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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR HEARTHSTONE VILLAS AT SUPERSTITION SPRINGS**

THIS DECLARATION of Covenants, Conditions and Restrictions (hereinafter the "Declaration") made on the date hereinafter set forth by True North, L.L.C., an Arizona limited liability company (hereinafter referred to as "Declarant") for HEARTHSTONE VILLAS AT SUPERSTITION SPRINGS.

WITNESSETH:

WHEREAS, Power Road Medical Partnership executed a certain Declaration of Covenants, Conditions and Restrictions, dated February 28, 1985, and recorded on March 15, 1985 at Document Number 85-114124 of the records of the Maricopa County Recorder, which covered property known as the Power Road Medical Village; and

WHEREAS, Declarant is the owner of certain property in the City of Mesa, County of Maricopa, State of Arizona, and which is more particularly described on Exhibit "A" attached hereto, and a portion of which lies within the Power Road Medical Village;

NOW, THEREFORE, Declarant hereby declares that all the properties described on Exhibit "A" shall be held, sold and conveyed subject to the following conditional reservations, easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each other thereof.

ARTICLE I
Definitions

1. "Association" shall mean and refer to Hearthstone Villas at Superstition Springs Homeowner's Association, a non-profit corporation, its successors and assigns.

2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title of any Lot which is part of the Properties. Owner shall not include a person or entity having an ownership interest merely as security for the performance of an obligation. In the case of Lots, the fee simple title to which is vested of record in a Trustee pursuant to Arizona Revised Statutes § 33-801, et. seq., legal title shall be deemed to be in the Trustor.

3. "Property" or "Properties" shall mean and refer to that certain real property hereinbefore described.

4. "Common Area" and "Common Elements" shall be synonymous and shall mean all real property and improvements thereof owned by the Association for the common use and enjoyment of the Owner. The Common Area to be owned by the Association at the time of conveyance of the first Lots are those areas described on Exhibit "A" attached hereto.

5. "Lot", "Parcel", and "Residential Unit" shall be synonymous and shall mean and refer to any residential plot of land designated within the Property with the exception of the Common Area.

6. "Declarant" shall mean and refer to True North, L.L.C., an Arizona limited liability company, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

7. "Developer" and "Builder" shall be synonymous and shall mean any contractor who builds for resale a significant number of the houses on the subject Property.

The aforesaid definitions shall be applicable to this Declaration and also to any supplemental Declaration (unless the context shall prohibit) filed pursuant to Article XIV hereof.

ARTICLE II Property Rights

1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title of 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 facility situated upon the Common Area.

b. The right of the Association to suspend the voting rights and right of use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations.

c. The right of the Association to dedicate or transfer all or part of the Common Area, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

d. The right of the Association to limit the number of guests of members.

e. The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereon.

f. The right of Developer (and its sales agents and representatives) to the non-exclusive use of the Common Area for display, sales and exhibit purposes, which right Declarant hereby reserves to Developer.

g. The rights of particular Owners to the use of any and all easements created hereby and by any and all other recorded instruments.

2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

3. Waiver of Use. No member may exempt himself from personal liabilities for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot.

ARTICLE III
Membership and Voting Rights

1. Membership. Membership in the Association, except for membership of the incorporators, the Declarant and the first Board of Directors, shall be limited to record owners of fee simple title of Parcels constructed or planned to be constructed on the Property described above or on any duly annexed property. An owner of a Parcel shall automatically, upon becoming the owner of a Parcel, be a member of the Association, and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease. Ownership of a Parcel shall be sole qualification and criteria for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale for such Lot and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall record the transfer upon the books of the Association and issue a new membership to a purchaser and thereupon the old membership outstanding in the name of the seller shall be null and void.

The record owner of fee simple title of each Lot shall be entitled to one membership in the Association, for himself and his family residing in the homes, which membership shall be subject to all of the provisions of the Association's Articles of Incorporation, Bylaws, Management Agreement and those Restrictions, as now in effect or duly adopted or amended.

2. Assessments. Every owner of a Parcel which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separate from ownership of any Parcel which is subject to assessment.

