

**MOUNT MERU VIEW ESTATES LIMITED**

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

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**RELATING TO THE PLOTS OF LAND SITUATED WITHIN ATLANTIS ESTATE OWNED BY  
MOUNT MERU VIEW ESTATES LIMITED**

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
ATLANTIS ESTATE SET OUT BY MOUNT MERU VIEW ESTATES LIMITED.**

**THIS DECLARATION** is made this.....day of.....2006

**by**

**MOUNT MERU VIEW ESTATES LIMITED**, a limited liability company registered under the Companies Ordinance having its registered office at Dar-Es-Salaam, Tanzania; hereinafter called **"the Vendor"**;

**WITNESSETH:**

**WHEREAS**, "the Vendor" is presently developing a tract of real property having been subdivided into plots of land here-in-after referred to and commonly known as '**ATLANTIS ESTATE**' situated at Burka area, Arumeru District Arusha, Tanzania more particularly described on the lay out plan attached hereto for ease of reference;

**AND WHEREAS**, "the Vendor" desires to provide for the preservation of the values and amenities in said development and for the continued maintenance and operation of such facilities; and, to this end, desires to subject the property described here-in to these Covenants to the protective covenants, restrictions and easements here-in-after set-forth, each of which is and are for the benefit of said property and each Property Owner there-of; and to make provisions for subjecting other real property which may be developed either as part or independent estate subject to this declaration or to other declarations containing protective covenants, restrictions and easements;

**NOW, THEREFORE**, "the Vendor" here-by provides that the real property described herein shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the protective covenants, restrictions, and easements (some times referred to here-in collectively as "Covenants and Restrictions") here-in-after set forth;

Every grantee of any such interest in such real property now or hereafter made subject to this Covenants, by acceptance of a deed or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or other conveyance shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take subject to this Covenants and to the terms and conditions hereof and shall be deemed to have assented to said terms and conditions.

## ARTICLE 1

### 1.1 Definitions

1.1.1 The following words when used in these Covenants or in any supplementary Covenants (unless the context shall prohibit) shall have the meaning ascribed hereunder:

1.1.2 “**Architectural Review Committee**” means a committee formed by the Vendor which may be comprised of an Architect and other members from the Association, set up for the purpose of approving building plans submitted by a Purchaser of a plot within the Estate, here-in-after known as ‘ARC’.

1.1.3 “**Association**” shall mean and refer to Atlantis Home Owners Association Limited, a registered company limited by guarantee, its successors and assigns, to which “the Vendor” may from time to time assign the responsibility and authority of operating and maintaining the common properties within the ‘**ATLANTIS ESTATE**’.

1.1.4 “**Building**” means any building, erection or other structure erected or constructed within the said Atlantis Estate.

1.1.5 “**Building Operation**” includes any building or erection operations, making of roads, borehole, and sewage disposal works, electrical or any other work incidental to the erection of buildings.

1.1.6 “**Commercial Plot**” shall mean and refer to plot numbers 1 thru 29 and used for legal commercial purpose.

1.1.7 **"Common Area"** shall mean and refer to but limited to those landscaped areas, entry statements, street lighting and other common facilities within the **ATLANTIS ESTATE** which are presently owned by "the Vendor", which may at the sole discretion of the Vendor in the future be managed by the Association, and which are for the non-exclusive use and enjoyment of the residents of the **ATLANTIS ESTATE**.

1.1.8 **"Development"** means the entire project carried out by the Vendor.

1.1.9 **"Easement"** has the meaning ascribed to by the Land Act, Act No.4 of 1999.

1.1.10 **"Estate"** shall mean and refer to that certain development known as '**ATLANTIS ESTATE**' which is being developed on real property now owned by the "the Vendor" in Burka Coffee Estates in Arumeru District, Arusha, Tanzania.

1.1.11 **"General Planning Scheme"** means a Scheme prepared by the Vendor.

1.1.12 **"Hedge and Fence"** means a row of bushes or trees which are planted and managed within the Estate by the Owner of the plot.

1.1.13 **"Lien"** shall mean first mortgage lien as used in this agreement.

