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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
SUNRIDGE CANYON**

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

**FOR**

## **SUNRIDGE CANYON**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 30th day of August, 19 95, by SunRidge Canyon, L.L.C., a Arizona limited liability company (the "Declarant").

Declarant is the owner of the real property described in Exhibit "A," attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of that plan, this Declaration provides for the formation of SunRidge Canyon Community Association, Inc., an Arizona nonprofit corporation, to own, operate and/or maintain certain common areas and community improvements and to administer and enforce the provisions of this Declaration, the By-Laws, the Design Guidelines, and the Use Restrictions and Rules promulgated pursuant to this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon and shall inure to the benefit of all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

### **Article I DEFINITIONS**

The terms used in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Area of Common Responsibility": The Common Area, together with such other areas for which the Association is assigned or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

1.2. "Articles of Incorporation" or "Articles": The Articles of Incorporation of SunRidge Canyon Community Association, Inc., as filed with the State of Arizona Corporation Commission.

1.3. "Association": SunRidge Canyon Community Association, Inc., an Arizona nonprofit corporation, its successors or assigns.

1.4. "Base Assessments": Assessments levied on all Units subject to assessment under Section 8.9 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1 and 8.3.

1.5. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under State of Arizona corporate law.

1.6. "Builder": Any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers or purchases one or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

1.7. "By-Laws": The By-Laws of SunRidge Canyon Community Association, Inc., attached as Exhibit "E," as they may be amended.

1.8. "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors as specified in Section 3.3 of the By-Laws.

1.9. "Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include any Limited Common Area, as defined below.

1.10. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation, including, without limitation, the costs of performing the Association's responsibilities under Section 5.1(a). Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Voting Members representing a majority of the total Class "A" vote of the Association.

1.11. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard is expected to evolve over time as development progresses and may be more specifically determined by the Declarant, the Board of Directors and the New Construction Committee.

1.12. "Covenant to Share Costs": That certain Declaration recorded in the Public Records on March 30, 1995, at Instrument No. 95-0172717 and any other declarations of easements and covenants to share costs executed by the Declarant and recorded in the Public Records which create easements for the benefit of the Association and Unit Owners and provide for certain costs to be shared between the Owners and other Persons. All payments made by the Association pursuant to the terms of the Covenant to Share Costs shall be a Common Expense.

1.13. "Declarant": SunRidge Canyon, L.L.C., an Arizona limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" of this Declaration for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, there shall be no more than one Declarant at any time.

1.14. "Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered in accordance with Article IX.

1.15. "Limited Common Area": A portion of the Common Area intended for the exclusive or primary use or benefit of one or more, but less than all, Neighborhoods, as more particularly described in Article II.

1.16. "Master Plan": The land use plan for the development of SunRidge Canyon prepared by Florian Martinez Associates and approved by the Declarant, as it may be amended from time to time, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article VII.

1.17. "Member": A Person subject to membership in the Association as provided in Section 3.2.

1.18. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.19. "Mortgagee": A beneficiary or holder of a Mortgage.

1.20. "Mortgagor": Any Person who gives a Mortgage.

1.21. "Neighborhood": A portion of the Properties designated as a Neighborhood pursuant to Section 3.4(a) in which the Units may (a) share one or more common features not common to all Units within the Properties, and/or (b) receive special services from the Association which are not provided to all Units within the Properties. Examples of such common features might include, without limitation, a common theme, housing type, entry monument, privacy gate, private streets, or Limited Common Areas intended for the primary benefit of that group of Units, among other things. Examples of such special services might include landscaping maintenance or exterior maintenance of structures on Units, among other things.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association (as defined below) having concurrent jurisdiction with the Association over the property within the Neighborhood.

1.22. "Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 8.1 and 8.4.

1.23. "Neighborhood Association": Any condominium association or other owners association having concurrent jurisdiction with the Association over any Neighborhood.

1.24. "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such Neighborhood(s).

1.25. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides.

1.26. "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.27. "Private Amenities": Certain real property and any facilities and improvements thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, whether on a use fee basis, a club membership basis, or otherwise. The Private Amenities shall include, without limitation, the golf course, if any, which is so located and all related and supporting facilities and improvements.

1.28. "Properties": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.29. "Public Records": The Official Records of Maricopa County, Arizona.

1.30. "Special Assessment": Assessments levied in accordance with Section 8.6.

1.31. "Specific Assessment": Assessments levied in accordance with Section 8.7.

1.32. "Supplemental Declaration": An instrument filed in the Public Records pursuant to Article VII which subjects additional property to this Declaration, designate Neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.33. "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include, by way of illustration but not limitation, condominium units and single-family attached or detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property of any Neighborhood Association, or property dedicated to the public.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.34. "Use Restrictions and Rules": Those use restrictions and rules affecting the Properties, which may be adopted, modified and repealed as set forth in Article X. The initial Use Restrictions and Rules are set forth on Exhibit "C."

