trees. No trees located upon any Lot may be removed or replaced without the prior WRITTEN APPROVAL OF THE COMMITTEE, which approval shall not be unreasonably withheld. All plans and specifications as contained in Section 2.4 above must show the approximate location of any tree(s) to be removed or replaced. This provision shall not prohibit any Owner from planting other types and varieties of trees on his Lot. Amberwood is subject to a Resources Preservation Plan as approved by the City of Flagstaff. Trees located within the protected area as noted on the Resource Preservation Plan may be removed or altered only upon written approval of the City of Flagstaff and the Committee.

2.6 Landscaping and Landscape Maintenance. All front yard landscaping and all landscaping upon those portions of any Lot which are visible from any other Lot or Common Area shall be installed by the Owner of the Lot in accordance with a landscaping plan which has been submitted to and duly APPROVED IN WRITING BY THE COMMITTEE. Said landscaping plan shall be submitted along with the plans and specifications for the construction of the Residence unless otherwise agreed upon in writing. All such landscaping (pursuant to the approved plan) must be installed by the Owner of the Lot within ninety (90) days following the final inspection of the Residence and issuance of a certificate of occupancy by the City of Flagstaff. Each Owner shall at all times keep all trees, shrubs, ground cover and plantings of every kind on his Lot neatly trimmed, and at all times keep his Lot free from trash, woods and other unsightly material. The yards and grounds in connection with all improved Lots shall be cultivated and planted to an extent sufficient to maintain an appearance not out of keeping with that of typical improved Lots in Amberwood. During prolonged absence, each Owner will arrange for the care of his Lot during such absence. If an Owner does not clean up or maintain his Lot in accordance with the foregoing provisions of this Section 2.5, the Association may give written notice thereof to the Owner, and if such Owner fails to clean up or maintain his Lot within thirty (30) days from the date such written notice is given, the Association may have that Owner's Lot cleaned up or maintained with the expense incurred by the Association in so doing to be levied against Owner as an Extraordinary Assessment under Section 5.4 hereof with the Association to have all attendant remedies including the Assessment Lien referred to in Sections 5.1 and 5.8 hereof.

2.7 Fences. No fence shall be constructed on any Lot unless its style and design are APPROVED IN WRITING BY THE COMMITTEE. All fences constructed on any Lot must complement the outside of the home built on that Lot. No "chain-link" fence shall be placed anywhere on the Lot. There shall be no metal visible in any fence except for gates which shall be lined with wood. No fence shall be constructed in the 25' landscape easement which buffers Butler Avenue from the lots that are adjacent to it. Fences on Lot Type A may be constructed on the side and rear property lines. Fences on Lot Type B and

1669-254

C shall not be constructed outside the Building Setback Lines without PRIOR WRITTEN CONSENT OF THE COMMITTEE.

2.8 Obstructive Materials or Devices. Air conditioners, television antenna, satellite dishes, coolers, pool filters, firewood storage, building or repair materials, storage facilities, lawn and yard tools and equipment, and other temporary or permanent equipment must be screened or completely stored so as to be substantially invisible from the streets or other homes. Screening shall be constructed of the same material as the adjacent building or wall. All heating and air conditioning units shall be ground mounted.

2.9 Drainage Easement. No Owner shall fill, block, or obstruct any drainage easements or drainage structures on his Lot, nor shall any Owner cause or suffer to be erected on the Lot any building or obstruction for the purpose, directly or indirectly, of obstructing blocking or filling any such drainage easement or drainage structure. The City of Flagstaff agrees to make and forever repair and maintain all such drainage easements and structures on the Lot, making good all damage which may be caused to the said drainage easements and structures. Such damage may occur directly or indirectly by the obstructing, blocking or filling of such drainage easements.

2.10 Roofing Materials. Roofing materials shall consist of wood shake shingles, tile or cement shingles, non reflective metal or thick butt asphalt shingles as APPROVED IN WRITING BY THE COMMITTEE. All metal flashing, chimneys, gutters, down spouts, wires or pipes must be matched to the roof or wall color and texture.

2.11 Exterior Siding & Material. Exterior siding & materials shall consist of Cedar (wood) siding, lap, T & G, Board, batt and Masonite lap. Accent materials shall consist of stone bricks and stucco. All exterior siding materials must be APPROVED IN WRITING BY THE COMMITTEE. A material known as T-111 shall not be used.

2.12 Colors. Exterior colors must be subdued and blend with the environment. No bright colors such as red, yellow, etc. will be allowed. All exterior colors must be APPROVED IN WRITING BY THE COMMITTEE.

2.13 Livestock and Poultry. Cows, horses or livestock such as pigeons or chickens shall not be kept. Animals such as dogs, cats and rabbits may be kept as house pets, provided that they are not kept, bred or maintained for any commercial purposes. Noisy pets such as barking dogs, which are bothersome to a plurality of neighbors must be removed. No pets may be kept or confined within the front yard.

2.14 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All containers used for the storage or disposal of such material shall be kept in a clean and sanitary condition that will not be obnoxious to the eye. In no event shall such containers be maintained so as to be visible from Neighboring Property except to make the same available for collection and, then, only for the shortest period of time reasonably

1669-255

necessary to effect said collection. No substance, thing or material shall be kept upon the Lot that will emit a foul or obnoxious odor, or cause any noise that might disturb the peace, quiet, comfort or serenity of the other Owners or occupants in Amberwood.

2.15 Nuisance. No nuisance or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners or occupants in Amberwood.

2.16 Completion of Construction. When any construction on any Lot has been started, it shall be completed within one year from start date except when such delay is caused by an act of God, strikes, actual inability of the owner to procure delivery of necessary material or by interference by other persons or forces beyond the control of the Owner to prevent. Financial ability of the owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond his control.

2.17 Abandoned or Inoperable Vehicles. No vehicle or any type which is abandoned or inoperable shall be stored or kept on any Lot or street within Amberwood unless it is housed within a garage as approved by the Committee.

2.18 Vehicles. No trucks, buses, boats, trailers, campers, recreation vehicles, etc. (other than passenger automobiles) shall be permitted to be kept and maintained on any Lot without the Lot Owner's receipt of the Association's PRIOR WRITTEN APPROVAL of such Owner's maintenance of the vehicle and the manner of screening or concealing the same. The restrictions in this Section 2.18 do not apply to automobiles or station wagons, and the terms "busses", "vans", and "trucks", set forth above shall not include (i) 3/4 ton (or less) capacity pick up trucks used solely for pleasure and passenger purposes (and not commercial purposes).

2.19 Parking. No vehicles shall be parked or maintained on the streets in Amberwood except for such periods of time as shall be reasonably necessary to load or unload.

2.20 Deeds. Deeds of conveyance of all or any of said Lots shall incorporate by reference all of the provisions contained in this Declaration. However, whether or not recited in the deeds of reconveyance, this Declaration shall be binding on every Owner of every Lot in Amberwood.

2.22 Term. This Declaration and the covenants herein shall run with the land and shall be binding on the undersigned, the Owners and all of their successors in title, interest or possession in all and every part of Amberwood, until August 1, 2025, and thereafter the same shall be automatically extended for successive periods of ten (10) years, unless and until the Owners of seventy-five percent (75%) of the Lots amend or revoke the same by written instrument, duly acknowledged and recorded.

1669-256

2.23 Advertising. No advertising signs, billboards, or other unsightly objects shall be erected, placed or permitted to remain on any Lot except for one "For Sale" sign, sized not to exceed twenty four (24) inches by thirty (30) inches.

2.24 Easements. Easements, as indicated upon the Plat are reserved for the installation and maintenance of public service utilities and other uses for public or quasi-public good. No buildings shall be placed upon such easements or interference be made with the free use of the same for the purposes intended.

2.25 Responsibility. The Owner is responsible for the succeeding owner being notified of the contents of this Declaration.

SECTION 3

ASSOCIATION

3.1 Establishment of the Association. The Association shall be established as a non-profit corporation by filing with the Corporation Commission of the State of Arizona the Articles of Incorporation of the Association in conformance with all applicable laws and regulations. When established as set forth above, the Association shall be governed by and in accordance with the requirements set forth herein and shall be organized for the purposes and with the powers set forth herein. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within this declaration, each person or entity for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to automatically become Members of the Association upon its establishment, subject to the rights and obligations set forth herein.

3.2 Membership and Voting Rights. Every Owner of a Lot shall be a Member of the Association, such membership shall be appurtenant to and may not be separated from ownership of any Lot. There shall be two classes of membership:

Class A. Class A Members shall be all owners with the exception of the Declarant so long as Declarant is a Class B member, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for any such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and the Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease to be converted to Class A membership when the total votes outstanding in the Class A membership equals the number of votes outstanding in the Class B membership.

1069-257

Each Member shall have such other rights, duties and obligations as set forth in the Articles and Bylaws of the Association as they may be amended from time to time. The membership of each Owner shall be appurtenant to the Lot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to the Lot and then only to the transferee of ownership to such Lot and any attempt to make a prohibited transfer shall be void.

The affairs of the Association shall be conducted by a Board of not less than three (3) nor more than nine (9) Directors with the assistance of such officers designated in the Articles or Bylaws. So long as there is Class B membership.

(a) The Board of Directors shall be appointed by the Architectural Committee;

(b) The officers shall be appointed by the Directors, and;

(c) Persons other than Owners may serve as officers and directors.

When Class B membership ceases to exist, the officers and directors shall be designated as provided for in the Articles and Bylaws.

SECTION 4

ARCHITECTURAL COMMITTEE

4.1 Creation of Architectural Committee. An Architectural Committee is hereby established and shall perform the functions set forth in this Declaration and the Articles and Bylaws. The Committee shall be composed of at least three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership or appointment. A member need not be, but may be, a member of the Board of Directors or an officer of the Association. The following persons are hereby designated as the initial members of the Architectural Committee;

Anthony M. Burd
Marc Bailles
Lon Franklin

Six (6) months following the sale of the last Lot by Declarant to an Owner, the Board of Directors or any other Class A members shall be appointed as the Architectural Committee as so determined by the majority vote of the Members of the Association at a duly called meeting for this purpose.

1669-258

4.2 Appointment and Removal. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Any member of the committee who fails to attend three (3) consecutive meetings of the Committee may be removed by the unanimous vote of the remaining members and his vacancy shall be filled as aforesaid. The members shall be appointed for a period of at least one (1) year, or until the appointment of their respective successors. Any new member appointed to fill a vacancy shall serve the remaining term of member who has resigned or been removed. Members who have resigned or been removed may be reappointed.

4.3 Purpose of the Committee. The declared purpose of the Architectural Committee provided for herein is to assure that the character, design, exterior materials, color, roof, proportions, elevations, location and use of each improvement shall be in harmony with its surroundings and not be offensive or aesthetically detrimental to neighboring property. The Committee's approval or disapproval as required in these covenants, shall be in writing. In the event the Architectural Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. Except for judicial construction, the Committee shall have the exclusive right to construe and interpret the provisions of this Declaration and in the absence of any adjudication to the contrary by a court or competent jurisdiction, the Committee's interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the provisions hereof.