1.1.14 **"Mortgage"** shall include chattel mortgage, bill of sale to secure debt, deed to secure debt, deed of trust and any other similar instrument given to secure the payment of any indebtedness.

1.1.15 **"Other Real Property"** shall mean and refer to any other estate development project undertaken by the vendor on the Estate.

1.1.16 **"Owner"** shall mean any person who is a registered owner of a plot of land within the Estate.

1.1.17 **"Person"** shall mean and refer to a natural person, as well as a corporation, partnership, Association, Trust or any other legal entity.

1.1.18 **"Phase 1"** shall mean the project proposal forming part of these covenants and attached as a schedule to the declaration.

1.1.19 **"Phase 2"** shall mean the project proposal to be adopted by the Vendor for the development of the other part or parts of the Estate but may or may not be forming part of this current declaration and may be incorporated or adopted by the Vendor

1.1.20 **"Plot"** shall mean and refer to any numbered piece of land surveyed and demarcated as shown in a plan annexed here-to by the "the Vendor" now and here-after made subject to this Declaration.

1.1.21 **"Property Owner"** shall mean and refer to the holder of a right of occupancy within the Estate, excluding however, those persons who shall have such interest merely as security for the performance of an obligation.

1.1.22 **"Purchaser"** means a person with an intention to purchase a plot within the Estate.

1.1.23 **"Residential House"** means any house used as a residence by any person and includes the garden surrounding the house.

1.1.24 **"Road"** means all roads within and to the said Estate.

1.1.25 **"The Vendor"** shall mean and refer to Mount Meru View Estate Limited, a registered company, its successors and assigns.

1.1.26 **"Approval by Vendor"** shall mean approval in writing by Two(2) Directors of the Vendor.

1.1.27 The use of the masculine pronoun shall include the feminine and the use of the singular shall include the plural where the context so requires.

## **ARTICLE 2**

### **2.1 Property Subject to these Covenants**

2.1.1 The real property which is subject to these Standard Permissive and Restrictive Covenants hereinafter set forth and which, by virtue of the recording of this Declaration shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to these Covenants is as follows;

2.1.2 All parcel of land held under Certificates of Title No.17756 and 17757 respectively, situated at Burka Area, Arumeru District, Arusha, Tanzania

## **ARTICLE 3**

### **3.1 Common Properties**

#### **3.1.1 Ownership:**

3.1.1.1 The ownership of all the common properties, including the facilities thereon, shall be vested to the Vendor until such date and time; when the Vendor may at its own discretion transfer ownership to the Home Owners Association.

#### **3.1.2 Management:**

3.1.2.1 The common properties shall be managed by the Association or its agent(s) which shall have exclusive rights to manage the said properties and facilities therein including but not limited to overseeing all building operations, security, and management of roads, sanitary services, water services, and other ancillary activities.

#### **3.1.3 Use and Enjoyment:**

3.1.3.1 The Purchaser shall, upon the purchase of a plot from the Vendor, have the privilege to use and enjoy the common properties within the Estate in accordance with this Declaration.

### **3.2 Easements**



3.2.1 That the Purchaser shall give access to the Vendor or the association or its agent to enter at reasonable times and grounds into the plot(s) for the purposes of carrying out repairs, maintenance, installation, replacement or any other activity related to common utilities presently or in future installed within the Estate.

3.2.2 The Vendor will have a right of easement to pass storm water drainage, water pipes and other common amenities specifically through plots numbered 24, 45, 67, 75, 101, 114, 135, 146, 156 and 166 on the Eastern side; and Plots numbered 25, 74, 102, 115, 136, 147, 155 and 165 on the Western side; And plots numbered 44 on the Southern side and Plot numbered 45 on the Northern, at the boundary.

### **3.3 Atlantis Homeowners' Association**

The Vendor shall cause to be registered under the laws of the United Republic of Tanzania a Home Owners Association which shall be registered as a company limited by Guarantee to manage and be responsible for all matters as declared herein.