3. Classes of Members. The Association shall have two classes of voting membership, as follows:

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to six (6) votes for each Parcel owned. IT IS THE INTENT OF THE DECLARANT THAT UPON EIGHTY-FIVE PERCENT (85%) OF THE PARCELS WITHIN HEARTHSTONE VILLAS AT SUPERSTITION SPRINGS BEING SOLD TO NEW HOMEOWNERS THAT the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B memberships; or
- b. Within forty-eight (48) months from the date of this Declaration.

4. Suspension of Rights. In the event any owner is in arrears in the payment of any amount due, pursuant to any provision of this declaration, for a period of twenty (20) days, said owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current.

ARTICLE IV

Covenant for Maintenance Assessments

1. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for each Parcel owned within the Properties, hereby covenants, and each owner of any Parcel by acquiring an ownership interest is deemed to covenant and agree to pay to the Association; (a) annual assessments or charges, and (2) special assessments as authorized by the Association's Board of Directors. Such assessments to be established and collected as provided herein.

The annual and special assessments, together with interest, costs of collection and reasonable attorneys fees, upon the Property against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of such Property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them, or unless prior to the transfer of title as evidenced by the records of the County Recorder or other appropriate governmental agency, a lien for such assessments shall have been filed or recorded with the County Recorder.

2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, culture, and safety of the owners of the

Properties and for the improvements and maintenance of the Common Area and of the improvements situated upon the Properties. As per the Properties described in Exhibit "A", Tract A is dedicated as an easement for ingress/egress for refuse and emergency vehicles, public utilities and facilities, landscaping and drainage purposes and is to be maintained by the Association. The assessments shall cover the cost of all repairs, replacement and maintenance of the Common Area, Common Items, and all other authorized activities and facilities, including but not limited to, common yard maintenance, sprinkler system, swimming pool, spa, exterior walls, costs of additional common facilities and improvements, taxes and insurance on the Association's property, as may, from time to time, be authorized by the Association's Board of Directors.

The Board of Directors shall fix the amount of the annual assessment against each Parcel at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessments shall be sent to every Owner subject thereto. However, failure of the Board of Directors to meet such deadlines shall not relieve any Owner from its obligations to pay such assessments. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by a representative of the Association setting forth whether the assessments on a specified Parcel have been paid.

3. Establishment of Assessment. A portion of the Property is located within the Power Road Medical Village (hereinafter "Lot 1 of the Power Road Medical Village") and is subject to the Declaration of Covenants, Conditions and Restrictions, dated February 28, 1985, and recorded on March 15, 1985 at Document Number 85-114124 (hereinafter "Medical Village CC&R's"). The portion of the Property located within the Power Road Medical Village is known as Lot 1 of the Power Road Medical Village. Pursuant to the Medical Village CC&R's, the owner of Lot 1 of the Power Road Medical Village is responsible to pay the Power Road Medical Village Association the assessments applicable to said lot.

Declarant and each Owner of a Residential Unit within the Property covenants for themselves and their heirs, successors and assigns, that such Residential Unit shall be subject to an assessment, in an amount to be determined by the Association, as permitted by this Declaration. All Residential Units within the Property shall be responsible to pay: (i) The annual and special assessments to the Association in an amount determined from time to time, by the Association; and (ii) Its prorata share of the Power Road Medical Village Association assessment applicable to Lot 1 of the Power Road Medical Village. The amount of the assessment in paragraph 3(ii) shall be calculated by the Association by dividing the total amount of the annual assessment of the Power Road Medical Village Association by the number of Residential Units within the Property. The assessment

referred to in paragraph 3(i) and 3(ii) shall be established annually by the Association and prorated among the members.

The annual assessments provided for herein shall commence as to each Lot on the first day of the month following commencement of the housing unit construction upon each said Lot. The Board of Directors or the designated representative shall notify the Owner or Owners of each Parcel the amount of the estimated annual assessment and shall each month collect for each Parcel one-twelfth (1/12) of said Parcel's proportional share of said annual assessments.

4. Special Assessments 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 only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.

5. Notice and Quorum for any Action Authorized Under Paragraph 4. Written notice of any meeting called for the purpose of taking any action authorized under paragraph 4 shall be sent to all members not less than thirty (30) days or 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.