SECTION 5

FUNDS AND ASSESSMENTS

5.1 Creation of the Lien and Personal Obligations of Assessment. Each Owner, other than the Declarant, is deemed to covenant and agree to promptly pay to the Association all sums contemplated under this Declaration including, without limitation: Annual Assessments, Extraordinary Assessments, Special Assessments and such other Assessments and expenses of the Association as may be incurred, fixed, established or collectable from time to time as provided for within this Declaration or within the Articles and Bylaws of the Association. The Assessments, together with interest, costs, reasonable late fees, and reasonable attorneys fees, shall be a charge on the land and a continuing lien ("Assessment Lien") upon the Lot or Lots against which each such Assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot or Lots at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall pass to successors in title of the person owning the Lot at the time the Assessment fell due. Not Lot shall be sold, transferred or conveyed by any Owner without

all Assessments having been paid in full, whether or not an Assessment Lien has been filed or recorded.

5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of Amberwood and for the improvement, maintenance and replacement of any private facilities, landscaped areas, retention/recreation areas, Tracts B thru F, streets, etc., connected with Amberwood which have not been accepted for maintenance by the City of Flagstaff.

5.3 Annual Assessments - Maximum Amounts.

(a) Until the first meeting of the Association to determine the maximum Annual Assessment, the initial Annual Assessment for each Lot conveyed by Declarant to an Owner shall be an amount equal to \$240 for each Lot Type A, \$300 for each Lot Type B, and \$360 for each Lot Type C, whether improved, developed or underdeveloped. Such Annual Assessments shall be in addition to other Assessments and fees set by the Board of Directors.

(b) From and after January 1 of the year immediately following the first meeting of the Association to determine the maximum Annual Assessment, the Annual Assessment may be increased each year not more than ten percent (10%) above the maximum Annual Assessment set for the previous year. Said maximum Annual Assessment may be increased above ten percent (10%) by a two-thirds (2/3) vote of the Members or their proxies at a meeting duly called for that purpose.

(c) The Annual Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant to an Owner. The maximum Annual Assessment shall be adjusted according to the number of months remaining in the calendar year, and the Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether the Assessments on a specified Lot have been paid.

5.4 Extraordinary Assessments. The Association may levy an Extraordinary Assessment against an Owner, and such Owner's Lot, for the following expenses:

(a) Any expenses caused by the misconduct of such Owner;

(b) Any expense incurred by the Association resulting from any Owner's failure to clean up or maintain his Lot and any improvement thereon in accordance with the terms of this Declaration;

(c) Any expense incurred by the Association as a result of repairs, maintenance or replacement to the Common Area, irrigation system or to portions of any Lot the Association is obligated to maintain which is caused by the willful or negligent act of an Owner, his family, guests, invitees or animals.

1669-260

5.5 Special Assessments. In addition to the Annual Assessment authorized herein, the Association may levy, during any assessment year, a Special Assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any landscaping or other improvement installed upon the Common Area, provided that such Special Assessment shall have the written consent of no less than two-thirds (2/3) of the votes of the Members voting in person or by proxy at a meeting duly called for that purpose. Said Special Assessment shall be payable over a period not to exceed the next ten (10) succeeding years.

5.6 Subordination of Assessment Lien. The Assessment Lien shall be subordinate to the lien of any first mortgage held by, or deed of trust of which the beneficiary is a lender who has loaned funds with the Lot as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens or taxes and other public charges which by applicable law are expressly made superior. Any sale or transfer of a Lot shall not affect the Assessment Lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure, or any proceeding in lieu thereof, shall extinguish the Assessment Lien with respect to payments which became due prior to such sale or transfer, but any Assessments or other charges against the Lot which accrued prior to such sale or transfer shall remain the obligation of the Owner of the Lot at the time when such Assessments and charges became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter become due or from the Assessment Lien thereof.

5.7 Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors.

5.8 Delinquency. Any Assessments provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the delinquency date, a late charge of Ten Dollars (\$10.00) per month, or such other amount as the Association shall from time to time determine, shall be levied and the Assessment shall bear interest from the date of delinquency until paid at the rate of fifteen percent (15%) per annum. The Association may, at its option, bring an action at law against an Owner personally obligated to pay the same and/or foreclosure the Assessment Lien against the Owner's Lot or Lots in accordance with the then prevailing law of the State of Arizona relating to the foreclosure of liens upon real property. If an action is commenced, there shall be added to the amount of such Assessment the late charge, interest, expenses incurred in connection with collection of the debt secured by the Assessment Lien, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said late charge, interest, collection costs, reasonable attorneys' fees, and the costs of the action. Each Owner vests in the Association, or its agents, the right and power to bring all actions at law or equity against such Owner for the collection of such delinquent Assessments. Any foreclosure sale of a Lot or Lots authorized pursuant to the then prevailing laws of the State of Arizona,

1669-261

the Association, through its duly authorized agents, shall have the power to bid on such Lot or Lots at the sale, using Association funds or funds borrowed for such purpose, and to acquire and hold, lease mortgage and convey the same.

5.9 Cumulative Remedies. The Assessment Lien and the rights to foreclosure thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its successors or assigns may have hereunder and by law or equity, including a suit to recover a money judgment for unpaid Assessments, as above provided.

SECTION 6

GENERAL PROVISIONS

6.1 Enforcement. The covenants, conditions, reservations and restrictions may be enforced by the declarant, and/or the Association and/or any Owner of any Lot. Violation of any one or more of the restrictions may be restrained or enforced by any court of competent jurisdiction and/or damages may be awarded against any such violator. Nothing herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought. In the event any such person employs an attorney or attorneys to enforce the compliance with or specific performance of the terms and conditions of this Declaration, and prevails in such action, the Owner or Owners against whom the action is brought shall pay all attorneys' fees and costs incurred in connection with such action.

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

6.3 No Legal Opinion. This Declaration affects the rights and obligations of Owners, Members and other parties. All Owners, Members and others, at their own expense, are encouraged to obtain a legal opinion from counsel of their choosing regarding their rights and obligations under this Declaration. Nothing in this Declaration, nor any act or representation of Declarant, the Association and/or its Board or the Architectural Committee, is to be construed to imply that the rights and obligations of Owners, Members or others have been reviewed or examined by legal counsel or to imply that Declarant, the Association or the Committee, or any one or part of them, express in any way a legal opinion of the rights and obligations of any party hereunder.

6.4 Waiver or Abandonment. The waiver of, or failure to enforce any breach or violation or any restrictions herein contained shall not be deemed to be a waiver or abandonment of such restrictions, or a waiver of the right to enforce any subsequent breach or violation of such restrictions. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation.

6.5 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.

6.6 Topic Headings. The marginal or topical headings of the paragraphs or sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or sections of this Declaration.

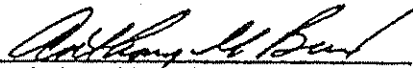
6.7 Declarant's Right to Amend. Notwithstanding the provisions of Section 2.17 hereof, Declarant, its successors and assigns, hereby reserve the right to amend this Declaration as may be necessary or appropriate in its sole discretion, such right to amend to continue until such time as the Class B membership of Declarant, its successors or assigns, terminates.

IN WITNESS WHEREOF, FLAGSTAFF HEIGHTS LIMITED PARTNERSHIP, an Arizona limited partnership, the undersigned, being the Declarant herein, has executed this Declaration this 3 day of May, 1994.

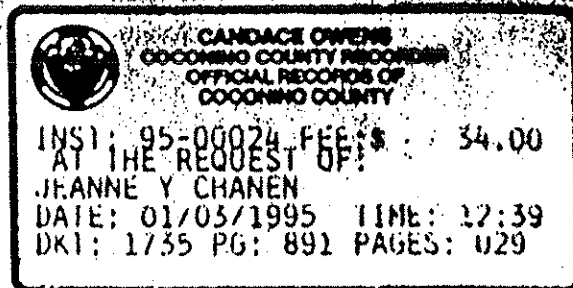
DECLARANT

FLAGSTAFF HEIGHTS LIMITED PARTNERSHIP, an Arizona limited partnership

By: AMBRE, Inc., an Arizona corporation,
It's General Partner

By: 
Anthony M. Burd, President

1669-263



When Recorded Return To:

Flagstaff Heights Limited Partnership
4548 East Beryl Lane
Phoenix, Arizona 85028
Attn: Anthony M. Burd

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
AMBERWOOD

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AMBERWOOD is made this ___ day of December, 1994, by and between Flagstaff Heights Limited Partnership, an Arizona limited partnership ("FHLP"), and the undersigned parties (collectively, the "Amending Owners"). The Amending Owners, who collectively own more than 75% of the Lots in Amberwood, hereby amend the Declaration of Covenants, Conditions and Restrictions For Amberwood dated May 3, 1994, and recorded in the Office of the County Recorder for Coconino County, Arizona, at Docket 1669, Pages 250 to 263 (the "Declaration"), as follows:

1. Amendment. The terms of the Declaration are intended to be modified by the terms hereof. All capitalized terms used herein shall have the same meaning herein as defined in the Declaration unless otherwise defined herein.

2. Definitions. The terms of Section 1 of the Declaration are hereby amended as follows:

A. The terms of paragraph 1.13 are hereby deleted in their entirety and the following is substituted in lieu thereof:

1.13 "Declarant" means Flagstaff Heights Limited Partnership, an Arizona limited partnership, and any successors or assigns of the Declarant's rights and powers hereunder. William C. Neils husband of Helen Neils, dealing with his sole and separate property ("Neils") was joined in this Declaration for the purpose of subjecting a portion of the property described on Exhibit "A" hereto owned by him (the "Neils Property") to this Declaration; however, Neils shall not be considered a Declarant and shall not be entitled to exercise any of the rights of a

1735-891

Declarant under this Declaration unless and until the Neils Property is annexed and becomes part of the Project in accordance with Section 7.2 of this Declaration. Upon annexation of the Neils Property pursuant to Section 7.2 hereof, Neils shall be deemed a Declarant under this Declaration but shall only have the powers of the Declarant with respect to the Neils Property.

B. The terms of paragraph 1.16 are hereby amended by adding at the end of such provision the phrase "erected or placed on any Lot."

C. The terms of paragraph 1.23 are hereby deleted in their entirety and the following is substituted in lieu thereof:

1.23 "Plat" means that certain Plat of Amberwood, recorded by Declarant in Book 5 of Maps, Page 90 of the official records of the County Recorder of Coconino County, Arizona, together with any other plats of all or any portion of the Project recorded by or at the request of Declarant, as the same are amended from time to time. Amendments to Plats are subject to Article 7 of this Declaration.

D. The following definitions are added to Section 2:

1.27 "Developer" means a home builder who acquires one or more undeveloped Lots of the Project from the Declarant (or its heirs, successors or assigns as specified in a recorded assignment of its rights hereunder) for the purpose of development, and the heirs, successors and assigns of a Developer, but specifically excluding members of the public purchasing finished Lots with houses or residences.