#### **3.3.1 MAINTENANCE AND OTHER ASSESSMENTS**

##### **3.3.1.1 Creation of Lien and Personal Obligation of Assessments.**

Unless other-wise provided above or here-in to the contrary, each Owner of a plot within the Property subject to this Declaration, here-by covenants and each owner of any plot (by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or conveyance) including any purchaser at a judicial sale, shall here-after be deemed to covenant and agree to pay to the Association any assessments or charges, and any special assessments for capital improvements or major repair; such assessments to be fixed, established and collected from time to time as here-in-after provided. All such assessments, together with interest thereon from the due date at the rate of Thirty percent (30%) per annum and costs of collection there-of (including reasonable Advocate's fees), and shall be a first mortgage lien on the land and shall be a

continuing lien upon the plot(s) against which each such assessment is made, and shall also be a personal obligation of the Owner.

**3.3.1.2 Purpose of Assessment.** The annual and special assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents, and in particular for the improvements and maintenance of Common Areas, and any easement in favor of the Association, including, but not limited to, the cost of taxes, insurance, labor, equipment, materials, management, maintenance and replacement supervision there-of, and undertaken by the Association.

**3.3.1.3 Members' Approval of Annual Assessments.** Assessments set by the Board of Directors must be approved by a simple majority of the members of the Association either present or by proxies at the meeting called to approve such assessments.

**3.3.1.4 Uniform Rate of Assessment.** All regular and special assessments shall be a uniform rate which is to be assessed to each plot.

**3.3.1.5 Special Assessments for Capital Improvements and Major Repairs.** In addition to any annual assessments, the Board may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement as approved by the Association, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of a simple majority of the members of the Association.

**3.3.1.6 Date of Commencement of Annual Assessments:** Due Date. The assessments for which provision is herein made shall commence on the date or dates (which shall be the first day of the year) fixed by the Association to be the date of commencement.

The due date of any assessment shall be payable in advance or at closing pro-rata till the end of the year. The provisions of this clause shall apply to ALL Purchasers of the plots from the Vendor.

**3.3.1.7 Duties of the Board.** Unless otherwise provided to the contrary here--in, the Board of the Association shall fix the date of commencement and the amount of the assessment against each plot for each assessment period at least **thirty (30) days** in advance of such date or period and shall at that time, prepare a roster of the plots and assessments applicable thereto which shall be sent to each owner at his last known address. Written notice of the assessment shall be sent to every owner subject thereto not later than **seven (7) days** before the date of commencement thereof. The association shall furnish to any owner liable for said assessments, a certificate, in writing, signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of the assessment therein stated to have been paid.

**3.3.1.8 Effect of Non-Payment of Assessment:** Non-Payment of any dues shall be a first mortgage lien, the Personal obligation, Remedies of the Association.

If any assessment is not paid on the date when due, such assessment shall then become delinquent and shall, together with such interest thereon and the cost collection there-of, become a continuing lien on the plot(s) against such assessment is made that shall bind such plot(s) in the hands of the Owner(s), his heirs, devisees, personal representatives and assigns, and shall also be against who the assessment is levied.

If the assessment is not paid within **thirty (30) days** after the delinquency date, which shall be set by the Association, the assessment shall bear interest from the date of the delinquency at the rate of Thirty percent (30%) per annum, and the Association may at any time there-after, bring a suit on the personal obligation against the Owner(s), and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action (including a reasonable Advocate's fee), and in the event a judgment is obtained,

such judgment shall include interest on the assessment as above provided plus interest to be fixed by the Court, together with the costs of the action.

### **3.3.2 EXTERIOR MAINTANANCE ASSESSMENT**

**3.3.2.1 Exterior Maintenance.** In addition to maintenance upon the Common areas, the Association may provide and/or require exterior maintenance (including mowing and clearing) upon any plot or structure requiring same, when necessary in the opinion of the Association.

If no allocation is made, the assessment shall be uniformly assessed against all the plots requiring exterior maintenance. The exterior maintenance assessments shall not be considered part of the annual or special assessments.

Any exterior maintenance assessment shall be a lien on the plot and the personal obligation of the Owner and shall become due and payable in all respects, together with interest and fees for the cost of collection, as provided for the other assessments of the Association.

**3.3.2.2 Access at Reasonable Hours.** For the purpose of performing the maintenance, repair or replacement authorized by this or any other Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any plot or the exterior of any improvements thereon at reasonable hours on any day.