1.35. "Voting Member": The representative selected by the Class "A" Members within each Neighborhood to be responsible for casting all Class "A" votes attributable to Units in the Neighborhood on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall also refer to alternate Voting Members acting in the absence of the Voting Member and any Class "A" Members authorized personally to cast the votes for their respective Units pursuant to Section 3.4(b).

## **Article II**

### **PROPERTY RIGHTS**

2.1. Common Area. Every Owner shall have a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) this Declaration and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the right of the Board and the membership to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area pursuant to Article X, including rules limiting the number of guests who may use the Common Area;
- (d) the right of the Board to suspend the right of an Owner to use recreational facilities, if any, within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and

(ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of the Association after notice and a hearing pursuant to Section 3.24 of the By-Laws;

(e) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;

(f) the right of the Board to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(g) the right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;

(h) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 2.6; and

(i) the rights of certain Owners in those portions of the Common Area designated "Limited Common Areas," if any, as more particularly described in Section 2.2.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

**2.2. Limited Common Areas.** Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of Units within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, access gates, private streets, recreational facilities, landscaped medians and cul-de-sacs, ponds and other portions of the Common Area within primarily benefitting a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be assessed as a Neighborhood Assessment against the Owners of Units in the Neighborhood(s) to which the Limited Common Area is assigned.

Initially, any Limited Common Area shall be designated as such and assigned to a particular Neighborhood or Neighborhoods in the deed conveying it to the Association or on the subdivision plat depicting such Limited Common Area; provided, however, any such assignment shall not preclude the Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 7.1. Thereafter, a portion of the Common Area may be assigned as Limited Common Area of a particular Neighborhood or Neighborhoods upon approval of the Board and the

vote of Voting Members representing a majority of the total Class "A" votes in the Association, including the Voting Member(s) representing the Class "A" votes within the Neighborhood(s) to which the Limited Common Area is to be assigned. Limited Common Area may be reassigned upon approval of the Board and of Owners of a majority of the Units within the Neighborhood(s) to which the Limited Common Area is assigned and of Owners of a majority of the Units within the Neighborhood(s) to which the Limited Common Area is to be reassigned. As long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale, any such assignment or reassignment shall also require the Declarant's written consent. Notice of any assignment or reassignment of Limited Common Area shall be filed in the Public Records cross-referencing the deed or subdivision plat pertaining to such Limited Common Area.

The Association may, upon approval of Owners of a majority of Units within the Neighborhood(s) to which any Limited Common Area is assigned, may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

2.3. Private Amenities. Access to and use of any Private Amenities is strictly subject to the rules and procedures of the owner of such Private Amenities, and no Person gains any right to enter or to use any Private Amenities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenities.

The ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent Person, (b) establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenities or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenities, or (c) the conveyance of the Private Amenities to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Neighborhood Association, any Voting Member, or any Owner shall be required to effectuate any change in ownership or operation of any Private Amenities, except as may otherwise be provided in any written agreements entered into by the owner of the Private Amenities.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by the owner of the Private Amenities. Such owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Private Amenities which it owns and to terminate use rights altogether.



Neither the Declarant, the Association, nor the owner of any Private Amenities, guarantees or represents that any view from Units over and across the Private Amenities will be preserved without impairment. No Owner shall have the right to require the owner of any Private Amenities to prune or thin trees or other landscaping within the boundaries of the Private Amenities, nor any right to prevent the owner of any Private Amenities from adding trees and other landscaping to the Private Amenities in its sole and absolute discretion. In addition, the owner of any Private Amenities which include a golf course may, in its sole and absolute discretion, but shall not be obligated to change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

2.4. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

2.5. Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on any unimproved land remaining in the Common Area to the extent feasible, unless within 60 days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

2.6. Actions Requiring Owner Approval. If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs is insuring or guaranteeing the Mortgage on any Unit, then the

following actions shall require the prior approval of Voting Members representing not less than 67% of the total Class "A" votes in the Association and the consent of the Class "B" Member, if such exists: merger, consolidation or dissolution of the Association; annexation of additional property other than that described on Exhibit "B;" and dedication, conveyance or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 2.5 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

### **Article III**

#### **MEMBERSHIP AND VOTING RIGHTS**

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Area and other portions of the Area of Common Responsibility to the extent such responsibility is assigned to or assumed by the Association. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board or the membership may adopt pursuant to Article X. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles and the laws of the State of Arizona.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and privileges of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.2; provided, there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.11. All Class "A" votes shall be cast as provided in Section 3.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and

the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Section 3.3 of the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

(i) two years after expiration of the Class "B" Control Period pursuant to Section 3.3 of the By-Laws; or

(ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Member representing the Neighborhood of which the Unit is a part, as provided in Section 3.4(b). The Voting Member may cast all such votes as it, in its discretion, deems appropriate; provided that all such votes must be cast the same way (i.e., the Voting Member may not vote some votes in favor and some votes against a proposal).