1.28 "Lot" means one of the separately designated Lots within the Project as shown on a Plat, together with any improvements thereon.

1.29 "Project" shall initially mean only Lots 1 through 76 of Amberwood according to the plat for Amberwood recorded at Book 5 of Maps Page 90, Official Records of Coconino County, Arizona ("Unit I"). "Project" shall also include the parcel described in Exhibit "..." hereto if that parcel is subsequently annexed in the manner described in Section 7.2 hereof.

3. Annexation. The Declaration is amended by adding the following thereto as new Section 7:

SECTION 7

Master Planned Development

7.1 NATURE OF DEVELOPMENT. The Project consists of real property that will be developed in several separate subdivisions. Declarant has or will record one or more Plats with respect to the Project and, if further property is annexed to the Project, one or more additional Plats may be recorded by Declarant with respect to such annexed property in accordance with intended plans for development of the Project. Each Plat may designate Common Area to be owned and maintained by the Association as provided herein, and the designations of Common Area on the Plats shall be binding and conclusive on the Association, Declarant and all Owners. Common Area as designated on a Plat shall not be deeded to the Association and the Association will have no maintenance responsibilities therefor until all planned improvements thereon have been completed by Declarant or a Developer consistent with any improvements to the Common Areas in the Project in terms of quality of construction. No Plat may be amended, revised, replatted or further subdivided or resubdivided in any manner whatsoever without the prior written approval of the Association and Declarant.

7.2 ANNEXATION OF ADDITIONAL PROPERTY. The Project currently consists only of Unit I property, but Declarant reserves the right, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, to annex the property described in Exhibits "A" and "B" hereto (the "Unit II Property"), or any portion thereof, to the Project upon the following conditions:

7.2.1 Any annexation of the Unit II Property pursuant to this Section 7.2 shall be made prior to December 31, 1995.

7.2.2 The annexation of all or any portion of the Unit II Property shall be accomplished by Declarant (or if the Declarant's rights have been assigned to them, the current owner(s) of the Unit II Property) by recording a Declaration of Annexation covering the applicable portion of the Unit II Property with the office of the Coconino County Recorder. Each such Declaration of Annexation shall incorporate this Declaration by reference and may contain such complementary additions to and modifications of this Declaration as may be necessary

to reflect the different character, if any, of the property annexed hereto and which are not inconsistent with the scheme of this Declaration.

7.2.3 Upon annexation of all or a portion of the Unit II Property as provided above, the annexed property shall be subject to all provisions of this Declaration, including without limitation the provisions regarding Assessments, without the necessity for amending individual articles hereof. Additional Common Area located in the annexed property which is to be owned and maintained by the Association may be designated on Plats of all or any portion of the annexed property as provided in Section 7.1 above. The Declaration of Annexation shall designate the number of votes for the annexed parcel subject thereto, in the manner specified in Section 3.2 of this Declaration. The designation of Membership Class and votes with respect to lots in the annexed property under the Declaration of Annexation and Section 3.2 of this Declaration shall be applicable for all purposes under this Declaration.

7.3 REMOVAL FROM THIS DECLARATION.

7.3.1 If the Neils Property is not annexed into the Project within the time period stated in Section 7.2.1, then in such event the Neils Property shall be released from this Declaration and all of its restrictions automatically and without further action by Declarant. In addition, Declarant shall have the right, at its sole discretion and without the approval, assent, or vote of the Association or other Owners, to release the Neils Property which has not previously been annexed into the Project under Section 7.2 prior to the expiration of the time period stated in Section 7.2.1 by recording with the office of the Coronado County Recorder an instrument executed by the Declarant and the then owner(s) of such property releasing such property from this Declaration. Declarant makes no representation or warranty that the Neils Property will be used in accordance with the uses and restrictions contained in this Declaration following its release from this Declaration as provided in this Section 7.3.

7.3.2 Notwithstanding anything in the forgoing to the contrary, the Unit II Property may not be used for any purpose other than one permitted under this Declaration until and unless it has been released from this Declaration in the manner provided in this Section 7.3, and any use thereof or construction thereon shall not be deemed to give any person any rights to continue

to use the Neils Property or portions thereof for such other use or purpose prior to such release.

4. Counterparts. This Amendment to Declaration may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties had executed a single instrument.

5. Confirmation Of Terms. Except as modified herein, the terms of the Declaration are hereby ratified and confirmed. In the event of a conflict between the terms of the Declaration and this Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment of Declaration of Covenants, Conditions and Restrictions For Amberwood on the date first hereinabove set forth.

Flagstaff Heights Limited Partnership, an Arizona limited partnership

By: Ambre, Inc., an Arizona corporation
Its: General Partner

By: *Anthony M. Burd*
Anthony M. Burd
Its: President

William C. Neils, husband of Helen Neils, dealing with his sole and separate property

Steves Built Homes, Inc., an Arizona corporation,

By: _____
Its: _____

Neil Klein Construction Co.

By: _____
Its: _____

Douglas G. Bogard

Rene Bogard

Carl J. McLoy

Diane McLoy

Mike Holpuch

JoAnn Holpuch

Brendon G. Hirschberg

Anthony M. Burd
Anthony M. Burd, husband of Karen Burd, dealing with his sole and separate property

to use the Neils Property or portions thereof for such other use or purpose prior to such release.

4. Counterparts. This Amendment to Declaration may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties had executed a single instrument.

5. Confirmation Of Terms. Except as modified herein, the terms of the Declaration are hereby ratified and confirmed. In the event of a conflict between the terms of the Declaration and this Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment of Declaration of Covenants, Conditions and Restrictions For Amberwood on the date first hereinabove set forth.

Flagstaff Heights Limited Partnership, an Arizona limited partnership

By: Ambre, Inc., an Arizona corporation
Its: General Partner

By: _____
Anthony M. Burd
Its: President

Neil Klein Construction Co.

By: _____
Its: _____

Cal J. McLoy

Mike Holpuch

Brendon G. Hirschberg

William C. Neils
William C. Neils, husband of Helen Neils, dealing with his sole and separate property.

Staves Built Homes, Inc., an Arizona corporation,

By: _____
Its: _____

Douglas G. Bogard

Rene Bogard

Diane McLoy

JoAnn Holpuch

Anthony M. Burd, husband of Karen Burd, dealing with his sole and separate property

to use the Neils Property or portions thereof for such other use or purpose prior to such release.

4. Counterparts. This Amendment to Declaration may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties had executed a single instrument.

5. Confirmation Of Terms. Except as modified herein, the terms of the Declaration are hereby ratified and confirmed. In the event of a conflict between the terms of the Declaration and this Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment of Declaration of Covenants, Conditions and Restrictions For Amberwood on the date first hereinabove set forth.

Flagstaff Heights Limited Partnership, an Arizona limited partnership

By: Ambre, Inc., an Arizona corporation
Its: General Partner

By: Anthony M. Burd
Its: President

William C. Neils, husband of Helen Neils, dealing with his sole and separate property

Steves Built Homes, Inc., an Arizona corporation,

By: [Signature]
Its: [Signature]

Neil Klein Construction Co.

By: ANDY HANMAN
Its: GM/V.P.

[Signature]
Douglas G. Bogard

[Signature]
Rene Bogard

Cal J. McLoy

Diane McLoy

[Signature]
Mike Holpuch

[Signature]
Mike Holpuch

[Signature]
Brendon G. Hirschberg

Anthony M. Burd, husband of Karen Burd, dealing with his sole and separate property



Lonnie K. Franklin



Kathleen S. Franklin

John J. Gisi

Sandra M. Gisi

James H. Lundy

Michele A. Lundy

Delbert H. Tanner, Jr., hus-
band of Jennifer Ann Tanner,
dealing with his sole and
separate property



Anna Tanner, a single woman

Kelly J. Gibson

Christy R. Gibson

Dean A. Teel

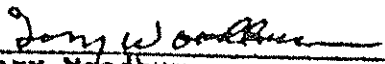
Lorene C. Teel

Armand E. Horgan

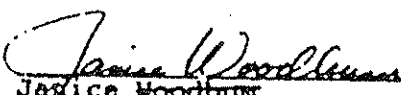
Mary A. Horgan

Fredrick K. Kolar

JoAnn Kolar



Gary Woodburn
Walburn



Janice Woodburn
Walburn

Newton Contracting, Inc.

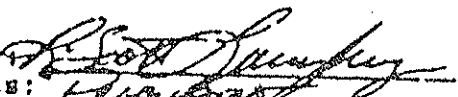
DKM Construction

By: _____
Its: _____

By: _____
Its: _____

Palmcroft Builders, Inc.

GTF Properties, Inc.

By: 
Its: _____

By: _____
Its: _____


Donnie K. Franklin



Kathleen S. Franklin

John J. Gisi

Sandra M. Gisi

James H. Ludy

Michele A. Lundy



Delbert H. Tanner, Jr. Husband of Jennifer Ann Tanner, dealing with his sole and separate property

Anna Tanner, a single woman

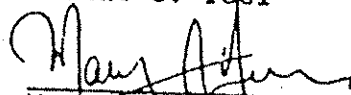

Kelly J. Gibson


Christy A. Gibson

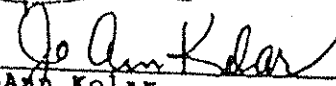

Dean A. Teel


Lorene C. Teel


Armand B. Morgan


Mary A. Morgan


Fredrick K. Kolar



JoAnn Kolar

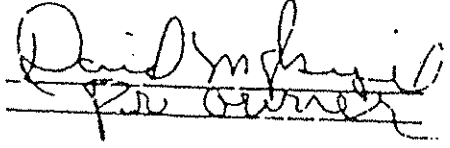
Gary Woodbum

Janice Woodbum

Newton Contracting, Inc.

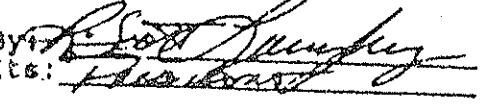
DKM Construction

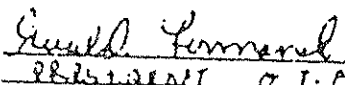
By: 
Its: _____

By: 
Its: _____

Palmcroft Builders, Inc.

GTF Properties, Inc.

