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Continental Homes, Inc.
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LAWRENCE 39 OF 60

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS & EASEMENTS**

Sierra Tempe Units 1, 2 and 3

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("the Declaration") is made this 6th day of October, 1993 by CHI Construction Company, an Arizona corporation, ("Declarant").

RECITALS

A. Declarant is the owner and developer of certain real property in the City of Tempe, County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 1 through 162 inclusive, of Sierra Tempe Unit 1, more particularly described in the records of Maricopa County, Arizona, Book 365, of Maps, Page 49 ("the Property").

Lots 163 through 255 inclusive, of Sierra Tempe Unit 2, more particularly described in the records of Maricopa County, Arizona, Book 366, of Maps, Page 17 ("the Property").

Lots 256 through 384 inclusive, of Sierra Tempe Unit 3, more particularly described in the records of Maricopa County, Arizona, Book 366, of Maps, Page 36 ("the Property").

B. Declarant desires that a nonprofit corporation, Sierra Tempe Homeowners Association, be formed for the purpose of the efficient preservation of the values and amenities of Sierra Tempe and to which will be delegated certain powers of administering and maintaining the Common Area, enforcing this Declaration, and collecting and disbursing the assessments created herein.

C. Declarant desires and intends that the Property shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on and for the benefit of all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each owner thereof and their heirs, representatives, successors and assigns.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I
DEFINITIONS

Section 1.1 "Architectural Committee" shall mean the committee created pursuant to Article VII hereof.

Section 1.2 "Architectural Committee Rules" shall mean the rules, if any, adopted by the Architectural Committee.

Section 1.3 "Articles" shall mean the Articles of Incorporation of the Association, as such may be amended from time to time.

Section 1.4 "Association" shall mean and refer to SIERRA TEMPE HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation, its successors and assigns.

Section 1.5 "Board" shall mean the Board of Directors of the Association.

Section 1.6 "Bylaws" shall mean the Bylaws of the Association, as such may be amended from time to time.

Section 1.7 "Common Area" and "Common Areas" shall mean all areas (including the improvements thereon) owned or to be owned by the Association for the common use and enjoyment of Owners and/or residents of Sierra Tempe Units 1, 2 and 3. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Tracts ----- D, E, F, G, H and I

Section 1.8 "Declarant" shall mean the Declarant designated above or any person or entity who has succeeded to Declarant's rights and powers hereunder as to all or a portion of the Property and to whom Declarant's rights hereunder have been assigned by recorded instrument.

Section 1.9 "Declaration" shall mean the covenants, conditions, 3 restrictions and easements set forth in this document, as such may be amended from time to time.

Section 1.10 "Lot" shall mean any numbered parcel of real property shown upon any recorded plat of the Property together with any improvements constructed thereon, with the exception of the areas designated as lettered tracts and areas dedicated to the public. Each Lot shall be a separate freehold estate.

Section 1.11 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity that is a member of the Association.

Section 1.12 "Owner(s)" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same have merged) of any Lot. "Owner" shall include the purchaser under a recorded agreement for sale of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein "Owner" shall not include a lessee or tenant of a Lot. "Owner" shall include Declarant so long as Declarant owns any Lot within the Property.

Section 1.13 "Property" or "Properties" shall mean the real, personal, or mixed property described or located on Exhibit "A" which is subject to this Declaration.

Section 1.14 "Rules" shall mean the rules and regulations adopted by the Board, if any, as such may be amended from time to time, as more further described in Section 4.4.

Section 1.15 "Visible from Neighboring Property" shall mean, with respect to any given object, visible to a person six feet tall, standing on any part of neighboring property at an elevation no greater than ground level where the object is located (assuming the ground level where the person is standing is at the same height as the ground level where the object is located).

ARTICLE II
PROPERTY RIGHTS
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Section 2.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facilities or areas situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid;
- (c) the right of the Association to suspend the right to use the Common Area for a period not to exceed sixty (60) days for any infraction of the Association Rules and consecutive sixty (60) day periods for so long as the infraction continues;
- (d) the right of the Association to limit the number of guests of members using the Common Areas;
- (e) the right of the Association to change and regulate the use of Common Areas in accordance with Section 4.6;

(f) the right of the Association to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon, dedicate or otherwise transfer Common Areas in accordance with Section 4.7 hereof; and

(g) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof, to mortgage said property in accordance with Section 8.2(e) hereof. The rights of such mortgagee in said property shall be subordinate to the rights of the Owners hereunder.

Section 2.2 Delegation of Use. Any Owner may delegate, in accordance with and subject to any restrictions contained in the Bylaws, his right of enjoyment to the Common Area and improvements thereon to his tenants, or occupants of his Lot, or guests.