In any situation where a Member is entitled personally to exercise the vote for his Unit and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

#### 3.4. Neighborhoods and Voting Members.

(a) Neighborhoods. Every Unit shall be located within a Neighborhood. The Units within a particular Neighborhood may be subject to additional covenants and/or the Unit Owners may all be members of a Neighborhood Association in addition to the Association. However, a Neighborhood Association shall not be required except in the case of a condominium or otherwise as required by law. Any Neighborhood which does not have a Neighborhood Association may elect a Neighborhood Committee, as described in Section 5.3 of the By-Laws, to represent the interests of Owners of Units in such Neighborhood.

Any Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood and, upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment pursuant to Article VIII hereof.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right unilaterally to annex additional property pursuant to Section 7.1, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to redesignate Neighborhood boundaries; provided, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

The Owner(s) of a majority of the total number of Units within any Neighborhood may at any time petition the Board of Directors to divide the property comprising the Neighborhood into two or more Neighborhoods. Such petition shall be in writing and shall include a survey of the entire parcel which indicates the proposed boundaries of the new Neighborhoods or otherwise identifies the Units to be included within the proposed Neighborhoods. Such petition shall be deemed denied 30 days following the filing of all required documents with the Board unless the Board of Directors grants such application in writing within such 30 day period. The Board may approve an application ~~only upon determining~~ that there is a reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

(b) Voting Members. Each Neighborhood shall elect a Voting Member who shall be responsible for casting all votes attributable to Units owned by Class "A" Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member. The Voting Member and alternate Voting Member from each Neighborhood shall be elected on an annual basis, either by written ballot cast by mail or at a meeting of the Class "A" Members within such Neighborhood, as the Board determines; provided, upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Class "A" Members representing at least 30% of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting.

The Board shall call for the first election of a Voting Member from a Neighborhood not later than the date upon which a majority of the Units in the Neighborhood have been conveyed to Persons other than Builders. Subsequent elections shall be held within 60 days of the same date each year. Each Class "A" Member who owns a Unit within the Neighborhood shall be entitled to cast one equal vote per Unit owned. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a vote of the Voting Members under this Declaration, the By-Laws, or the Articles.

#### Article IV RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and other personal property of the Association used in connection with the Common Areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws and consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

4.2. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the properties described in Exhibits "A" or "B," personal property and leasehold and other property interests, specifically including, without limitation or obligation, any lake, pond, or other holding basin for excess effluent generated in whole or in part by the occupants of the Properties, including the shoreline thereof, any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association.

The property conveyed to the Association by the Declarant from time to time shall be conveyed subject to all applicable governmental requirements, permits, conditions and approvals and subject to any easements then in existence affecting the property. The Declarant hereby reserves the right to grant easements over the Common Areas and the right to require the Association to take such actions as may be necessary to grant easements over the Common Areas; provided, such easements shall not unreasonably interfere with use of the Common Areas for their intended purposes.

The Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

In addition to the foregoing rights of the Declarant, the Declarant may, in its sole discretion, make certain property and/or facilities available to the Association on a temporary or permanent basis for use by the Members upon such commercially reasonable terms and upon payment of such fees as may be set forth in any written agreement between the Declarant and the Association and the Association shall be obligated to comply with the terms of any such agreement.

4.3. Enforcement. The Association may impose sanctions for violations of this Declaration, any applicable Supplemental Declaration, the By-Laws, or Association rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with Section 3.24 of the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

4.4. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. For so long as the Declarant owns any property described on Exhibits "A" or "B," the Declarant may designate sites within the Properties for fire, police, and utility facilities, public schools and parks, and other public or quasi-public facilities. In recognition of the fact that the Declarant has conveyed the Common Areas to the Association at no cost to the Association, the sites may include unimproved portions of the Common Areas, in which case the Association shall take whatever action is

required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents.

4.6. Indemnification. The Association shall indemnify every officer, director, and committee member, including the members of the committees established under Article IX, and any employees and managers or managing agent, against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section or State of Arizona law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7. Dedication of Common Area. Subject to the provisions of Sections 2.6 and 12.6, and subject to the approval of and acceptance by such entity, the Association may dedicate portions of the Common Area to Maricopa County, the State of Arizona, the Town of Fountain Hills, or to any other local, state, or federal governmental or quasi-governmental entity, including any community facilities district now existing or hereafter created under the laws of the State of Arizona with jurisdiction over all or any portion of the Properties.