By: 
Its: _____

By: 
Its: PRESIDENT OF G.T.F. PROPERTIES

Gary P. Gimenez

[Handwritten signature]

Allan Rebelin

[Handwritten signature]

E.J. Callan

[Handwritten signature]

Charles C. Brenden

Vicki M. Gimenez

[Handwritten signature]
Cyndie Rebelin

[Handwritten signature]
Donna L. Callan

[Handwritten signature]
Yvonne N. Brenden

Corey W. Dietrich

[Handwritten signature]

Michael Terrin

Sandra M. Dietrich

[Handwritten signature]
Charlene Terrin

[Handwritten signature]
Gordon D. Wigman

Gordon D. Wigman

[Handwritten signature]
Judith A. Wigman

Judith A. Wigman

[Handwritten signature]

Randy Watkins

[Handwritten signature]
Donna R. Watkins

Donna R. Watkins

Raymond A. Gonzales

[Handwritten signature]
Peter E. Heguy

Peter E. Heguy

Amy S. Gonzales

[Handwritten signature]
Sona L. Heguy

Sona L. Heguy

Michael J. Hanks

Suzanne L. Hanks

Tobin K. Fisher

Michele Fisher

Larry W. Cosper

Mary M. Cosper

Gary P. Gimenez

Vicki M. Gimenez

Allen Rebellin

Cyndie Rebellin

E.J. Callan

Donna L. Callan

Charles C. Brenden

Yvonne N. Brenden

Corey W. Dietrich

Sandra M. Dietrich

Michael Terrin

Charlene Terrin

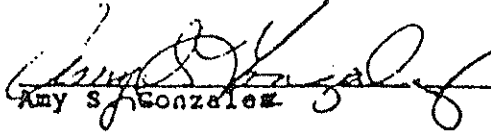
Gordon D. Wigman

Judith A. Wigman

Randy Watkins

Donna R. Watkins


Raymond A. Gonzalez


Amy S. Gonzalez

Peter E. Heguy

Sona L. Heguy

Michael J. Hanks

Suzanne L. Hanks

Tobin K. Fisher

Michele Fisher

Larry W. Cospier

Mary M. Cospier

Charles M. Howell

Linda R. Howell

Bryan E. Ake

Shannon E. Ake

Alvin W. Corson

Kathryn L. Corson

Edward W. Carlin

Kathleen Carlin

(NAME)

(NAME)

Plateau Winds Corporation
[Company Name]

Krolak Family Trust Edith A. Arrowsmith
[Company Name]

By: Edith A. Arrowsmith
Its: president

By: Edith A. Arrowsmith
Its: Trustee

STATE OF ARIZONA)
County of Maricopa) SS.

The foregoing instrument was sworn to and acknowledged before me this 17th day of December, 1994, by Edith Arrowsmith, the and Trustee of the Krolak Family Trust, on behalf of the Trust

My Commission  OFFICIAL SEAL
SHERRY LIVING
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 27, 1998

Notary Public

STATE OF ARIZONA)
County of Maricopa) SS.

The foregoing instrument was sworn to and acknowledged before me this 17th day of December, 1994, by Edith A. Arrowsmith, the president, of Plateau Winds Corporation, an Arizona corporation, on behalf of the corporation.

My Commission  OFFICIAL SEAL
SHERRY LIVING
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 27, 1998

Notary Public

Charles M. Howell

Bryan E. Ake
Bryan E. Ake

Alvin W. Corson
Alvin W. Corson

Edward W. Carlin
Edward W. Carlin

Linda B. Howell

Shannon E. Ake
Shannon E. Ake

Kathryn L. Corson
Kathryn L. Corson

Kathleen Carlin
Kathleen Carlin

(NAME)

(NAME)

[Company Name]

[Company Name]

By: _____
Its: _____

By: _____
Its: _____

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing instrument was sworn to and acknowledged before me this ____ day of December, 1994, by _____ and _____.

My Commission Expires: _____
Notary Public

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing instrument was sworn to and acknowledged before me this ____ day of December, 1994, by _____, the _____ of _____, an Arizona _____, on behalf of the _____.

My Commission Expires: _____
Notary Public

to use the Neils Property or portions thereof for such other use or purpose prior to such release.

4. Counterparts. This Amendment to Declaration may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties had executed a single instrument.

5. Confirmation of Terms. Except as modified herein, the terms of the Declaration are hereby ratified and confirmed. In the event of a conflict between the terms of the Declaration and this Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have executed this Amendment of Declaration of Covenants, Conditions and Restrictions For Amberwood on the date first hereinabove set foith.

Flagstaff Heights Limited Partnership, an Arizona limited partnership

By: Ambre, Inc., an Arizona corporation
Its: General Partner

Anthony M. Burd
Its: President

Neil Klein Construction Co.

By: _____
Its: _____

Carl J. McLoy
Carl J. McLoy

Mike Holpuch

Brendon G. Hirschberg

William C. Neils, husband of Helen Neils, dealing with his sole and separate property

Steven Built Homes, Inc., an Arizona corporation,

By: _____
Its: _____

Douglas G. Bogard

Rene Bogard

Diane C. McLoy
Diane McLoy

JoAnn Holpuch

Anthony M. Burd, husband of Karen Burd, dealing with his sole and separate property

Gary P. Gimenez
Gary P. Gimenez

Vicki M. Gimenez
Vicki M. Gimenez

Allen Rebelin

Cyndie Rebelin

E.J. Callan

Donna L. Callan

Charles C. Brenden

Yvonne N. Brenden

Cecrey W. Dietrich
Cecrey W. Dietrich

Sandra M. Dietrich
Sandra M. Dietrich

Michael Terrin

Charlene Terrin

Gordon D. Wigman

Judith A. Wigman

Randy Watkins

Donna R. Watkins

Raymond A. Gonzales

Amy S. Gonzales

Peter E. Heguy

Sona L. Heguy

Michael J. Hanks

Suzanne L. Hanks

Tobin K. Fisher

Michels Fisher

Larry M. Cosper
Larry M. Cosper

Mary M. Cosper
Mary M. Cosper

STATE OF ARIZONA)
) ss.
County of Maricopa)



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Anthony M. Bird, both in his individual capacity and as the President of Ambre, Inc., an Arizona corporation, the General Partner of Flagstaff Heights Limited Partnership, an Arizona limited partnership, on behalf of the partnership.

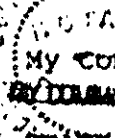
My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1995~~



Notary Public

STATE OF ARIZONA)
) ss.
County of Cocconino)

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by William C. Neils.



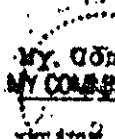
My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1995~~



Notary Public

STATE OF ARIZONA)
) ss.
County of Cocconino)

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by KATHY A. WILKINSON, the President, of Steves Built Homes, Inc., an Arizona corporation, on behalf of the corporation.



My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1995~~



Notary Public

STATE OF ARIZONA)
) ss.
County of Cocconino)

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Richard K. Kistner, the President, of Newton Contracting, Inc., an Arizona corporation, on behalf of the corporation.



My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1995~~



Notary Public

STATE OF ARIZONA)
County of Cocconino) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Amy Stanger, the President of Neil Klein Construction Co., on behalf of the Neil Klein Construction Co.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1996



Notary Public

STATE OF ARIZONA)
County of Cocconino) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by David McKenzie, the President of DKM Construction, on behalf of the DKM Construction

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1996



Notary Public

STATE OF ARIZONA)
County of Cocconino) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Colin Fermanik, the President of GTF Properties, Inc., on behalf of the GTF Properties, Inc.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1996

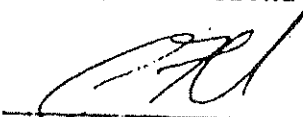


Notary Public

STATE OF ARIZONA)
County of Cocconino) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Scott Lovvorn, the President of Palmcroft Builders, Inc., an Arizona corporation, on behalf of the corporation.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1996

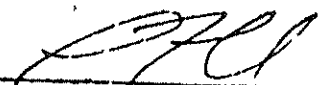


Notary Public

STATE OF ARIZONA)
County of Cocaine) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Douglas G. and Rene Boqard.

My Commission Expires:
MY COMMISSION EXPIRES 4 1995



Notary Public

STATE OF ARIZONA)
County of Cocaine) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Cal J. McLoy and Diane McLoy.

My Commission Expires:
MY COMMISSION EXPIRES 4 1995

STATE OF ARIZONA)
County of Cocaine) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Mike Holpuch and JoAnn Holpuch.

My Commission Expires:
MY COMMISSION EXPIRES 4 1995

STATE OF ARIZONA)
County of Cocaine) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Brendon G. Hirschberg.

My Commission Expires:
MY COMMISSION EXPIRES 4 1995

STATE OF ARIZONA)
County of Cocconino) ss.

The foregoing instrument was sworn to and acknowledged before me this 22 day of December, 1994, by Lonnie K. Franklin and Kathleer Franklin.

My Commission Expires: 8-1-96


Stacy Maniates

STATE OF ARIZONA)
County of Cocconino) ss.

The foregoing instrument was sworn to and acknowledged before me this ___ day of December, 1994, by John J. and Sandra M. Gisi.

My Commission Expires: _____

STATE OF ARIZONA)
County of _____) ss.

The foregoing instrument was sworn to and acknowledged before me this ___ day of December, 1994, by James H. Lundy and Michele A. Lundy.

My Commission Expires: _____

STATE OF ARIZONA)
County of Cocconino) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Delbert H. Tanner, Jr., husband of Jennifer Ann Tanner, dealing with his sole and separate property.

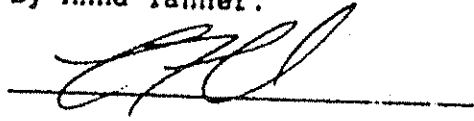
My Commission Expires: _____
MY COMMISSION EXPIRES APRIL 4 1996

Delbert H. Tanner, Jr.

STATE OF ARIZONA)
County of Cocaina) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Anna Tanner.

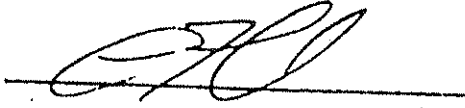
My Commission Expires: APRIL 4 1995



STATE OF ARIZONA)
County of Cocaina) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Kelly J. Gibson and Christy R. Gibson.

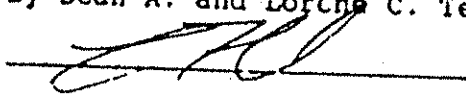
My Commission Expires: APRIL 4 1995



STATE OF ARIZONA)
County of Cocaina) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Dean A. and Lorana C. Teel.

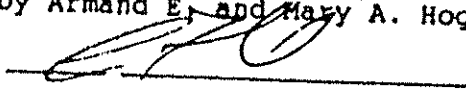
My Commission Expires: APRIL 4 1995



STATE OF ARIZONA)
County of Cocaina) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Armand E. and Mary A. Hogan.

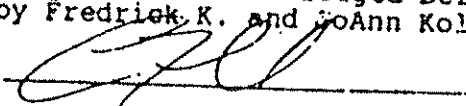
My Commission Expires: APRIL 4 1995



STATE OF ARIZONA)
County of Cocaina) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Fredrick K. and JoAnn Kolar.

My Commission Expires: APRIL 4 1995



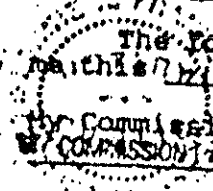
STATE OF ARIZONA)
County of Cochise) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Gary and Janice Woodbum.

My Commission Expires: APRIL 4 1996

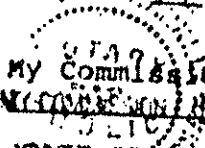
STATE OF ARIZONA)
County of Cochise) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Gary P. and Vicki M. Gimenez.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)
County of Cochise) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Allen and Cyndie Rebelin.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)
County of Cochise) ss.