6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Parcels and may be collected monthly.

7. 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 that due date at the rate of eighteen percent (18%) per annum. The Association may bring, without electing a remedy, any and all actions and seek any and all relief against the Owner personally obligated to pay the same, and/or to foreclose the lien against the property in a like manner as a mortgage of real property, and such Owner hereby expressly grants to the Association the power of sale in connection with said lien. No Owner may waive or otherwise escape liability for the assessments provided for hereby

by non-use of the Common Area or abandonment of his Parcel. In any action taken against an Owner to collect delinquent assessments, whether through lien foreclosure or otherwise, the non-prevailing party shall be obligated to pay all costs and all attorneys fees.

8. Declarant's Support for Common Area Maintenance. It is understood that the Association will not have sufficient funds during its beginning stages of this project and development to pay its expenses. Declarant may advance as a loan to the Association, the funds necessary to maintain the Common Area in a satisfactory manner and appearance. This support from the Declarant is ONLY until such time as the Association has enough monthly assessment income to maintain its common areas.

9. Subordination of the Lien of Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Parcel shall not affect the assessment lien. However, the sale or transfer of any Parcel pursuant to mortgage foreclosure, deed of trust 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 Parcel from liability for any assessments thereafter becoming due or from the lien thereon.

ARTICLE V Architectural Control

No building, fence, wall, patio cover, awning, antenna, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to, or change or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to an approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI Party Walls

1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the

provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

2. Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared with the Owners who make use of the wall in proportion to such use.

3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

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

5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII

Interior and Other Maintenance

Each Owner shall be responsible for the upkeep and maintenance of the interior of his home and for the maintenance, repair and replacement of roofs, exterior walls, individual patios, window, private yards and landscaping within the private yard and Lot lines. All fixtures and equipment installed within the private yard boundary, on Lot lines, including utility lines, pipes, wires, conduits and other systems shall be maintained and kept in repair by the Owner thereof. Pest control shall be the responsibility of the Owner. An Owner shall do no act nor any work that will impair an easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other homes or their Owners.

ARTICLE IX
Insurance

The Board of Directors, or its duly authorized agent, shall have the right and power to obtain a broad form public liability policy covering all common elements. Premiums for such insurance shall be common expenses. Such insurance coverages may be written in the name of the Board of Directors directly or as trustee for each of the Owners proportionately. It shall be the individual responsibility of each Owner to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction to the common elements by fire or other casualty, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. The Board of Directors shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of the common elements. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all owners to make up any deficiency. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be retained by the Association to defray future expenses.

ARTICLE X
Use Restrictions

1. Said premises are hereby restricted to residential dwellings for residential use, except for improvements within the Common Area. All buildings or structures erected upon said premises shall be a new construction and no building or structures shall be moved from other locations onto said premises, and no subsequent buildings or structures other than homes, shall be built on any Parcel where the Builder theretofore programmed and construction a home. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any portion of the premises at any time for any use, either temporarily or permanently.

2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Builder of a major portion of said development to maintain during the period of construction and sale of said homes, upon such portion of the premises as such Builder may choose, such facilities as in the sole opinion of said Builder

may be reasonably required, convenient or incidental to the construction and sale of said homes, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

3. No animals, livestock or poultry of any kind, shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on the Lots subject to such rules and regulations as may be adopted by the Association and provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept on the premises which result in an annoyance or are obnoxious to residents in the vicinity.

4. No advertising signs (except one of not more than five (5) square feet "for sale" sign per Parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any home or resident thereof. Further, no business activities of any kind whatsoever shall be conducted in any building or on a portion of the premises; provided further, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the Builder, its agent and assigns during the construction and sale period, and of the Association, its successors and assigns, in the furtherance of its powers and purposes, as herein set forth.

5. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring homes and streets. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

6. No vehicle of any type, boat, camper, bicycle, tricycle or other wheeled toy shall be parked or left unattended on Tract A as per the properties described in Exhibit "A". Parking will be allowed only in those areas designated or indicated as visitor parking.

The Board of Directors may from time to time restrict vehicular parking on the Common Areas. Vehicles parked in restricted areas may be towed away at the vehicle owner's expense, including storage charges.