## **ARTICLE 4**

### **4.1 Building and User Requirements**

**4.1.1** Each and every plot, tract, and or parcel of land hereby subjected to these Covenants shall be improved, occupied and used for the respective purpose and permitted use as designated herein and in compliance with the land regulations.

4.1.2 All Southern sides of the Commercial plots numbered 18 to 29 [inclusive] facing the residential side will build a consistent and similar wall as per the standardized design at their own cost so as not to in-convenience the residents of the Estate. Further-more, the Commercial plot owners will not undertake any such activities which will reasonably inconvenience the residents of the Estate.

4.1.3 All plots shall be used for the said purpose only unless written approval of the Vendor is given.

4.1.4 Nothing contained in this Declaration shall be construed to prevent “the Vendor” from erecting and maintaining, or authorizing the erection and maintenance of structures and signs for the development and sale of the property within ATLANTIS ESTATES.

4.1.5 Each plot shall have only one dwelling unless otherwise Approved by the Vendor.

## **4.2 Building and User Restrictions**

4.2.1 The Purchaser of the plots within the said Estate shall not develop or erect any building on the said plot before he has submitted his plan together with the landscaping plan and the expected time scale of completion therein to the ARC for approval. The ARC shall approve the building plans in accordance with the plans and conditions specified therein.

4.2.2 In the event the Purchaser commences erection of any building prior to approval and he has been ordered to demolish the same no compensation shall be payable to the Purchaser in respect of any development.

4.2.3 The ARC shall have the right and authority as the case may be to withhold or disapprove any building plan submitted by the Purchaser if that plan will create or will cause the following :-

4.2.3.1 Vary or conflict with the general plan of the Estate.

4.2.3.2 Seriously damage or destruct the utilities or amenities or public facilities of the neighborhood.

4.2.3.3 Involve the use of such part of the building in any noxious or otherwise offensive manner or be a nuisance of whatever and whatsoever kind.

4.2.3.4 Interfere with the safety of traffic at or near the corner, junction or along any road within the said Estate.

4.2.3.5 All Vehicles (during and after construction) shall not be of more than 5 tons of gross weight, unless other-wise specifically approved by the ARC.

4.2.4 All the construction works, once approved by the ARC and commenced, shall be completed within the specified time scale.

4.2.5 That the ARC shall not pay the Purchaser any compensation by reason only of withholding or disapproving any of the Purchasers's building plan. The ARC may give reasons for disapproval.

4.2.6 The Owner of any plot within the Estate shall be required to plant and maintain a hedge and fence around his plot for preservation of owner's privacy and protection of the surroundings.

4.2.7 The Association may specify the type and kind of hedge and fence to be planted by the Owner to ensure uniformity within the Estate.

4.2.8 The Association may make sure that all fences and hedges within the Estate and surrounding the Owner's Building are well maintained through out the year.

4.2.9 All plots where construction has not commenced shall be maintained and mowed by the owner.

4.2.10 All maintenance fees for the said facilities and added amenities shall be paid by the Purchaser to the Association at a rate to be set by the Association.

4.2.11 The Purchaser of any plot within the Estate shall not build any wall or road within his or her plot, unless prior written approval is given. The Purchaser shall only use the road and the wall around the Estate which has been built by Mount Meru View Estate Limited.

4.2.12 The Association shall provide access to TANESCO electricity over the entire Estate and therefore the Purchaser shall be responsible to pay one off installation cost as shall be agreed by the Association and also the Purchaser shall be responsible for his own Monthly Electricity Bill and maintenance.

4.2.13 There shall be an easement running from Arusha – Dodoma road to the said plot constructed and maintained by the Vendor and the Purchaser shall, upon taking over possession of the property, pay a reasonable maintenance fee.

4.2.14 The Association shall provide day and night security to the entire Estate and therefore the Owner shall be responsible to pay for the said security at a rate which shall be set by the Association.

4.2.15 No animals, livestock, or poultry of any kind shall be raised, bred or kept on any of the Owner's Building except a maximum of two (2) dogs and/or two (2) cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All household pets shall be controlled by their owner and shall not be allowed off of the owner's building except when properly leashed and accompanied by the pet owner or his/her/its agent. Each owner of a household pet shall be financially responsible for any damage caused by said household pet to a third party.