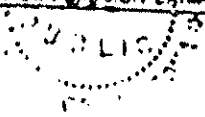
The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by E.J. and Donna In Callan.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)
County of Cochise) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Charles C. Brenden and Yvonne N. Brenden.

My Commission Expires: APRIL 4 1996



STATE OF ARIZONA)

County of Cocouin) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Corey W. Dietrich and Sandra W. Dietrich.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)

County of Cocouin) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Michael and Charlene Terrin.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)

County of Cocouin) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Gordon D. Wigman and Judith S. Wigman.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)

County of Cocouin) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Randy and Donna R. Watkins.

My Commission Expires: APRIL 4 1996

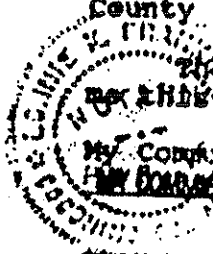
STATE OF ARIZONA)

County of Cocouin) SS.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Raymond A. Gonzales and Amy S. Gonzales.

My Commission Expires: APRIL 4 1996

STATE OF ARIZONA)
County of Cochise) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Peter E. and Sona L. Heguy.

My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1996~~

[Signature]

STATE OF ARIZONA)
County of _____) ss.

The foregoing instrument was sworn to and acknowledged before me this _____ day of December, 1994, by Michael J. Hanks and Suzanne L. Hanks.

My Commission Expires: _____

STATE OF ARIZONA)
County of _____) ss.

The foregoing instrument was sworn to and acknowledged before me this _____ day of December, 1994, by Tobin K. and Michele Fisher.

My Commission Expires: _____

STATE OF ARIZONA)
County of Cochise) ss.

The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Larry W. and Mary M. Cosper.

My Commission Expires:
~~MY COMMISSION EXPIRES APRIL 4 1996~~

[Signature]

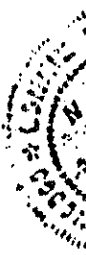
STATE OF ARIZONA)
County of _____) ss.

The foregoing instrument was sworn to and acknowledged before me this _____ day of December, 1994, by Charles M. Howell and Linda B. Howell.

My Commission Expires: _____

STATE OF ARIZONA

County of Cocconino) ss.

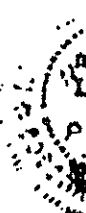


The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Bryan E. and Shannon E. Ake.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1995

STATE OF ARIZONA

County of Cocconino) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Alvin W. Corson and Kathryn L. Corson.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1995

STATE OF ARIZONA

County of Cocconino) ss.



The foregoing instrument was sworn to and acknowledged before me this 21 day of December, 1994, by Edward W. Carlin and Kathleen Carlin.

My Commission Expires:
MY COMMISSION EXPIRES APRIL 4 1995

EXHIBIT "A"

THE NELS PROPERTY

LEGAL DESCRIPTION

FOR

THE UNIT II PROPERTY

A portion of the Southeast quarter of Section 19, Township 21 North, Range 8 East of the Gila and Salt River Baseline and Meridian, Coconino County, Arizona, more particularly described as follows:

Beginning at the Southeast Corner of said Section 19 said Southeast Corner also being THE TRUE POINT OF BEGINNING;

THENCE South 89 Deg. 55' 52" West along the south line of said Section 19, 2540.53 feet to a point on a nontangent curve, concave to the west, on the Easterly boundary of Lakeside Acres Unit II, Case 3, Map 154, R.C.C., said nontangent curve having a radius point that bears North 00 Deg 04' 10" West, 48.00 feet distant;

THENCE along the arc of said curve through a central angle of 170 Deg. 16' 36" and arc distance of 142.64 feet to a point on the easterly boundary of said Lakeside Acres Unit II;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 09 Deg. 39' 14" East, 192.46 feet;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 37 Deg. 15' 37" East, 230.19 feet;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 25 Deg. 29' 38" East, 175.15 feet;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 16 Deg. 13' 39" East, 227.29 feet;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 12 Deg. 53' 48" East, 215.35 feet;

THENCE continuing along said easterly boundary of said Lakeside Acres Unit II, North 05 Deg. 51' 18" East, 404.68 feet to a point which is the Southeast Corner of Continental Lakeside Acres recorded as Case 3, Map 124, R.C.C.;

THENCE along the easterly boundary of said Continental Lakeside Acres, North 06 Deg. 13' 46" East, 147.87 feet;

THENCE continuing along said easterly boundary of said Continental Lakeside Acres, North 09 Deg. 28' 57" West, 83.99 feet;

THENCE continuing along said easterly boundary of said Continental Lakeside Acres, North 15 Deg. 35' 10" East, 405.81 feet;

THENCE continuing along said easterly boundary of said Continental Lakeside Acres, North 44 Deg. 58' 22" East, 156.46

1735-916

feet to a point on the South Right-Of-Way of Butler Avenue as
 referenced in the City of Flagstaff File No. 04-93012, (Butler
 Avenue Right-Of-Way Conveyance);
 THENCE continuing along said South Right-Of-Way North 72 Deg. 41'
 21" East, 56.46 feet;
 THENCE continuing along said South Right-Of-Way North 73 Deg. 19'
 54" East, 201.69 feet to the beginning of a curve concave to the
 Northwest with a radius point that bears North 16 Deg. 40' 08"
 West, 1045.00 feet distant;
 THENCE continuing along said South Right-Of-Way along the arc of
 said curve through a central angle of 03 Deg. 18' 48", 60.43
 feet to the point of tangency;
 THENCE continuing along said South Right-Of-Way North 70 Deg 01'
 04" East, 345.09 feet to the beginning a curve concave to the
 Southwest, having a radius point that bears South 19 Deg. 58' 56"
 E, 30.00 feet distant;
 THENCE along the arc of said curve through a central angle of 89
 Deg. 55' 41", 47.09 feet;
 THENCE continuing along said South Right-Of Way North 70 Deg. 06'
 14" East, 50.00 feet to the beginning of a curve concave to the
 Southeast, having a radius point that bears South 69 Deg. 56' 45"
 East, 30.00 feet distant;
 THENCE along the arc of said curve through a central angle of 90
 Deg. 04' 19", 47.16 feet to the point of tangency;
 THENCE continuing along said South Right-Of-Way North 70 Deg. 01'
 04" East, 97.64 feet to the beginning of a curve concave to the
 Southeast, having a radius point that bears South 19 Deg. 58' 56"
 East, 955.00 feet distant;
 THENCE along the arc of said curve through a central angle of 20
 Deg. 02' 47", 335.80 feet to a point on the South Right-Of-Way of
 Butler and also being the Northwest corner of Amberwood Unit 1,
 as recorded Case XX, Map XXX, R.C.C.;
 THENCE along the west line of said Amberwood Unit 1, South 01
 Deg. 06' 09" West, 87.72 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 15 Deg. 35' 28" West, 91.64 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 19 Deg. 57' 55" West, 98.66 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 04 Deg. 53' 57" West, 121.87 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 08 Deg. 29' 16" East, 110.28 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 North 73 Deg. 07' 40" East, 129.15 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 11 Deg. 05' 58" East, 91.02 feet to the beginning of a

curve concave to the West, having a radius point that bears South
 78 Deg. 54' 02" West, 270.00 feet distant;
 THENCE along the arc of said curve through a central angle of 39
 Deg. 36' 55", 186.68 feet to the point of tangency;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 28 Deg. 30' 56" West, 236.46 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 61 Deg. 29' 04" East, 164.45 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 24 Deg. 28' 47" West, 109.75 feet;
 THENCE continuing along the west line of said Amberwood Unit 1,
 South 28 Deg. 03' 15" West, 638.29 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 South 61 Deg. 12' 36" East, 278.82 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 South 24 Deg. 01' 53" West, 17.61 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 South 65 Deg. 58' 07" East, 199.22 feet to the beginning of a
 curve concave to the Southeast, having a radius point that bears
 South 65 Deg. 58' 07" East, 868.89 feet distant;
 THENCE Northeasterly along the arc through a central angle of 04
 Deg. 45' 31", 77.16 feet to the point of tangency;
 THENCE continuing along the southerly line of said Amberwood Unit
 1, North 28 Deg. 47' 24" East, 26.72 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 South 61 Deg. 12' 36" East, 197.00 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 North 28 Deg. 47' 24" East, 186.15 feet;
 THENCE continuing along the south line of said Amberwood Unit 1,
 South 85 Deg. 39' 01" West, 298.66 feet to a point on the east
 line of said Section 19, from which the East Quarter Corner bears
 North 00 Deg. 22' 29" West, 1854.83 feet distant;
 THENCE South 00 Deg. 22' 29" East along the east line of said
 Section 19, 757.72 feet to the Southeast Corner of said section
 and the TRUE POINT OF BEGINNING.

EXCEPT the following described property:

Beginning at the Center Quarter Corner of Section 19, T.21N.,
 R.8E., G & S. R. B. & M.;
 THENCE South 88 Deg. 53' 51" East along the north line of said
 Section 19, 901.89 feet (901.88' Record), per Record Of Survey
 recorded as Book 7, Page 92, R.C.C.;
 THENCE South 38 Deg. 04' 10" East, 693.89 feet to the TRUE POINT
 OF BEGINNING;

THENCE South 77 Deg. 12' 47" East, 420.50 feet per R.S., Book 7,
Page 92, R.C.C.;

THENCE South 27 Deg. 33' 52" West, 422.44 feet per R.S., Book 7,
Page 92, R.C.C.;


THENCE South 87 Deg. 54' 27" West, 530.12 feet (530.11' Record)
per R.S., Book 7, Page 92, R.C.C.;

THENCE North 32 Deg. 54' 54" East, 580.02 feet per R.S., Book 7,
Page 92, R.C.C., to the TRUE POINT OF BEGINNING.

EXCEPT any portion of the above described properties that might
be affected by a Power Line Easement as recorded in Docket 492,
Page 497 and Docket 399, Page 218.

WHEN RECORDED MAIL TO:

THADDEUS C. BAKER, JR.
ATTORNEY AT LAW
12 EAST DALE AVENUE
P.O. BOX C
FLAGSTAFF, AZ 86002

 **CANDACE OWENS**
COCONINO COUNTY RECORDER
OFFICIAL RECORDS OF
COCONINO COUNTY
INST: 97-15879 FEE:\$ 11.00
AT THE REQUEST OF:
TRANSNATION TITLE INS CO
DATE: 06/10/1997 TIME: 04:18
DKT: 1992 PG: 816 PAGES: 006

DOCUMENT TITLE

CORRECTED DECLARATION OF ANNEXATION AND COVENANTS, CONDITIONS AND
RESTRICTIONS FOR AMBERWOOD UNIT II

1992-816

8

CORRECTED
DECLARATION OF ANNEXATION
AND
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AMBERWOOD UNIT II

RECITALS:

WHEREAS, on May 6, 1994, the Declarant caused to be recorded in Docket 1669, Page 250-263, Records of Coconino County, the Declaration of Covenants, Conditions & Restrictions for Amberwood for Lots 1 through 76 of Amberwood, according to Case 5 of Maps, Page 90, Official Records of Coconino County, Arizona (hereafter "Amberwood Declarations"); and

WHEREAS, on January 3, 1995, the Declarant, William C. Neils, and the Amending Owners of Amberwood, recorded the Amendment to Declaration of Covenants, Conditions & Restrictions for Amberwood (hereafter "Amberwood Amendment"), in Docket 1735, Page 891, Records of Coconino County, Arizona,

authorizing the Declarant and William C. Neils to annex certain property into the Amberwood Subdivision (hereafter referred to as "Amberwood Unit II"); and

WHEREAS, on May 10, 1995, in Docket 1768, pages 211-235, the Declarant recorded the Declaration of Covenants, Conditions & Restrictions for Amberwood Unit II (hereafter referred to as the "Amberwood Unit II Declaration"); and

WHEREAS, on May 10, 1995, the Declarant recorded the plat for Amberwood Unit II in Case 6 of Maps 27, 27A and 27B (hereafter referred to as the "Amberwood Unit II Plat"); and

WHEREAS, the parties desire to clarify their intent.