No vehicle of any type which is abandoned or inoperable shall be stored or kept on any Parcel, parking area, private street or drive within this subdivision in such a manner, as to be seen from any other Parcel or from any streets, drives or alleyways within this subdivision.

7. Except in the individual homes of each Lot, no planting or gardening shall be done, and no hedges shall be erected or maintained upon said premises, except such as are installed in accordance with the initial construction of the buildings located thereon or as approved in accordance with Architectural Control provisions in Article V herein. No fences or walls shall be erected or maintained on any of the Properties without approval of the Architectural Control committee as provided in this Declaration.

8. The Common Area shall remain undivided, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. No Owner shall have the right to bring an action for partition.

9. Without prior written approval and the authorization of the Board of Directors, no exterior television, radio, CB or other antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the premises, nor upon any structure situated upon said real property, other than an aerial for a master antenna system, should such master system or systems be utilized and require any such exterior antenna.

10. No activity shall be carried on upon any Lot or any part of the Properties, nor shall anything be done thereupon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective dwelling unit, or which shall in any way increase the rate of insurance.

11. The rights and duties with respect to sanitary sewer and water, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

a. Whenever water, sanitary sewer, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof are or have been installed within the Properties, the Owner of any Lot or the Association, in the case of the Common Area, served by said installation shall have the right, and are hereby granted an easement to the extent necessary therefore, to enter upon or have a utility company enter upon any portion of the Properties, in which said installation lie, to repair, replace and generally maintain said installations.

b. The right granted in subparagraph (a) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone

exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

c. In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

12. All Owners and occupants shall abide by the Bylaws and any rules and regulations adopted by the Association, which are hereby incorporated herein by this reference.

13. No home shall be leased by an Owner, no landlord-tenant relationship established unless such lease or landlord or tenant has agreed in writing that the lease is subject in all respects to the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association and all rules and regulations duly adopted by the Association. Said writing shall provide that any failure of the lessee or tenant to comply with the terms of such documents or rules and regulations shall be a default under the lease.

14. At least 80% of the units must be occupied by a person at least fifty-five (55) years of age. The Board shall publish, adhere to and enforce policies and procedures which demonstrate an intent to provide housing for persons fifty-five (55) years of age or older. Such rules and regulations shall promote and preserve Hearthstone Villas at Superstition Springs as an active adult community and shall be consistent with and comply with all applicable laws regulating age restrictions, including, without limitation, the Fair Housing Amendments Act of 1988 and the rules and regulations interpreting such act published by the Department of Housing and Urban Development under 24 C.F.R. Part 14 and 24 C.F.R. Part 100. In addition to the other enforcement power given the Association, the Board, and the Architectural Control Committee under this Declaration, the Articles, and Bylaws, the Association, through the Board, is hereby given an express right to enforce this subsection 10.14 and any and all rules and regulations adopted by the Board and/or the Association in connection with the age restrictions set forth in this subsection 10.14. The Association's remedies for violation of this subsection 10.14 and/or the accompanying rules and regulations include, but are not limited to: seeking injunctions and other legal remedies; imposing fines; suspending voting rights; suspending use of the common facilities; and accessing costs incurred in connection with such violation, including, but not limited to, administration costs and attorneys' fees and costs.

ARTICLE XI
Duties and Powers of the Association

In addition to duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- a. Own, maintain and otherwise manage all of the Common Area and all facilities, improvements and landscaping thereon, and all other property acquired by the Association.
- b. Pay any real and personal property taxes and other charges assessed against the Common Area.
- c. Have the authority to obtain, for the benefit of all of the Lots and the Common Area, all water, gas, sewer and electric service and refuse collection and to pay for such services to the extent that said services are not individually metered or otherwise directly billed to the individual Lots.
- d. Grant easements where necessary for utilities and sewer facilities over the Common Area to serve said area and the Lots.
- e. Have the authority to employ a manager or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association.