Section 2.3 Owners' Easement of Enjoyment Limitations.

(a) An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot and such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.

(b) Except as authorized by Section 2.1 (f), the Common Area shall remain undivided and no action for partition or division of any part thereof shall be permitted.

(c) Each Owner, his tenant, the occupant of his Lot, and his guests may use the Common Area in common with the Owners, invitees, tenants, and occupants of the other Lots in accordance with the purposes for which it is intended without hindering or encroaching upon the lawful right of such others and in accordance with the Association Rules established by the Board.

Section 2.4 Title to Common Area. Declarant covenants that it will convey fee simple title to the Common Area to the Association, free of all encumbrances except current real and personal property taxes and other easements, conditions, reservations and restrictions then of record. The conveyance shall be made to the Association prior to the conveyance of the first Lot from the Declarant to any purchaser.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION

Section 3.1 General Declaration. Because it is intended that the Property as presently subdivided shall be sold and conveyed to purchasers subject to this Declaration, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended from time to time; provided, however, property which is not part of a Lot and which is dedicated or transferred to a public authority or utility pursuant to Section 4.7 shall not be subject to this Declaration while owned by the public authority or utility. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property. This Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, Members and their respective successors in interest.

ARTICLE IV THE ASSOCIATION

Section 4.1 The Association. The Association is an Arizona non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise modified or interpreted so as to be inconsistent with this Declaration.

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Section 4.2 The Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

Section 4.3 Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and Bylaws.

Section 4.4 Rules. By action of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Rules". The Rules may restrict and govern the use of the Property provided, however, that the Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. The Rules shall have the same force and effect as if they were set forth herein and were a part of the Declaration and may be recorded.

Section 4.5 Personal Liability. The Articles shall specify such limitations on the personal liability of members of the Board as shall be applicable.

Section 4.6 Procedure for Change of Use of Common Area. Upon (a) adoption of a resolution by the Board stating that the then current use of a specified part of the Common Area is no longer in the best interests of the Owners and Members, and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith to take whatever actions are required to accommodate the new use), provided such new use: (i) also shall be for the common benefit of the Owners and Member, and (ii) shall be consistent with any recorded tract declaration, deed restrictions or zoning regulations. Alternatively, the Board upon satisfaction of Subsection (a) above may, in lieu of calling a meeting, notify in writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Memberships eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

Section 4.7 Procedure for Transfers of Common Area. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public authority or utility (i) if the transfer or dedication does not have a substantial adverse effect on the enjoyment of the Common Areas by the Members or the Residents, or (ii) if required by a recorded subdivision plat, a zoning stipulation or an agreement with the City of Tempe, effective prior to the date hereof. Except as authorized in (i) or (ii) above, ^{Unofficial Document} no such dedication or transfer shall be effective without the approval of a majority of the vote of each class of Members, voting in person or by proxy at a meeting called for such purpose. The Association shall have the right to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon or otherwise transfer Common Areas (to a non-public authority) upon (x) the adoption of a resolution by the Board stating that ownership and/or use of the relevant Common Area is no longer in the best interests of the Owner and Members, and that the change desired shall be for their benefit and shall not substantially adversely affect them, and (y) the approval of such resolution by a majority of the votes of each class of Members, voting in person or by proxy, at a meeting called for such purpose. Alternatively, the Board upon satisfaction of Subsection (x) above may, in lieu of calling a meeting pursuant to Subsection (y) above, notify in writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Members eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be

appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 5.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant. Each such Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as such Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A on the happening of either the following events, whichever first occurs:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) The 31st day of December, 1997.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants for each Lot, and each Owner of any Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. A Lot owned by the Association, pursuant to Section 6.8 or otherwise, shall not be subject to assessment.

The annual and special assessments, together with interest costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien thereon as well as the personal obligation of the person who was the Lot Owner at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Lot Owner's successors in title, unless expressly assumed.

Section 6.2 Purpose of Assessments. In order to promote civic and social betterment for the common good of the Members of the Association, the assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and Owners of the Property and for the improvement and maintenance of the Common Area.

Section 6.3 Maximum Annual Assessment. Until 12/31/95, the maximum annual assessment shall be Three Hundred Fifty Dollars and No/100 (\$ 350.00) per Lot. The annual assessment shall be payable monthly in advance.