NOW, THEREFORE, in consideration of the mutual covenants and acknowledgments contained herein, the undersigned hereby agree as follows:

1. The attached Corrected Declaration of Annexation and Covenants, Conditions and Restrictions for Amberwood Unit II dated May 10, 1995, recorded in Docket 1768, Pages 211-225 on May 10, 1995 was intended and is the "Declaration of Annexation" referred to in Paragraph 7.2.2. of the Amberwood Amendment referred to above.

2. The Plat recorded in Case 6 of Maps, pages 27, 27A and 27B is an "additional plat" referred to in Paragraph 7.1 of the Amberwood Amendment.

3. The Amberwood Community Association Inc., effective May 10, 1995, accepts the common areas, lots, rights, responsibilities, duties and obligations contained in the Corrected Declaration of Annexation referred to in Paragraph 1 above.

4. That the attached Corrected Declaration of Annexation and Covenants, Conditions & Restrictions of Amberwood Unit II and the Amberwood Declaration referred to above, which is incorporated by this reference, are intended to, and do, encumber and restrict Lots 77 through 178 of Amberwood Unit II.

5. The members of the Association shall consist of the owners of Lots 1 to 76 of Amberwood according to Case 5 of Maps, Page 90, Official Records of Coconino County, Arizona, and Lots 77 to 178 of Amberwood Unit II, according to the plat of record of Amberwood Unit II, Case 6 of Maps, pages 27, 27A and 27B. Tract F originally described in the Amberwood Unit II Declaration was incorrectly included in the description. Tract F is located in Amberwood as described in Case 5 of Maps, Page 90, Records of Coconino County, Arizona.

6. That from and after the execution and recording of this document with the Coconino County Recorder's Office, to the extent that the Developer's reservation of right contained in Paragraphs 3.2 and 6.7 of the Amberwood Unit II Declaration conflicts with the Amberwood Declaration, said Developer's rights are hereby waived, and the Developer shall only have those rights as set forth in the

Amberwood Declarations as it applies to Lots 77 through 178 of the Amberwood
Unit II Subdivision.

DATED: May 14, 1997.

FLAGSTAFF HEIGHTS LIMITED
PARTNERSHIP

By: AMBER, INC.

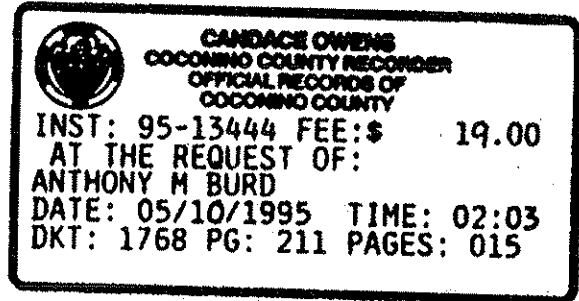
By Anthony M Bond
Its President

Pursuant to Paragraph 6.7 of the
Amberwood Unit II Declaration

William C Neils
WILLIAM C. NEILS, husband of Helen
Neils, dealing with his sole and separate
Property

AMBERWOOD COMMUNITY
ASSOCIATION INC.

By Kathleen A. Carlson
Its President



When recorded return to:
Flagstaff Heights Limited Partnership
5070 North 40th Street Suite 250
Phoenix, AZ 85018
ATTN: Anthony M. Burd

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AMBERWOOD UNIT II

THIS DECLARATION of Covenants, Conditions and Restrictions for Amberwood Unit II is made and dated this 10 day of MAY, 1995 by Flagstaff Heights Limited Partnership, an Arizona limited partnership ("Declarant"), being the owner of all the following described property, situated in the County of Coconino, State of Arizona, to wit:

Lots 77 through 178, and Tracts B, C, D, E and F of Amberwood Unit II according to the plat of record for Amberwood Unit II at Book 6 of Maps Pages 27, 27A & 27B, Official Records of Coconino County, Arizona ("Amberwood Unit II").

WHEREAS, the Declarant, about to convey lots on parcels of said described property hereby declares that Amberwood Unit II is held and shall be conveyed subject to restrictions, conditions, covenants, charges and agreements set forth in this Declaration, to wit:

SECTION 1
DEFINITIONS

1.1 "Annual Assessment" means the assessments levied against each Lot, and the Owner thereof, pursuant to Section 5.3 hereof.

1768-211

- 1.2 "Architectural Committee" or "Committee" shall mean the committee created pursuant to Section 4 hereof.
- 1.3 "Architectural Rules and Guidelines" or "Guidelines" shall mean the rules and regulations adopted, from time to time by the Committee.
- 1.4 "Articles" shall mean the Articles of Incorporation of the Association which have been or will be filed in the office of the Corporation Commission of the State of Arizona, as said articles may be amended from time to time.
- 1.5 "Assessment" means an Annual Assessment, Special Assessment or extraordinary Assessment as more fully set forth in Section 5 herein.
- 1.6 "Assessment Lien" means the lien created and imposed by Section 5.1 herein.
- 1.7 "Association" shall mean and refer to AMBERWOOD UNIT II COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation, its successors or assigns, which has been or will be established pursuant to this Declaration.
- 1.8 "Association Rules" or "Rules" shall mean the rules and regulations adopted by the Board and/or Committee as they may be amended from time to time.
- 1.9 "Board" shall mean the Board of Directors of the Association.
- 1.10 "Bylaws" shall mean the Bylaws of the Association, as much may be amended from time to time.
- 1.11 "Committee" shall have the same meaning as "Architectural Committee" as set forth in Section 1.2 above.
- 1.12 "Common Area" or "Common Areas" shall mean any and/or all real property, including any improvements thereto, that are now or are hereafter owned by the Association for the common use and enjoyment of the Owners. Tracts B thru F as noted on the Final Plat of Amberwood Unit II are reserved solely for Open Space and shall not be further subdivided.
- 1.13 "Declarant" shall mean FLAGSTAFF HEIGHTS LIMITED PARTNERSHIP, an Arizona limited partnership, or its specifically designated successors.
- 1.14 "Declaration" shall mean the covenants, conditions and restrictions hereinafter set forth in this entire document, as said document may be amended from time to time.
- 1.15 "Extraordinary Assessment" means any Assessment levied pursuant to Section 5.4 of this Declaration.

1.16 "Improvement" shall mean the buildings, pools, fences, walls, hedges, plantings, planted trees and shrubs and any and all structures and landscaping of any type and kind erected or placed on any lot.

1.17 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot including an assignee of a lease.

1.18 "Lot" shall mean any of the Lot Type A, B, or C as defined below. "Lots" shall mean more than one Lot.

1.19 "Lot Type A" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood Unit II and designated as a numbered Lot having square footage less than 13,000.

1.20 "Lot Type B" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood Unit II and designated as a numbered Lot sized between 13,000 and 20,000 square feet.

1.21 "Lot Type C" shall mean any separate parcel of real property shown upon the recorded plat of Amberwood Unit II and designated as a numbered Lot having square footage greater than 20,000.

1.22 "Member" shall mean any person, corporation, partnership, or other legal entity who is a member of the Association.

1.23 "Owner(s)" shall mean and refer to the owner of record, whether one or more persons or entities, or equitable or beneficial title (or legal title if same has merged) of any Lot. "Owner" shall include any person(s) or entity(s) who hold(s) an interest in any Lot as security for the performance of an obligation. "Owner" shall also include the family, guests, invitees, and Lessees of any Owner. "Owner" shall include Declarant so long as Declarant owns any Lot.

1.24 "Plat" means the plat for Amberwood Unit II recorded at ^{Case} Book 6 of Maps, Page ~~118~~^{2133A} records of Coconino County, Arizona, and all amendments, supplements and corrections thereto.

1.25 "Project Documents" means this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Rules or Guidelines.

1.26 "Residence" shall mean a building or structure devoted exclusively to single family residential use.

1.27 "Visible from Neighboring Property" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of

neighboring or adjoining property within Amberwood Unit II at an elevation no greater than the elevation of the base of the object being viewed.

SECTION 2

USE RESTRICTIONS

2.1 Single Family Residential Use. No structure whatever, other than a Residence together with a private garage, guest house, servants quarters or such other customary outbuilding(s) and structure(s), shall be erected, placed or permitted to remain on any Lot. No gainful occupation, profession, trade or other non-residential use shall be permitted on any Lot.

2.2 Minimum Livable Area. Any Residence constructed shall contain a minimum of:

- 1,500 square feet of livable area on Lot Type A,
- 2,000 square feet of livable area on Lot Type B, and
- 2,500 square feet of livable area on Lot Type C,

unless otherwise approved by the Committee. The minimum square footage includes the walls of the Residence, but is exclusive of open porches, breezeways, pergolas, courtyards, attached garages or any similar extension or projection. All structures shall be of new material and no buildings shall be moved from any other location onto any Lot. No prefabricated building or other structure of any nature whatsoever, permanent or temporary shall be moved or placed upon, or assembled or otherwise maintained on any Lot, provided, however that a temporary office, trailer office, tool shed, lumber shed and/or office may be used if it is removed at completion of construction or selling of the Residence for which it was maintained, whichever is later.

2.3 Setback Requirements. All buildings shall be located on any Lot within the Building Setback Lines as shown on the Plat. All Residences shall have an enclosed garage capable of housing a minimum of two (2) cars. Notwithstanding the above, minimum setbacks shall conform to the Ordinances as established by the City of Flagstaff.

2.4 Plan Approval of Improvements and Alterations. No Improvement, addition, alteration, repair, excavation or other work which in any way alters the exterior appearance of any Improvement or any portion of any Lot from its natural or improved state as existing on the date of the Declaration and no building, fence, wall, drive approach or other structure shall be commenced, erected, maintained, improved, altered, made or done until the plans and specifications for the same in all construction details, including shape, height, materials, floor plans, colors and location, have been submitted to and APPROVED OF IN WRITING BY THE COMMITTEE. The Committee shall have the right to take into consideration the suitability of the proposed improvements, materials to be used, the harmony thereof with the surroundings and any other factors as may be deemed relevant

by the Committee, and to refuse to approve any plans or specifications, whether for new construction or for subsequent alteration or repair of existing Improvements, which are not suitable or desirable, in its SOLE AND ABSOLUTE OPINION, for aesthetic or other reasons. No changes or deviations in or from such plans and specifications once approved, shall be made without the prior written approval of the Committee. All decisions of the Committee shall be final and no Owner or other party shall have recourse against the Committee for its refusal to approve any such plans and specifications.