4.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures, including any mechanism or system designed to limiting access to the Properties or any portion of the Properties, can not be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its

Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

ALL OWNERS AND OCCUPANTS ARE HEREBY ADVISED THAT THE TOWN OF FOUNTAIN HILLS, ARIZONA, HAS IN THE PAST AND MAY CONTINUE IN THE FUTURE TO RESTRICT OR PROHIBIT INSTALLATION OF STREET LIGHTS WITHIN ITS BOUNDARIES.

4.9. Powers of the Association Relating to Neighborhoods. The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association or Neighborhood Committee which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association, and (b) require that a proposed budget include certain items and that expenditures be made therefor.

Any action which the Association requires pursuant to the foregoing paragraph shall be taken within the reasonable time frame set by the Association in a written notice to the Neighborhood Association. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on its behalf and assess the Units in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action pursuant to Section 8.7. Such assessments shall be subject to all lien rights provided for in Article VIII.

4.10. Covenant to Share Costs. The Association shall include in its annual operating budget such amounts as are necessary to fulfill the Association's financial obligations under the Covenant to Share Costs and shall cooperate with the Fountain Hills Community Maintenance Corporation in levying and collecting each Unit's pro rata share of any such financial obligation.

4.11. Transfer of Responsibilities to Community Facilities District. If at any time a community facilities district is formed under State of Arizona law, the boundaries of which encompass all or any portion of the Properties, the Association shall have the right, acting through the Board and with the approval of Voting Members representing a majority of the total Class "A" votes in the Association and the consent of the Class "B" member, to convey to such district any or all of the Common Area owned by the Association (but not Limited Common Area) and/or to transfer and assign to such district any or all of the Association's responsibilities under Article V of this Declaration, provided that such district is willing to accept the transfer and/or assignment of such properties and/or responsibilities, respectively.



## **Article V** **MAINTENANCE**

### **5.1. Association's Responsibility.**

(a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(i) all landscaping and other flora, parks, ponds, signage, structures, and other improvements within the Common Area, including any private streets which are part of the Common Area; and

(ii) landscaping within any public rights-of-way within or abutting the Properties;

(iii) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any covenant, contract or agreement for maintenance thereof entered into by the Association; and

(iv) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, whether or not such property or facilities are also made available to other Persons, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 67% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration.

(c) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Limited Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Units within the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

Upon resolution of the Board of Directors, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and arroyos or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Unit, and all structures, parking areas, and other improvements comprising the Unit, in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. Each Owner shall also maintain the right-of-way or Common Area lying between the Unit boundary and the curb of any street running parallel, more or less, to such Unit boundary. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Neighborhood's Responsibility. Any Neighborhood Association having responsibility for maintenance within a particular Neighborhood pursuant to additional covenants applicable to such Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Units within such Neighborhood as provided in Section 8.7.

5.4. Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association, and/or an Owner and/or a Neighborhood Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

## **Article VI** **INSURANCE AND CASUALTY LOSSES**

### **6.1. Association Insurance.**

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, in such amounts as the Board deems appropriate in the exercise of its business judgment:

(i) Blanket property insurance covering all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board in the exercise of its business judgment determines advisable.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Neighborhood in such amounts and with such coverages as may be agreed upon pursuant to

Section 3.4(a). Any such policies shall provide for a certificate of insurance to be furnished, upon request, to the Neighborhood Association or Neighborhood Committee, as applicable, and to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment, except that (i) premiums for property insurance obtained on behalf of a Neighborhood shall be charged to the Owners of Units within the benefitted Neighborhood as a Neighborhood Assessment; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. The Association shall have no insurance responsibility for any portion of the Private Amenities.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Phoenix area.

All Association policies shall provide for a certificate of insurance to be furnished, upon request, to each Member insured and to the Association.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.7.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Arizona whose primary business is providing insurance coverage and which satisfies such minimum financial size and strength requirements as the Board deems appropriate in the exercise of its business judgment;

(ii) be written in the name of the Association. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners of Units within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(v) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(vi) a cross liability provision; and

(vii) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not

exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2. Owners' Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefitted Unit and the Owner thereof pursuant to Section 8.7.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

**Article VII**  
**ANNEXATION AND WITHDRAWAL OF PROPERTY**

7.1. Annexation Without Approval of Membership. Until all property described on Exhibit "B" has been subjected to this Declaration or 25 years after the recording of this Declaration in the Public Records, whichever is earlier, Declarant may unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of Voting Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

7.2. Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Voting Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Section 7.1, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units by more than 5% nor involve any portion of the Common Area upon which permanent improvements have been constructed. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal upon Declarant's request.

7.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and

insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibits "A" or "B."