4.2.16 The Owners of the plots within the Estate shall make sure that all equipment, dust bins, service yards, wood piles or storage piles shall be kept so as to conceal them from view of neighboring House and streets. All rubbish, trash or dustbin shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

4.2.17 The Owners of the house with-in the Estate shall keep their dustbin, trash or any other rubbish piles outside their Building entrance on the day or days which shall be set by Association and therefore Association shall hire a Company which shall be responsible for collection of the rubbish piles.

The Owners of the building shall pay a carriage fees to the Association at the rate to be set by the Association.

4.2.18 There shall be no out buildings, utility buildings or accessory structures constructed which are not a part of the original, approved home and landscape plan, unless such structures or landscaping are approved by the ARC in its sole discretion.

4.2.19 No outside storage of any type of materials, equipment or devices shall be permitted. "The Vendor" reserves the right to maintain one construction trailer on the property until all plots are developed.

4.2.20 The Vendor or the Association shall not be responsible or liable in any way for the performance of any contractor for any defects in any plans or specifications or for any structural or other defects in any work done according to such plans and specifications approved by the Vendor or the ARC.

4.2.21 In case of damage caused by an agent of the Association in the normal cause of his duties within the Estate the Vendor or the Association shall not be liable to compensate the party so affected.

4.2.22 The covenants and restrictions herein stipulated shall apply to each plot so created or revised thereby.

4.2.23 No street names or estate name shall be changed except by express written approval of the Vendor.

4.2.24 No street parking, especially over-night parking on the streets, shall be allowed within the Estate unless previous notification is given and approved in special circumstances. Provided always when an approval is given all vehicles must be parked



on the same side of the plot so as not to hinder passage by other residents or road users.

#### **4.3 Reselling the property**

4.3.1 In the event of a resale of a property, the owner or his agent, are required as a condition of the title deed to ensure that the new Purchaser is aware of and receives a copy of these covenants and any other administrative regulation applicable, prior to the conclusion of any sale of change of ownership.

4.3.2 If the party taking transfer is not a natural person, it will be obliged prior to transfer to nominate a natural person to represent it and to notify the Association of the full names, street address and postal address of the said representative, failing of which the Association may choose the identity of the representative from amongst the directors, members, trustees, partners or other similar office bearers of the Purchaser.

4.3.3 A clearance certificate must be obtained from the Association prior to any sale of any property to serve as proof that levies and charges to the Association are paid up in full. This clearance is to be obtained over and above the rates and taxes clearance from the Local Authority.

4.3.4 The Association is entitled to levy project charges and future levies for a three month period in the case of clearance certificate issued in respect of the change or transfer of ownership of a property within the Estate.

4.3.5 The resale of a vacant plot shall not in any way extend the set out time limitations for the start or finalization of the building of a home as laid out in the original offer to purchase the plot. Furthermore, the resale of a vacant plot shall not in any way negate, change or dis-allow the required building of a house by the developers, designated builder or allow use of building plans and designs not approved by the ARC.

#### **4.4 Leasing the property**

4.4.1 Should any owner let, lease or rent his property, he shall in advance of occupation by the lessee in writing advise the Association of the name of the lessee and the period of such lease. The owner is bound to inform and give a copy to the lessee of all applicable Estate Rules and bind the lessee to adhere to such rules in the lease agreement.

4.4.2 A lessee shall sign an acceptance form of these rules and all lease agreements shall contain the following clause:

*“The lessee acknowledges upon occupation of the premises that his family, invited and un-invited guests, visitors, staff and servants shall adhere to the rules and regulations as contained in the Articles of Association and Estate Rules and any other rules applicable to residents in within the Estate”.*

## **ARTICLE 5**

### **5.1 Architectural Review Committee (ARC) – General**

5.1.1 All plans and specifications for all grading and improvements on each plot shall be approved by the ARC, in writing, prior to commencement of any construction. No improvement or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, tennis court, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object, or other improvements, shall be commenced, elected, place or maintained upon any plot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specification and location in relation to the surrounding structures, and topography are in conformance with the Declaration of Covenants and the Architectural Planning Criteria of the Association.