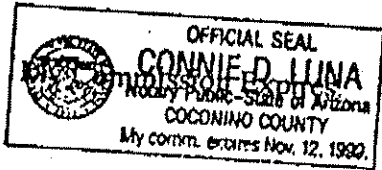
2.5 Removal and Replacement of Trees. No trees located upon any Lot may be removed or replaced without the prior WRITTEN APPROVAL OF THE COMMITTEE, which approval shall not be unreasonably withheld. All plans and specifications as contained in Section 2.4 above must show the approximate location of any tree(s) to be removed or replaced. This provision shall not prohibit any Owner from planting other types and varieties of trees on his Lot of a nature indigenous to the surroundings. Amberwood Unit II is subject to a Resources Preservation Plan as approved by the City of Flagstaff. Trees located within the protected area as noted on the Resource Preservation Plan may be removed or altered only upon written approval of the City of Flagstaff and the Committee.

2.6 Landscaping and Landscape Maintenance. All front yard landscaping and all landscaping upon those portions of any Lot which are visible from any other Lot or Common Area shall be installed by the Owner of the Lot in accordance with a landscaping plan which has been submitted to and duly APPROVED IN WRITING BY THE COMMITTEE. Said landscaping plan shall be submitted along with the plans and specifications for the construction of the Residence unless otherwise agreed upon in writing by the Committee. All such landscaping (pursuant to the approved plan) must be installed by the Owner of the Lot within ninety (90) days following the final inspection of the Residence and issuance of a certificate of occupancy by the City of Flagstaff. Each Owner shall at all times keep all trees, shrubs, ground cover and plantings of every kind on his Lot neatly trimmed, and at all times keep his Lot free from trash, woods and other unsightly material. The yards and grounds in connection with all improved Lots shall be cultivated and planted to an extent sufficient to maintain an appearance not out of keeping with that of typical improved Lots in Amberwood Unit II. During prolonged absence, each Owner will arrange for the care of his Lot during such absence. If an Owner does not clean up or maintain his Lot in accordance with the foregoing provisions of this Section 2.5, the Association may give written notice thereof to the Owner, and if such Owner fails to clean up or maintain his Lot within thirty (30) days from the date such written notice is given, the Association may have that Owner's Lot cleaned up or maintained. Any and all expenses incurred by the Association in so doing shall be levied against said Owner as an Extraordinary Assessment under Section 5.4 hereof, with the Association to have all attendant remedies including the Assessment Lien referred to in Sections 5.1 and 5.8 hereof.

2.7 Fences. No fence shall be constructed on any Lot unless the style and design thereof are APPROVED IN WRITING BY THE COMMITTEE. All fences constructed on any Lot must complement the outside of the Improvement on that Lot. No "chain-link" fence

STATE OF ARIZONA)
County of Coconino)

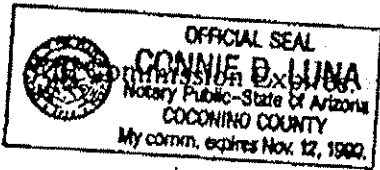
On May 14, 1997, before me the undersigned, personally appeared ANTHONY M. BURD, President of Flagstaff Heights Limited Partnership by Ambre, Inc., being thereunto authorized.



Connie D. Luna
Notary Public

STATE OF ARIZONA)
County of Coconino)

On May 14, 1997, before me the undersigned, personally appeared KATHERINE A. CARLIN, President of Amberwood Community Association Inc., being thereunto authorized.



Connie D. Luna
Notary Public

STATE OF ARIZONA)
County of Coconino)

On May 14, 1997, before me the undersigned, personally appeared WILLIAM C. NEILS, husband of Helen Neils, dealing with his sole and separate property.

My Commission Expires:



Connie D. Luna
Notary Public

shall be placed anywhere on any Lot. There shall be no metal visible in any fence except for gates which shall be lined with wood. No fence shall be constructed in the twenty-five foot landscape easement which buffers Butler Avenue from the lots that are adjacent to it. Fences on Lot Types A may be constructed on the side and rear property lines. Fences on Lot Types B and C shall not be constructed outside the Building Setback Lines without PRIOR WRITTEN CONSENT OF THE COMMITTEE.

2.8 Obstructive Materials or Devices. Air conditioners, television antenna, satellite dishes, coolers, pool filters, firewood storage, building or repair materials, storage facilities, lawn and yard tools and equipment, and other temporary or permanent equipment must be screened or completely stored so as to be substantially invisible any other property within Amberwood Unit II. Screening shall be constructed of the same material as the adjacent building or wall. All heating and air conditioning units shall be ground mounted.

2.9 Drainage Easement. No Owner shall fill, block, or obstruct any drainage easements or drainage structures on his Lot, nor shall any Owner cause or suffer to be erected on any Lot any building or obstruction for the purpose, directly or indirectly, of obstructing, blocking or filling any such drainage easement or drainage structure. The City of Flagstaff agrees to make and forever repair and maintain all such drainage easements and structures on the Lot, making good all damage which may be caused to the said drainage easements and structures. Such damage may occur directly or indirectly by the obstructing, blocking or filling of such drainage easements.

2.10 Roofing Materials. Roofing materials shall consist of wood shake shingles, tile or cement shingles, non reflective metal or thick butt asphalt shingles as APPROVED IN WRITING BY THE COMMITTEE. All metal flashing, chimneys, gutters, down spouts, wires or pipes must be matched to the roof or wall color and texture.

2.11 Exterior Siding & Material. Exterior siding & materials shall consist of Cedar (wood) siding, lap, T & G, Board, batt and Masonite lap. Accent materials shall consist of stone bricks and stucco. All exterior siding materials must be APPROVED IN WRITING BY THE COMMITTEE. A material known as T-111 shall not be used.

2.12 Colors. Exterior colors must be subdued and blend with the environment. No bright colors such as red, yellow, etc will be allowed. All exterior colors must be APPROVED IN WRITING BY THE COMMITTEE.

2.13 Livestock and Poultry. Cows, horses or livestock such as pigeons or chickens shall not be kept. Animals such as dogs, cats and rabbits may be kept as house pets, provided that they are not kept, bred or maintained for any commercial purposes. Noisy pets such as barking dogs, which are bothersome to a plurality of neighbors must be removed. No pets may be kept or confined within the front yard of any Lot.

2.14 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary

containers. All containers used for the storage or disposal of such material shall be kept in a clean and sanitary condition that will not be obnoxious to the eye. In no event shall such containers be maintained so as to be Visible from Neighboring Property except to make the same available for collection and, then, only for the shortest period of time reasonably necessary to effect said collection. No substance, thing or material shall be kept upon the Lot that will emit a foul or obnoxious odor, or cause any noise that might disturb the peace, quiet, comfort or serenity of the other Owners or occupants in Amberwood Unit II.

2.15 Nuisance. No nuisance or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners or occupants in Amberwood Unit II.

2.16 Completion of Construction. When any construction on any Lot has been started, it shall be completed within one (1) year from start date except when such delay is caused by an act of God, strikes, actual inability of the Owner to procure delivery of necessary material or by interference by other persons or forces beyond the control of the Owner to prevent. Financial ability of the Owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond his control.

2.17 Abandoned or Inoperable Vehicles. No vehicle of any type which is abandoned or inoperable shall be stored or kept on any Lot or street within Amberwood Unit II unless it is housed within a garage as approved by the Committee.

2.18 Vehicles. No trucks, buses, boats, trailers, campers, recreation vehicles, etc. (other than passenger automobiles) shall be permitted to be kept and maintained on any Lot without the Lot Owner's receipt of the Association's PRIOR WRITTEN APPROVAL of such Owner's maintenance of the vehicle and the manner of screening or concealing the same. The restrictions in this Section 2.18 do not apply to automobiles or station wagons, and the terms "buses", "vans", and "trucks", set forth above shall not include (i) 3/4 ton (or less) capacity pick up trucks used by an Owner solely for pleasure and passenger purposes (and not commercial purposes).

2.19 Parking. No vehicles shall be parked or maintained on the streets in Amberwood Unit II except for such periods of time as shall be reasonably necessary to load or unload.

2.20 Deeds. Deeds of conveyance of all or any of the Lots shall incorporate by reference all of the provisions contained in this Declaration. However, whether or not recited in the deeds of reconveyance, this Declaration shall be binding on every Owner of every Lot in Amberwood Unit II.

2.22 Term. This Declaration and the covenants herein shall run with the land and shall be binding on the undersigned, the Owners and all of their successors in title, interest or possession in all and every part of Amberwood Unit II, until August 1, 2026, and

thereafter the same shall be automatically extended for successive periods of ten (10) years, unless and until the Owners of seventy-five percent (75%) of the Lots amend or revoke the same by vote or written consent, whereupon an instrument signed and acknowledged by the President of the Association shall be recorded in the office of the County Recorder for Coconino County, Arizona, certifying such vote or consent.

2.23 Advertising. No advertising signs, billboards, or other unsightly objects shall be erected, placed or permitted to remain on any Lot except for one "For Sale" sign, not to exceed twenty four (24) inches by thirty (30) inches in size.

2.24 Easements. Easements as indicated upon the Plat are reserved for the installation and maintenance of public service utilities and other uses for public or quasi-public good. No buildings shall be placed upon such easements or interference be made with the free use of the same for the purposes intended.

2.25 Responsibility. All Owners are responsible for the succeeding Owners of the Lots being notified of the contents of this Declaration.

SECTION 3

ASSOCIATION

3.1 Establishment of the Association. The Association shall be established as a non-profit corporation by filing with the Corporation Commission of the State of Arizona the Articles of Incorporation of the Association in conformance with all applicable laws and regulations. When established as set forth above, the Association shall be governed by and in accordance with the requirements set forth herein and shall be organized for the purposes and with the powers set forth herein. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within this Declaration, each person or entity for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to automatically become Members of the Association upon its establishment, subject to the rights and obligations set forth herein.

3.2 Membership and Voting Rights. Every Owner of a Lot shall be a Member of the Association, such membership shall be appurtenant to and may not be separated from ownership of any Lot. There shall be two classes of membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant so long as Declarant is a Class B member, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for any such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and the Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease to exist and shall automatically be converted to Class A membership ninety (90) days after such time as the total votes outstanding in the Class A membership equals the number of votes outstanding in the Class B membership.

Each Member shall have such other rights, duties and obligations as set forth in the Articles and Bylaws of the Association as they may be amended from time to time. The membership of each Owner shall be appurtenant to the Lot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to the Lot and then only to the transferee of ownership to such Lot and any attempt to make a prohibited transfer shall be void.