### **Article VIII ASSESSMENTS**

8.1. Creation of Assessments. There are hereby created and the Association is hereby authorized to levy assessments against each Unit for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Neighborhood Assessments for Neighborhood Expenses benefitting only Units within a particular Neighborhood or Neighborhoods; (c) Special Assessments as described in Section 8.6; and (d) Specific Assessments as described in Section 8.7. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest (computed from the due date of such assessment at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of State of Arizona law), reasonable late charges in such amount as the Board may establish by resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit against which the assessment is levied until paid, as more particularly provided in Section 8.8. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable with the grantor for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Owner liable for any type of assessment an estoppel certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.



Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2. Declarant's Obligation for Assessments. During the Class "B" Control Period, Declarant may annually elect either to pay regular assessments on its unsold Units or to pay the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. The Declarant may make such election at any time prior to the end of the fiscal year for such fiscal year; provided, if the Declarant fails to notify the Board in writing of its election prior to the end of any fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as elected for the immediately preceding fiscal year. Regardless of such election, the Association shall have a lien against all Units owned by the Declarant to secure the Declarant's obligations under this section, which lien shall have the same attributes and shall be enforceable in the same manner as the Association's lien against each Unit under Section 8.8. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

8.3. Computation of Base Assessments. At least 90 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.5.

Base Assessments shall be levied equally against all Units and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of Base Assessments, the Board, in its discretion, may consider other sources of funds

available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year, as well as any income expected pursuant to covenants imposed on land that is not included in the Properties but that benefits from the Association's maintenance or other activities.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Section 7.1, the Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.2), which may be treated as either a contribution or an advance against future assessments due from the Declarant, in the Declarant's discretion. Any such subsidy shall be conspicuously disclosed as a line item in income portion of the Common Expense budget and the characterization of such subsidy shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner at least 60 days prior to the proposed effective date of such budget. The budget and assessment shall become effective unless disapproved at a meeting by Voting Members representing at least 75% of the total Class "A" votes in the Association and 75% of the total number of Voting Members, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 10 days after delivery of the budget and notice of assessments.

The Board may revise the budget and any assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget most recently in effect shall continue in effect until a new budget becomes effective hereunder.

8.4. Computation of Neighborhood Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain expenses as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, upon approval of Owners in accordance with Section 3.4(a), any additional expenses, including any additional overhead expenses associated with such services, shall be added to such budget. Such budget shall include a capital contribution establishing a

reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood benefitted thereby and levied as a Neighborhood Assessment; provided, if so specified in the Supplemental Declaration applicable to such Neighborhood or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Units in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Unit in the Neighborhood at least 60 days prior to the proposed effective date of such budget. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 25% of the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

The Board may revise the budget and any assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget most recently in effect shall continue in effect until a new budget becomes effective hereunder.

**8.5. Reserve Budget and Capital Contribution.** The Board shall annually prepare reserve budgets for both general and Neighborhood purposes which take into account the number and nature of those assets within the Area of Common Responsibility which have an expected life of more than one year, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments or Neighborhood Assessments, as appropriate, over the budget period.

**8.6. Special Assessments.** In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted, extraordinary or other expenses which the Board determines to be more appropriately handled outside of the annual operating budget. Any such Special Assessment may be levied against all Units, if such Special Assessment is for Common Expenses, or against the Units within a particular Neighborhood or Neighborhoods, if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Any

Special Assessment adopted by the Board shall become effective 30 days after notice of such Special Assessment is sent to the Owners unless disapproved at a meeting by a majority of the Owners of Units subject to the Special Assessment; provided, there shall be no obligation to call a meeting for the purpose of considering the Special Assessment except on petition of Owners of at least 25% of the Units subject to the Special Assessment, which petition must be submitted to the Board within 10 days after the date of such notice. In the event of any such petition, the Special Assessment shall not become effective unless and until the meeting is held and the requisite vote to disapprove is not obtained.

8.7. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties or within a Neighborhood as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with By-Laws Section 3.24, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.8. Lien for Assessments. All assessments authorized in this Article shall constitute a lien in favor of the Association against the Unit upon which they are levied until paid. The lien shall also secure payment of interest, late charges, and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as Mortgages on real property are

foreclosed under the laws of the State of Arizona, which shall include the right of nonjudicial foreclosure if permitted under the laws of the State of Arizona.

The Association or the Maintenance Corporation, if appropriate, may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association or the Maintenance Corporation following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association or Maintenance Corporation. The Association or Maintenance Corporation may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.8, including such acquirer, its successors and assigns.

The lien rights created in this Declaration shall be for the benefit of the Association and the Maintenance Corporation, in that order of priority.

8.9. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

8.10. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.11. Exempt Property. The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) all Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;

(b) any property dedicated to and accepted by any governmental authority or public utility; and

(c) any property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

## **Article IX** **ARCHITECTURAL STANDARDS**

9.1. **General.** No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) (any such activities being referred to in this Article as "Work") shall take place except in compliance with this Article, and approval of the appropriate committee under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by the NCC in its sole discretion.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area made by or on behalf of the Association during the Class "B" Control Period, nor to improvements to any Private Amenities.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

9.2. **Architectural Review.** Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications under this Article shall be handled by the two committees described in subsections (a) and (b) below. The members of the committees need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the committees in having any application reviewed by architects, engineers or other professionals.