5.1.2 The ARC shall review all proposals submitted and respond within Thirty (30) business days after receipt of each proposal. The decision and comments of the ARC shall be final and binding upon all parties subject to these Covenants unless any such decision is patently arbitrary and malicious, applying reasonable commercial standards.

5.1.3 The ARC shall be composed of not more than Three(3) members selected by the Association and may include one registered architect, one representative of the “the Vendor” and one member of the Association.

## **5.2 DUTIES AND POWERS OF THE ARCHITECTURAL REVIEW COMMITTEE**

5.2.1 The Architectural and control functions of the Association shall be administered and performed by the ARC.

5.2.2 Without prejudice to the generality of the clauses hereinabove the ARC shall recommend, from time to time, to the Association, modifications and/or amendments to the Architectural Planning Criteria. Any modifications or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by the Vendor.

5.2.3 The ARC shall have the further duty to review all plans for construction within the Estate, including but not limited to plans for structures intended for dwelling purposes, all other structures, all reconstruction or modification of existing structures of all kinds, landscaping, lights, swimming pools, tennis courts, roads, lanes and paths. The ARC shall review such plans in light of the Architectural Planning Criteria and shall determine whether or not such plans conform to such criteria, in the event of non-conformance, the Committee shall be empowered to refuse permission to commence construction until such changes are made in the plans as to bring the into conformity with the Architectural Planning Criteria.

## **5.3 Purpose of the Architectural Review Committee (ARC).**

5.3.1 The Committee shall provide for a systematic and uniform review of the condition of all vacant plots and all proposed improvements and construction of any type or nature whatsoever within the Estate. The Committee shall review all plans for said improvements, it being the intent of the Vendor to provide for sound and esthetically pleasing development of the Estate.

5.3.2 The Committee shall assure itself of the soundness of the proposed improvements in order to prevent to the extent possible, rapid and early deterioration.

5.3.3 In addition, the Committee shall evaluate the proposed improvements with emphasis upon their harmonious in-corporation into the community as a whole and with specific emphasis on external design, location of the improvement in relation to surrounding structures and/or improvements, topography and conformity to the restrictive covenants imposed hereunder.

#### **5.4 Procedure before the Architectural Review Committee**

5.4.1 **Necessity for Committee Approval.** No construction of any type may be commenced within the Estate without the prior approval of the Committee in the manner set-forth here-in.

5.4.2 **Manner of Making Submissions.** All submissions of plans, specifications, application, other documents, fees and deposits to the Committee shall be made in the following manner. If at the time the owner of a plot in the Estate desiring to improve such plot (hereinafter, the "Applicant") wishes to make any of the submissions to the Committee the Applicant shall deliver or cause to be delivered personally to the Chairman of the Committee the plans, specifications, application, other documents, fees or deposits due at such time.

5.4.3 **Preliminary Submission.** An Applicant desiring to make improvements to a plot within the Estate shall first submit to the Committee a tentative set of plans and specifications relating to the improvement, before the Applicant having gone to the expense of having final plans and specifications prepared. The Committee shall have a **maximum of 30 business days** from the date of its receipt of tentative plans and specifications within which to study the tentative plans and specifications, make comments or suggestions thereon, and transmit such comments and suggestions to the Applicant.

If, after receipt of such comments and suggestions, the Applicant wishes to proceed with the intended improvement, then the plans and specifications for such intended improvements shall be amended pursuant to such comments and suggestions.

**5.4.4 Formal Submission.** In the event that after the review by the Committee the Applicant desires to proceed with the intended improvement, then the Applicant shall make a formal submission to the Committee. Such formal submission shall consist of;

5.4.4.1 Final plans and specifications for the improvements, incorporating the comments and suggestions made by the Committee as the result of the preliminary submission;

5.4.4.2 A fully executed application form on such as may be prescribed by the Committee;

5.4.4.3 A damage deposit in the amount of up to Five Hundred Dollars after delivery of such formal submission to the Committee, pursuant to paragraph B. hereof, the Committee shall have **30 business days** in which to respond to such formal submission in writing delivered by the Applicant or his or her agent.