The affairs of the Association shall be conducted by a Board of not less than three (3) nor more than nine (9) Directors with the assistance of such officers designated in the Articles or Bylaws. So long as Declarant owns any Lots, the following rules shall apply:

- (a) The Board of Directors of the Association shall be appointed by the Architectural Committee;
- (b) The officers of the Association shall be appointed by the Directors, and;
- (c) Persons other than Owners may serve as officers and directors of the Association.

When Declarant no longer owns any of the Lots, the officers and directors shall be designated as provided for in the Articles and Bylaws.

SECTION 4

ARCHITECTURAL COMMITTEE

4.1 Creation of Architectural Committee. An Architectural Committee is hereby established and shall perform the functions set forth in this Declaration and the Articles and Bylaws. The Committee shall be composed of at least three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership or appointment. A member of the Committee need not be, but may be, a member of the Board of Directors or an officer of the Association. The following persons are hereby designated as the initial members of the Architectural Committee:

Anthony M. Burd, Chairman
Marc Bailes

1768-219

Lon Franklin

Six (6) months following the sale of the last Lot by Declarant to an Owner, the Board of Directors or any other Class A members shall be appointed as the Architectural Committee as so determined by the majority vote of the Members of the Association at a duly called meeting for this purpose.

4.2 Appointment and Removal. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Any member of the Committee who fails to attend three (3) consecutive meetings of the Committee may be removed by the unanimous vote of the remaining members and his vacancy shall be filled as aforesaid. The members of the Committee shall be appointed for a period of at least one (1) year, or until the appointment of their respective successors. Any new member of the Committee appointed to fill a vacancy shall serve the remaining term of the member who has resigned or been removed. Members of the Committee who have resigned or been removed may be reappointed to the Committee.

4.3 Purpose of the Committee. The declared purpose of the Architectural Committee provided for herein is to assure that the character, design, exterior materials, color, roof, proportions, elevations, location and use of each Improvement shall be in harmony with its surroundings and not be offensive or aesthetically detrimental to neighboring property. The Committee's approval or disapproval as required in these covenants, shall be in writing. In the event the Architectural Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. Except for judicial construction, the Committee shall have the exclusive right to construe and interpret the provisions of this Declaration and in the absence of any adjudication to the contrary by a court of competent jurisdiction, the Committee's interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the provisions hereof. All plans and specifications submitted to the Committee shall be either delivered to the Chairman of the Committee by hand delivery with a written receipt given for said plans and specifications, or by registered mail, return receipt requested, postage prepaid. The address for the initial Chairman of the Committee is:

5070 North 40th Street
Suite 250
Phoenix, Arizona 85018

SECTION 5

FUNDS AND ASSESSMENTS

1768-220

5.1 Creation of the Lien and Personal Obligations of Assessment. Each Owner, other than the Declarant, is deemed to covenant and agree to promptly pay to the Association all sums contemplated under this Declaration including, without limitation: Annual Assessments, Extraordinary Assessments, Special Assessments and such other Assessments and expenses of the Association as may be incurred, fixed, established or collectable from time to time as provided for within this Declaration or within the Articles and Bylaws of the Association. The Assessments, together with interest, costs, reasonable late fees, and reasonable attorneys' fees, shall be a charge on the land and a continuing lien ("Assessment Lien") upon the Lot or Lots against which each such Assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot or Lots at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall pass to successors in title of the person owning the Lot at the time the Assessment fell due. No Lot shall be sold, transferred or conveyed by any Owner without all Assessments having been paid in full, whether or not an Assessment Lien has been filed or recorded.

5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of Amberwood Unit II and for the improvement, maintenance and replacement of any private facilities, landscaped areas, retention/recreation areas, Tracts B thru F, streets, etc., connected with Amberwood Unit II which have not been accepted for maintenance by the City of Flagstaff.

5.3 Annual Assessments - Maximum Amounts

(a) Until the first meeting of the Association to determine the maximum Annual Assessment, the initial Annual Assessment for each Lot conveyed by Declarant to an Owner shall be an amount equal to \$240 for each Lot Type A, \$300 for each Lot Type B, and \$360 for each Lot Type C, whether improved, developed or undeveloped. Such Annual Assessments shall be in addition to other Assessments and fees set by the Board of Directors.

(b) From and after January 1 of the year immediately following the first meeting of the Association to determine the maximum Annual Assessment, the Annual Assessment may be increased each year not more than ten percent (10%) above the maximum Annual Assessment set for the pervious year. Said maximum Annual Assessment may be increased above ten percent (10%) by a two-thirds (2/3) vote of the Members or their proxies at a meeting duly called for that purpose.

(c) The Annual Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant to an Owner. The maximum Annual Assessment shall be adjusted according to the number of months remaining in the calendar year, and the Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether the Assessments on a specified Lot have been paid.

5.4 Extraordinary Assessments. The Association may levy an Extraordinary Assessment against an Owner, and such Owner's Lot, for the following expenses:

(a) Any expenses caused by the misconduct of such Owner;

(b) Any expense incurred by the Association resulting from any Owner's failure to clean up or maintain his Lot and any Improvement thereon in accordance with the terms of this Declaration;

(c) Any expense incurred by the Association as a result of repairs, maintenance or replacement to the Common Area, irrigation system or to portions of any Lot the Association is obligated to maintain or repair which is caused by the willful or negligent act of an Owner, his family, guests, tenants, invitees or animals.

5.5 Special Assessments. In addition to the Annual Assessment authorized herein, the Association may levy, during any assessment year, a Special Assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any landscaping or other Improvement installed upon the Common Area, provided that such Special Assessment shall have the written consent of no less than two-thirds (2/3) of the votes of the Members voting in person or by proxy at a meeting duly called for that purpose. Said Special Assessment shall be payable over a period not to exceed the next ten (10) succeeding years.

5.6 Subordination of Assessment Lien. The Assessment Lien shall be subordinate to the lien of any first mortgage, or deed of trust under which the beneficiary is a lender who has loaned funds with the Lot as security and whose lien is the first priority lien on the Lot ("First Mortgage"), or held by the lender's successors and assigns, and shall also be subject and subordinate to liens or taxes and other public charges which by applicable law are expressly made superior. Any sale or transfer of a Lot shall not affect the Assessment Lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure by the First Mortgagee, or any proceeding in lieu thereof, shall extinguish the Assessment Lien with respect to payments which became due prior to such sale or transfer, but any Assessments or other charges against the Lot which accrued prior to such sale or transfer shall remain the obligation of the Owner of the Lot at the time when such Assessments and charges became due and payable. No sale or transfer by the First Mortgagee shall relieve such Lot from liability for any Assessments thereafter become due or from the Assessment Lien therefor.

5.7 Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots of each Type (i.e. Type A, B, or C) and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors.

Notwithstanding any provision to the contrary contained in this Declaration, the rate of annual and special assessments set for the Lots owned by Declarant which are neither leased, rented, nor otherwise occupied as a residence shall be fixed at one-quarter (1/4) of

the assessment rate for the other Lots. Declarant shall not be liable for any individual Assessments provided for herein.

5.8 Delinquency. Any Assessments provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the delinquency date, a late charge of Ten Dollars (\$10.00) per month, or such other amount as the Association shall from time to time determine, shall be levied. In addition, the Assessment shall bear interest from the date of delinquency until paid at the rate of fifteen percent (15%) per annum. The Association may, at its option, bring an action at law against an Owner personally obligated to pay the same and/or foreclosure the Assessment Lien against the Owner's Lot or Lots in accordance with the then prevailing law of the State of Arizona relating to the foreclosure of liens upon real property. If an action is commenced, there shall be added to the amount of such Assessment the late charge, interest, expenses incurred in connection with collection of the debt secured by the Assessment Lien, reasonable attorneys' fees and the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said late charge, interest, collection costs, reasonable attorneys' fees, and the costs of the action. Each Owner vests in the Association, or its agents, the right and power to bring all actions at law or equity against such Owner for the collection of such delinquent Assessments. In the event a foreclosure sale of a Lot or Lots authorized pursuant to the then prevailing laws of the State of Arizona is undertaken by the Association, the Association, through its duly authorized agents, shall have the power to bid on such Lot or Lots at the sale, using Association funds or funds borrowed for such purpose, and to acquire and hold, lease, mortgage and convey the same.

5.9 Cumulative Remedies. The Assessment Lien and the rights to foreclosure thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its successors or assigns may have hereunder and by law or equity, including a suit to recover a money judgment for unpaid Assessments as above provided.

SECTION 6

GENERAL PROVISIONS

6.1 Enforcement. The covenants, conditions, reservations and restrictions set forth herein may be enforced by the Declarant, and/or the Association and/or any Owner of any Lot. Violation of any one or more of the restrictions may be restrained or enforced by any court of competent jurisdiction and/or damages may be awarded against any such violator. Nothing herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought. In the event any such person employs an attorney or attorneys to enforce the compliance with or specific performance of the terms and conditions of this Declaration, and prevails in such action, the Owner or Owners against

1768-223

whom the action is brought shall pay all attorneys' fees and costs incurred in connection with such action.

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

6.3 No Legal Opinion. This Declaration affects the rights and obligations of Owners, Members and other parties. All Owners, Members and others, at their own expense, are encouraged to obtain a legal opinion from counsel of their choosing regarding their rights and obligations under this Declaration. Nothing in this Declaration, nor any act or representation of Declarant, the Association and/or its Board or the Architectural Committee, is to be construed to imply that the rights and obligations of Owners, Members or others have been reviewed or examined by legal counsel or to imply that Declarant, the Association or the Committee, or any one or part of them, express in any way a legal opinion of the rights and obligations of any party hereunder.

6.4 Waiver or Abandonment. The waiver of, or failure to enforce any breach or violation of any restrictions herein contained shall not be deemed to be a waiver or abandonment of such restrictions, or a waiver of the right to enforce any subsequent breach or violation of such restrictions. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation.

6.5 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.

6.6 Topic Headings. The marginal or topical headings of the paragraphs or sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or sections of this Declaration.

6.7 Declarant's Right to Amend. Notwithstanding the provisions of Section 2.17 hereof, Declarant, its successors and assigns, hereby reserve the right to amend this Declaration as may be necessary or appropriate in its sole discretion, such right to amend to continue until such time as Declarant sells the last Lot to an Owner, its successors or assigns, terminates.

IN WITNESS WHEREOF, FLAGSTAFF HEIGHTS LIMITED
PARTNERSHIP, an Arizona limited partnership, the undersigned, being the Declarant
herein, has executed this Declaration this 10 day of MAY, 1995

1768-224

DECLARANT

FLAGSTAFF HEIGHTS LIMITED PARTNERSHIP, an Arizona limited partnership

By: AMBRE, Inc., an Arizona corporation, its General Partner

By: Anthony M. Burd
Anthony M. Burd, President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this the 10th day of May, 1995, before me, the undersigned Notary Public, personally appeared Anthony M. Burd, the President of Ambre, Inc., and Arizona corporation, the managing general partner of Flagstaff Heights Limited Partnership, and Arizona limited partnership, and that he being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name thereto.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Sandi Gilbertson
Notary Public

My Commission Expires:
6.9.97