(a) From and after 1/1/96 the maximum annual assessment shall automatically increase effective January 1 of each year without a vote of the members by an amount which is equal to the greater of: (i) five percent (5%) of the maximum assessment for the previous year; or (ii) a percentage equal to the average rate of change of the Consumer Price Index (the "CPI") for the most recent past twelve (12) months. For the purposes hereof CPI shall mean the Monthly Labor Review by the United States Department of Labor Statistics, designated "Consumer Price Index--U.S. City Average for Urban Wage Earners and Clerical Workers, 1982-84 Equals 100, All Items." The maximum annual assessment" automatically increases each year even if the actual assessment does not increase.

(b) In Addition to Section 6.3(a) above, the maximum annual assessment during each fiscal year of the Association shall be automatically increased by the amounts of any increases in water or other utility charges or any increases to insurance rates charged to the Association; and

(c) From and after 1/1/98, the maximum annual assessment may be increased above the amount indicated in (a) above by a vote of two-thirds of each class of Members ^{Unofficial Document} who are voting in person or by proxy at a meeting duly called for this purpose.

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

Section 6.4 Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year for the exclusive purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided, however, that any such assessments shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 6.5 Notice and Quorum for any Action Authorized Under Sections 6.3 and 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.3 and 6.4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the

subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.6 Uniform Rate of Assessment. Except as provided herein, the annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, as designated by the Board. Declarant shall pay 25% of the annual assessments for each Lot which Declarant owns in 12 twelve (12) equal monthly installments in the same manner established for payment of the annual assessment amount by other Lot Owners, except that Declarant shall pay and be liable for the full assessment amount for any Lots owned by Declarant which are being used by Declarant as Model Homes or otherwise being used and occupied for residential purposes (but not sooner than the closing of the first Lot to a residential homebuyer). Notwithstanding the above, any home builder in the business of constructing residential improvements on Lots and who buys Lots from Declarant for such purpose shall pay 25% of the annual assessments for each Lot which such builder owns or leases and which is not being occupied for residential purposes. Any owner renting or leasing a Lot to Declarant which is not being occupied for residential purposes shall pay 25% of the annual assessment for such Lot.

Section 6.7 Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as of the date of conveyance of the first Lot, which date will coincide with the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of ^{months} ~~months~~ remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to the matters described therein.

Section 6.8 Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or the prevailing VA interest rate, whichever is higher, but in no event exceeding the maximum rate allowed by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

(a) Enforcement by Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner to enforce each such assessment obligation. Any judgement rendered in any such action shall include the amount of the delinquency together with interest thereon at the rate of twelve percent (12%) per annum or the prevailing VA interest rate, whichever is higher, but in no event exceeding the maximum rate allowed by law,

from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner.

(b) Enforcement by Lien. There is hereby created a claim of lien on each and every Lot within the Property to secure payment to the Association of any and all assessments levied against any and all Owners of Lots covered by the Declaration, together with interest thereon at the rate of twelve percent (12%) per annum or the prevailing VA interest rate, whichever is higher, from the date of delinquency, but in no event exceeding the maximum rate allowed by law, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of any such assessment, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or even without such a written demand being made, the Association may elect to file such claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such claim of lien shall contain substantially the following information: (1) the name of the delinquent Owner; (2) the legal description and street address of the Lot against which the claim of lien is made; (3) the total interest thereon, collection costs, and reasonable attorneys' fees (with any proper offset allowed); (4) a statement that the claim of lien is made by the Association pursuant to the Declaration, and (5) a statement that a lien is claimed against such Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such claim of lien, and mailing a copy thereof to the defaulting Owner, the lien claimed shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien, except only tax liens for real property taxes and liens which are specifically described in Section 6.9. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a realty mortgage or by the exercise of a power of sale in the manner provided by law under a trust deed, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association shall have the power to bid in at any foreclosure or trustee's sale and to purchase, acquire, hold, lease, mortgage, and convey any such Lot. In the event of such foreclosure or trustee's sale, reasonable attorneys' fees, court costs, trustee's fees, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted

by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 6.9 Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, foreclosure or trustee's sale, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII ARCHITECTURAL CONTROL

Section 7.1 Organization, Power of Appointment and Removal of Members. There shall be an Architectural Committee, organized as follows:

(a) Committee Composition. The Architectural Committee shall consist of three (3) regular members and two (2) alternate members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.

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(b) Alternate Members. In the event of the absence or disability of one (1) or two (2) regular members of said Committee, the remaining regular member or members, even though less than a quorum, may designate either or both of the alternate members to act as substitutes for the absent or disabled regular member or members for the duration of such absence or disability, who shall thereupon become "regular" members during such term of designation.

(c) Terms of Office. Unless a member of the Architectural Committee resigns by giving written notice to the Board or is removed, his term of office shall be for a period of one (1) year or until the appointment of his successor. Thereafter, the term of each Architectural Committee member appointed shall be for a period of one year and until the appointment of his successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Any member who has resigned, been removed or whose term has expired may be reappointed.