The Association, through its Board of Directors, shall have the express authorization, right and power to enter into one or more management agreements with third parties in order to facilitate efficient operation of all buildings, improvements and facilities within the common elements, including real property described on Exhibit "A" attached hereto. It shall be the primary purpose of such management agreements to provide for the administration, management, repair and maintenance of said common elements, and to assess, collect and apply the management and common expenses, and to enforce the Declaration. The terms of said management agreements shall be as determined by the Board of Directors to be in the best interests of the Association, and shall be subject to the Articles of

Incorporation, the Bylaws and this Declaration. Notwithstanding the above, any and all management agreements shall be written for a term not to exceed one year, subject to renewal by agreement of the parties for successive one year periods, and shall further provide that said management agreements may be canceled and terminated by the Board of Directors for any reason whatsoever upon giving thirty (30) days written notice of such cancellation and termination to the managing entity. The Board of Directors shall make all necessary arrangements for continuity of management and maintenance prior to the expiration of the term of any prior management agreements or the termination of the same. Any and all management agreements shall be entered into with a responsible party or parties having considerable experience with the management of a project of this type.

Each Owner shall be bound by the terms and conditions of all management agreements entered into by the Owners Association. A copy of all management agreements shall be available to each Owner upon request.

(f) Contract for and pay fire, casualty, liability and other insurance insuring the Association, its property and its Board of Directors and Owners.

(g) Contract for and pay maintenance, gardening, utilities, materials and supplies, and services relating to the Common Area, and to employ personnel necessary for the operation of the project, including legal and accounting services provided, however, that any such service contract shall be limited to a duration of one (1) year unless a longer term is approved by a majority of the members of the Association.

(h) Delegate its powers to its committees, officers and employees.

ARTICLE XII

Easements

1. Blanket Easement for Utilities. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but no limited to, water, sewers, gas, telephones and electricity, irrigation facilities and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical, utility and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said premises, except as initially programmed and approved by the major Builder of said premises or as approved by the Association's Board of

Directors. These easements shall in no way affect any other recorded easements on said premises.

2. Easement for Encroachment Due to Construction. Each home and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed and for the maintenance of same, so long as it stands, shall and does exist. In the event a home is partially or totally destroyed and then rebuilt, the Owners of home agree that minor encroachments on parts of the adjacent or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Notwithstanding any provisions herein to the contrary, and encroachment permitted herein shall not exceed one (1) foot.

ARTICLE XIII
Individual Yards and Patios

1. The rights of the respective parties with respect to the use of individual yards and patios, which may abut a wall of the dwelling unit on the adjoining Lot ("abutting dwelling unit" herein), shall be as follows:

a. Nothing shall be erected, planted or maintained within such area which might impede or interfere with any necessary and reasonable maintenance, repair or restoration of any wall located on or adjacent to the abutting dwelling unit.

b. The Owner shall have exclusive use of the surface of any easement area subject to the rights of any other easement holders (utilities, sewers, etc.), if any, and subject to minor encroachments, creation of the easement.

c. The Owner of the adjacent Lot shall have such right to use the subsurface underlying the easement area, including the right of lateral and subjacent support, as shall not reasonably interfere with the rights granted to the Owner of the private yard.

d. If the Patio areas have been graded to allow drainage to flow, nothing shall be erected, planted or maintained to impede or interrupt said or normal drainage flow.

2. Allowable uses of individual yards and patios include landscaping, sprinklers, hose bibs, decking, barbecue equipment and facilities, and sports and recreational equipment and facilities and as a general recreational, garden and yard area.

All other uses, including without limitation construction of any dwelling unit or addition thereto and use of the areas for building, repairing, maintaining or storing boats, trailers, motor homes, automobiles, motorcycles, snowmobiles or other motor vehicles are prohibited.

3. All boundaries of Lots, save those which are structural walls of dwelling units, may be fenced by fences installed by Declarant. No fence shall be installed, moved or removed at any time, and any changed in size or color, shall be subject to review by the Architectural Control Committee pursuant to Article V hereof:

a. Fences located on a boundary between two Lots or Patios, shall be maintained jointly by the Owners thereof in the same manner as a party wall, as provided in Article VI hereof.

b. Fences located on a boundary between a Lot or Patio and the general Common Area shall be maintained by the Owner of the Lot or Patio except as provided in Article XI hereof.