(a) New Construction Committee. The New Construction Committee (NCC) shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to Owners other than Builders, the Declarant retains the right to appoint all members of the NCC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board may, at its option, either appoint the members of the NCC, who shall thereafter serve and may be removed in the Board's discretion, or combine the NCC and the MC (hereafter defined) into a single architectural review committee which shall assume all powers and responsibilities of both committees under this Declaration.

(b) Modifications Committee. The Board of Directors may establish a Modifications Committee (MC) to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Board. The MC, if established, shall have jurisdiction over modifications, additions, or alterations made on or to existing structures on Units or containing Units and the adjacent open space. The MC may delegate its authority as to a particular Neighborhood to the Neighborhood Association, if any, so long as the MC has determined that such Neighborhood Association has in force review and enforcement practices, procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The NCC shall have the right to veto any action taken by the MC or a Neighborhood Association which the NCC determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the NCC.

### 9.3. Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the committees in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the committees and compliance with the Design Guidelines does not guarantee approval of any application.

The NCC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the NCC is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The NCC shall make copies of the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and may charge a reasonable fee to cover its printing costs. In the Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the NCC. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

(b) Procedures. Prior to commencing any Work within the scope of Section 9.1, an application for approval of such Work shall be submitted to the NCC or MC, as appropriate (the entity having jurisdiction at any particular time is referred to in this Article as the "reviewer"), in such form as may be required by the reviewer or the Design Guidelines. The application shall include plans and specifications ("Plans") showing the site layout and placement of all proposed structures and improvements, the structural design, exterior elevations, and exterior materials and colors for all structures and improvements, landscaping, drainage, exterior lighting, and other features of the proposed construction, as required by the Design Guidelines and as applicable. In reviewing each submission, the committees may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other things. The reviewer may require the submission of such additional information as it deems necessary to consider any application.

The reviewer may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, compliance with the Design Guidelines, and architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The reviewer shall, within 30 days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the disapproval of such Plans, specifying the segments or features of the Plans which are objectionable. The reviewer may make suggestions for curing such objections. In the event the reviewer fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, the applicant may give the reviewer written notice of such failure to respond and stating that unless the reviewer responds within 10 days of receipt of such notice, approval shall be deemed granted and, upon such further failure, approval shall be deemed to



have been given, subject to the right of the NCC to veto approvals by the MC as set forth in this Section. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 9.5. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U. S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

Within three business days after the MC has approved any application relating to proposed Work, the MC shall give written notice to the NCC of such action, together with such other information as the NCC may require. The NCC shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the NCC and the applicant.

Notwithstanding the above, the NCC by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

If construction does not commence on any Work for which approval has been granted within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans for reconsideration prior to commencing such Work. All Work shall be completed within one year of commencement or such other period as may be specified in the notice of approval, unless completion is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the reviewer.

9.4. No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, but the reviewer may refuse to approve similar proposals in the future. Approval of proposals, plans and specifications, or drawings for any Work done or proposed, or in connection with any matter requiring approval, shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters whatever subsequently or additionally submitted for approval.

9.5. Variance. The NCC may, but shall not be required to, authorize variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances exist and no Owner shall have any right to demand or obtain a variance, regardless of the circumstances. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the NCC from denying a variance in other circumstances.

9.6. Limitation of Liability. The standards and procedures established by this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. NEITHER THE DECLARANT, THE NCC NOR THE MC SHALL BEAR ANY RESPONSIBILITY FOR ENSURING THE STRUCTURAL INTEGRITY OR SOUNDNESS OF APPROVED CONSTRUCTION OR MODIFICATIONS, NOR FOR ENSURING COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REQUIREMENTS, NOR FOR ENSURING THAT ALL STRUCTURES AND IMPROVEMENTS CONSTRUCTED WITHIN THE PROPERTIES ARE OF COMPARABLE QUALITY, VALUE, OR SIZE, OR OF SIMILAR DESIGN. NEITHER THE ASSOCIATION, THE BOARD, THE NCC OR MC, NOR ANY MEMBER OF ANY OF THE FOREGOING SHALL BE HELD LIABLE FOR SOIL CONDITIONS, DRAINAGE PROBLEMS OR OTHER GENERAL SITE WORK, NOR FOR DEFECTS IN ANY PLANS OR SPECIFICATIONS SUBMITTED, REVISED OR APPROVED HEREUNDER, NOR FOR ANY STRUCTURAL OR OTHER DEFECTS IN WORK DONE ACCORDING TO APPROVED PLANS, NOR FOR ANY INJURY, DAMAGES, OR LOSS ARISING OUT OF THE MANNER, DESIGN OR QUALITY OF APPROVED CONSTRUCTION OR MODIFICATIONS TO ANY UNIT.