(d) Appointment and Removal. The right to appoint and remove all regular and alternate members of the Architectural Committee at any time is hereby vested solely in the Board; provided however, that no member may be removed from the Architectural Committee by the Board except by the vote or written consent of fifty-one percent (51%) of all regular (or alternates sitting as regular) Board members.

(e) Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Board.

Section 7.2 Duties. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules and procedures for appeal to the Board of Directors, and to carry out all other duties imposed upon it by this Declaration.

Section 7.3 Meetings and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to Section 7.1(b), the vote or written consent of any two (2) regular members, at a meeting or otherwise, shall constitute the act of the Committee, unless the unanimous decision of the Committee is otherwise required by this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services.

Section 7.4 Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Committee Rules". Such Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property.

Section 7.5 Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

Section 7.6 Time for Approval. In the event the Architectural Committee fails to approve or disapprove the plans and specifications, such will be deemed approved within thirty (30) days after their submission.

Section 7.7 Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, and the Association hereby indemnifies and holds harmless the Architectural Committee and all members thereof, for, from and against any and all damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or similar documents whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the overall development of the Property, or (d) the execution and filing of any estoppel certificate, whether or

not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by such member, and without willful or intentional misconduct, as would be applicable under local law, and except for those circumstances under which a member of the Board would have liability under Section 4.5. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or listen to the views of the Association or any Owner with respect to any proposal submitted to the Architectural Committee.

ARTICLE VIII
USE RESTRICTIONS

Section 8.1 Permitted Uses and Restrictions - Residential. The permitted uses, easements, and restrictions for all Property covered by this Declaration shall be as follows:

(a) Single Family Residential Use. All Lots shall be used, improved and devoted exclusively to single family residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted thereon. Nothing herein shall be deemed to prevent the leasing of any Lot with the improvements thereon to a single family from time to time by the Owner thereof, subject to all of the provisions of the Declaration. No structure whatever, other than one private garage, swimming pool or spa shall be erected, placed or permitted to remain on any Lot. Unofficial Document Lots owned by Declarant or its designee or assignee may be used as model homes and for sales and construction offices for the purpose of enabling Declarant or its designee or assignee to sell Lots within the Property until such time as all of the Lots owned by Declarant or its designee or assignee have been sold or leased to purchasers or tenants.

(b) Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained so as to be Visible From Neighboring Property, unless approved by the Board.

(c) Utility Service. All lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted.

(d) Improvements and Alterations. No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located

thereon from its natural or improved state existing on the date such Property was first conveyed by Declarant to a home buyer shall be made without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Architectural Committee or any subcommittee thereof. Pursuant to its rulemaking power, the Architectural Committee shall establish a procedure for the preparation, submission and determination of applications for any such alteration or improvement. The Architectural Committee shall have the right, in its sole discretion, to refuse to approve any plans, specifications or grading plans, which are not suitable or desirable, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from adjacent or neighboring Property. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee.

(e) Maintenance of Lawns and Plantings. All yards visible from the street shall have acceptable landscaping installed within a reasonable period of time not to exceed 180 days from the close-of-escrow to the first home buyer as to a specific Lot. Lots shall be maintained by their Owners free of weeds and debris; lawns shall be neatly mowed and trimmed; bushes shall be trimmed; and dead plants, trees, or grass shall be removed and replaced.

(f) Repair of Buildings. No improvement upon any Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

(g) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Property except in covered sanitary containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make same available for collection and, then, only the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.

(h) Overhangs. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or otherwise to encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

(i) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Property except usual and customary equipment and machinery used in connection with the use, maintenance or construction of permitted improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Common Area. Slides, playground equipment, basketball poles and hoops, outdoor decks, gazebos and other such equipment or structures shall be allowed provided they are approved by the Architectural Committee.

(j) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner, without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.

(k) Signs. No sign of any nature (other than a name and address sign, not exceeding 9" x 30" Unofficial Document in size) shall be permitted on any Lot; provided, however, that one sign of not more than five square feet may be temporarily erected or placed on a Lot for the purpose of advertising the Lot for sale or rent; and provided further the Declarant or its designee or assignee may erect any signs during construction. These restrictions shall not apply to the Association in furtherance of its powers and purposes herein set forth.

(l) Utility Easements. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment, and to affix and maintain wires, circuits and conduits on, in and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated except as initially developed and approved by the Declarant or thereafter approved by the Board. This easement shall in no way affect any other recorded easements. This easement shall be limited to improvements as originally constructed and no common utility shall be permitted to pass over any improvements on the Lots and no connection