4. Each Owner shall keep his Lot and Patio and all improvements therein or thereon, in good order and repair and free of debris, including but not limited to the seeding, watering and mowing of all lawns and the pruning and cutting of all trees and shrubbery, all in a manner and with such frequency as is consistent with good property management. In the event an Owner shall fail to maintain his Lot and Patio and the improvements located thereon, as provided herein, the Association, after notice to the Owner and approval by vote of the Board of Directors, shall have the right to enter upon said Lot or Patio to correct drainage and to repair, maintain and restore the Lot, Patio, fences and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become a lien upon such Owner's Lot, and such lien may be enforced in the same manner as a Maintenance Assessment levied in accordance with Article IV hereof.

ARTICLE XIV
General Provisions

1. Attorneys Fees. In the event the Association employs an attorney or attorneys to enforce the collection of any amounts due pursuant to this Declaration or in connection with any lien provided for herein, or the foreclosure thereof, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the Owner, Owners and parties against whom the action is brought shall pay all attorneys fees, costs and expenses thereby incurred to the prevailing party.

2. Enforcement. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing, occupying, owning or otherwise having an interest in any home on said property, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these covenants, restrictions, reservations and conditions may be enforced by the Association or its Board of Directors, which shall have the right and duty to enforce the same and expend Association monies in pursuance thereof, and also may be enforced by the Owner of any home or by the holder of any first mortgage, or deed of trust, or any one or more of said parties. Any lien, liability or obligation arising as the result of a breach of said covenants, restrictions, reservations and conditions shall be binding upon and effective against any Owner of said premises, other than one whose title thereto is acquired by foreclosure of a mortgage, or deed of trust, and Sheriff's sale or equivalent proceedings, who shall take title to said premises subject to the lien hereof for all said charges pursuant to the provisions of this Declaration that have accrued up to the time of said foreclosure, and subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure, and provided also that the breach of any of said covenants, restrictions, reservations and conditions may be enjoined, abated, or reviewed by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust. All instruments of conveyance of any interest of all or any part of said home shall contain a reference to this instrument and shall be subject to the covenants, restrictions, reservations and conditions herein as fully as though the terms and conditions of this instrument were therein set forth in full. The terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether or not express reference is made to this instrument in any such instrument of conveyance. Enforcements shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

3. Saving Clause. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs, or sections contained herein should be invalid or should operate to render this agreement invalid, this agreement shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs or section or sections had not been inserted. In the event that any provision or provisions of this instrument appear to be violative of the Rule against Perpetuities, such provision or provisions shall be construed as being void and of no effect as of twenty-one (21) years after death of the last surviving incorporator of Hearthstone Villas at Superstition Villas or twenty-one (21) years after the death of the last survivor of all said incorporators' children or grandchildren who shall be living at the time this instrument is executed, whichever is later.

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this 10th day of Mar,
1997, by Byron Prochnau, Manager of True North,
L.L.C., on behalf of the limited liability company.

dd ~~DD~~ *Debraney Drenning*
Notary Public

My Commission Expires:

9-17-00

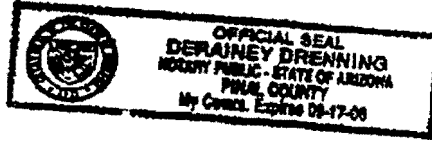
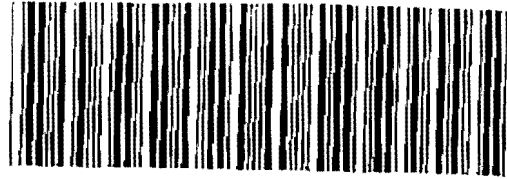


EXHIBIT "A"

Lots 1-59 and Tracts A, B, C, D E and F, as set forth on that Plat of Record recorded as Instrument Number 97-0122608 in the Office of the Maricopa County Recorder. HEARTHSTONE VILLAS AT SUPERSTITION SPRINGS, according to Book 435 of Maps, Page 08, records of Maricopa County, Arizona.

When recorded mail to:



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

97-0256418 04/18/97 04:43

TABMY 27 OF 73

This space reserved for recording information

FIDELITY TITLE

CAPTION HEADING: _____

This document is being re-recorded for the sole purpose of correcting the legal description