9.7. Enforcement. Any Work performed in violation of this Article or in a manner inconsistent with the approved Plans shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, correct any nonconforming condition or remove any nonconforming structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board, the Declarant or their designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass. Upon demand, the Owner shall reimburse all costs incurred by any of the foregoing in exercising its rights under this Section. The Association may assess any costs incurred in taking enforcement action under this Section, together with interest at the maximum rate then allowed by law, against the benefitted Unit as a Specific Assessment.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with By-Laws Section 3.24, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

The Declarant and the Association, acting separately or jointly, may preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines from continuing or performing any further activities in the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Declarant, the Association, nor their officers, directors or agents shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the NCC and MC.

## **Article X**

### **USE RESTRICTIONS AND RULES**

10.1. Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties as a master planned community in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, technology, conditions, needs, and desires within the master planned community and to regulate and control the Area of Common Responsibility. The Properties are subject to the Design Guidelines, the land development, architectural, and design provisions described in Article IX, the other provisions of this Declaration governing individual conduct and uses of and actions upon the Properties, and the Use Restrictions and Rules promulgated pursuant to this Declaration, all of which establish affirmative and negative covenants, easements, and restrictions on the Properties.

All provisions of this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide or shall be deemed to provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws, and the rules of the Association.

10.2. Authority to Promulgate Use Restrictions and Rules. The initial Use Restrictions and Rules applicable to all of the Properties are attached as Exhibit "C" to this Declaration. Subject to the terms of this Article, such initial Use Restrictions and Rules may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to its duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions and Rules set forth on Exhibit "C". The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless disapproved at a meeting by Voting Members representing more than 50% of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon receipt of a petition of the Voting Members as required for special meetings in the By-Laws, which petition is received by the Board within 30 days after written notice of such rule is mailed to the Members. Upon such petition of the Voting Members prior

to the effective date of any Board action under this Section, the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, the Voting Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of Voting Members representing 51% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) At least 30 days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner specifying the effective date. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) Nothing in this Article shall authorize the Board or the Voting Members to modify, repeal or expand the Design Guidelines, which may be modified only as provided in Article IX. All matters of architectural control and aesthetics shall be governed by the Design Guidelines.

**10.3. Owners' Acknowledgment and Notice to Purchasers.** All Owners and occupants of Units are given notice that use of their Units is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Use Restrictions and Rules may change from time to time. ALL PURCHASERS OF UNITS ARE HEREBY PLACED ON NOTICE THAT THE ASSOCIATION MAY HAVE ADOPTED CHANGES TO THE INITIAL USE RESTRICTIONS AND RULES ON EXHIBIT "C." Copies of the current Use Restrictions and Rules may be obtained from the Association.

**10.4. Rights of Owners.** In recognition of the flexibility that this procedure for adopting and changing Use Restrictions and Rules provides to address changes in circumstances, conditions, needs and desires within the Properties over time, it is appropriate for the protection of each Owner to establish certain parameters within which the Board and the Members may make modifications and additions to the Use Restrictions. Therefore, except as may be specifically set forth in this Declaration (either initially or by amendment) or in Exhibit "C," neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) **Equal Treatment.** Similarly situated Owners and occupants shall be treated similarly; provided, the Use Restrictions and Rules may vary by Neighborhood.

(b) **Political Signs.** No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) **Religious and Holiday Displays.** No rules shall restrict the rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed

in residences located in single-family residential neighborhoods, except that the Association may adopt time, place, and manner restrictions.

(d) Household Composition. No rule shall interfere with the freedom of occupants of Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(e) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit, provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(h) Rights to Develop. No rule or action by the Association or Board shall impede the Declarant's right to develop the Properties.

(i) Abridging Existing Rights. If any rule would otherwise require Owners or occupants of Units to dispose of personal property which they maintained in or on the Unit prior to the effective date of such rule, or to vacate a Unit in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent unless the rule was in effect at the time such Owners or occupants acquired their interest in the Unit.

The limitations in this Section 10.4 shall apply to new rules only; they shall not invalidate any of the Use Restrictions and Rules initially set forth on Exhibit "C" nor shall they apply to amendments to this Declaration adopted in accordance with Section 15.2.

## Article XI EASEMENTS

11.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered on the Unit or the Common Area (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

### 11.2. Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, arroyos, and drainage systems; effluent distribution equipment, lines, and pumps; street lights and signage; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; for the purpose of installing any of the foregoing on property which the Declarant or the Association owns or within easements designated for such purposes on recorded plats of the Properties; and for the purpose of altering drainage and water flow across the Properties.