Such response by the Committee shall either approve or disapprove of the formal submission. In the event that the Committee disapproves such formal submission, the reasons therefore shall be stated by the Committee. If the Committee fails to respond to such formal submission within **30 business days** after delivery to it pursuant to paragraph B., the formal submission shall be deemed approved.

**5.4.5 Damage Deposit.** In the event that the Committee approves the formal submission and work on the improvements is commenced, then the damage deposit or part thereof shall be used to help defray the costs of repairing any damage sustained by or to the Estates' areas, roads and neighboring property.

5.4.5.1 If no construction is commenced within one year after the date of delivery of the formal submission to the Committee, or if the formal submission is disapproved.

5.4.5.2 The damage deposit shall be returned, without interest, there-after to the Applicant. The damage deposit shall be made by clear funds to the order of the Association.

5.4.5.3 The fact of the payment of the damage deposit shall in no manner or way be taken as a waiver or renunciation on the part of the Association or any of its members of any damages incurred as the result of the Applicant's construction,

5.4.5.4 The cost of repair of which will or does or may exceed Five Hundred Dollars and the Association and such of its members who are privately injured shall always retain a right to pursue the Applicant by all legal means for the redress of any injuries done to them or any of them in any way arising out of or in connection with construction work done by or on behalf of the Applicant.

5.4.6 **Dis-Approval.** In the event that an Applicant's formal submission is disapproved by the Committee, no work or construction on the plot for which construction permission was sought shall be commenced until upon resubmission, as hereinafter set forth, the Committee approves such construction.

5.4.7 **Resubmission.** In the event that the Committee dis-approves a formal submission, the Applicant shall be permitted to re-submit its formal submission after making such changes there-in as may be required by the Committee.

5.4.7.1 Such re-submission shall be treated as an original formal submission under Section 5.4 above.

5.4.8 **Approval.** Upon the approval by the Committee of a formal submission, the Applicant shall there-after provide the Committee with written notice of the staking of the plot to which improvements are to be made and of the improvements themselves. Such notice shall be given no later than Ten(10) days after the actual staking, and shall conform to the requirements set-forth in section 5.4.4.1 above.

5.4.9 No further work shall be performed upon the plot to be improved until the Committee or a representative thereof has physically inspected the premises and approved the stakeout in writing.

## **ARTICLE 6 - General Provisions**

### **6.1 Amendment:**

6.1.1 This Declaration may be amended at any time and from time to time by the Vendor with-out the consent of the property owners whose plots are then subject there-to.

6.1.2 Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided in this Section.

## **6.2 Assignability of Powers and Disposition of Common Properties:**

6.2.1 As hereinabove provided, the Vendor is the exclusive owner of all the common properties within the ATLANTIS ESTATE and the Vendor may assign to the Association or any other person, natural or body corporate, the complete and sole control and authority to manage and operate the common properties, as well as collect assessments, fees and other dues.

6.2.2 As hereinabove provided, the Vendor has reserved unto itself certain other rights, powers and authority. Further more the Vendor hereby reserves the right to assign to the Association any or all of the Vendor's rights, powers and authority hereinabove reserved unto "the Vendor".

## **6.3 Arbitration**

6.3.1 In the event of any dispute or misunderstanding between the vendor and the owner of any plot or any person acting on his behalf the dispute or misunderstanding shall be amicably settled by ARBITRATION by a panel of three Arbitrators. Each party shall appoint one Arbitrator and the appointed Arbitrators shall appoint one umpire. The decision of the panel of Arbitrators shall be final and conclusive.

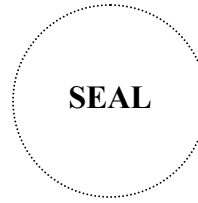
**IN WITNESS WHEREOF**, the "the Vendor" has executed this instrument under seal by and through its duly authorized officers as of the day and year first above written.

**SEALED** with the **COMMON SEAL** of

**MOUNT MERU VIEW ESTATES LTD,**

in our presence on this day .....day of

of.....2006



**NAME:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**QUALIFICATION:** \_\_\_\_\_

\*\*\*\*\*

**NAME:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**QUALIFICATION:** \_\_\_\_\_



**Drawn by;**

Mawalla & Associates – Advocates,  
Plot No. 3/A, Boma Road,  
P. O. Box 742,  
**Moshi.**