Declarant specifically grants to the local water supplier, electric company, telephone company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B," and upon Declarant's request, the Owner of the underlying property shall execute such instruments as may reasonably be required to acknowledge and confirm such specific grant.

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the

structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.3. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, successors-in-title, assigns, licensees, and mortgagees, a perpetual, nonexclusive easement over the Common Areas for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefitting from such easement is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.4. Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, the By-Laws, Design Guidelines and Use Restrictions and Rules. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, the members of the New Construction Committee and the Modifications Committee pursuant to Article IX, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to perform maintenance and to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to perform such maintenance or cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

11.5. Easements for Stormwater Drainage and Retention. Each portion of the Properties is hereby subjected to a non-exclusive easement appurtenant to and for the benefit of each other portion of the Properties for the purpose of stormwater drainage and runoff, which easement shall include, but shall not be limited to, the right to tie in to existing stormwater drainage facilities and to divert stormwater runoff from each Unit into such stormwater drainage facilities at such points and in such manner as approved by the Declarant, and for the flow of stormwater runoff over the Properties to such points and from such points through the stormwater drainage facilities into arroyos, ponds or retention facilities within or outside the Properties. The foregoing easements shall be subject to any and all restrictions regarding quantity.

rate and quality of discharge which the Declarant may hereafter impose or which may be imposed on the Properties, the Declarant or any Owner by any governmental entity having jurisdiction.

**11.6. Easements for Golf Course.**

(a) Every Unit and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Units or common property of a Neighborhood and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. UNDER NO CIRCUMSTANCES SHALL ANY OF THE FOLLOWING PERSONS BE HELD LIABLE FOR ANY DAMAGE OR INJURY RESULTING FROM ERRANT GOLF BALLS OR THE EXERCISE OF THIS EASEMENT: THE DECLARANT; THE ASSOCIATION OR ITS MEMBERS (IN THEIR CAPACITY AS SUCH); SUNRIDGE CANYON, L.L.C., ITS SUCCESSORS, SUCCESSORS-IN-TITLE TO THE GOLF COURSE, OR ASSIGNS; ANY SUCCESSOR DECLARANT; SUNCOR DEVELOPMENT COMPANY, ITS SUCCESSOR OR ASSIGNS, MCO PROPERTIES L.P., ITS SUCCESSOR OR ASSIGNS; ANY BUILDER OR CONTRACTOR (IN THEIR CAPACITIES AS SUCH); ANY OFFICER, DIRECTOR OR PARTNER OF ANY OF THE FOREGOING, OR ANY OFFICER OR DIRECTOR OF ANY PARTNER; OR ANY MEMBER OR AFFILIATE OF ANY OF THE FOREGOING.

(b) The owner of any golf course within or adjacent to any portion of the Properties, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of its golf course.

(c) Any portion of the Properties immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course and for runoff from the golf course. Under no circumstances shall the Association or the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(d) The owner of any golf course within or adjacent to any portion of the Properties, its successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from any bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

**Article XII  
MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.



12.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

12.2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit and the loan number or other identifying number of the loan secured by such Mortgage.

12.4. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.5. Construction of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or State of Arizona law for any of the acts set out in this Article.

12.6. HUD/VA Approval. As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the mortgage on any Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than that described on Exhibit "B"; dedication, conveyance or mortgaging of Common Area; or material amendment of this Declaration.

### Article XIII DECLARANT'S RIGHTS

13.1. Transfer of Declarant Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

13.2. Use of Common Area. The Declarant and its designees may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, sales offices and storage facilities. The Declarant and its designees shall have easements for access to and use of such facilities.

The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

13.3. Approval of Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

13.4. Approval of Amendments to Use Restrictions and Design Guidelines. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Use Restrictions and Rules or Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any portion of the Properties primarily for development and sale.

13.5. Amendment. This Article may not be amended without the written consent of the Declarant so long as Declarant has any rights hereunder. The rights contained in Sections 13.1, 13.2, 13.3 and 13.4 shall terminate upon the earlier of (a) 25 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

**Article XIV**  
**DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

14.1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Sections 14.2 ("Claims") subject to the procedures set forth in Section 14.3 prior to or in lieu of filing suit in any court.

14.2. Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, or the Articles of Incorporation (collectively the "Governing Documents"), or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 14.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.3:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments):

(b) any suit by the Declarant or the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Declarant's or the Association's ability to enforce the provisions of Article IX (Architectural Standards) and Article X (Use Restrictions and Rules);

(c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(d) any suit in which any indispensable party is not a Bound Party; and

(e) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.3.

#### 14.3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant"), against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

2. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of the Phoenix, Arizona chapter of the Community Associations Institute or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the Phoenix, Arizona area.

3. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a

Settlement Demand. Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Arbitration.

1. If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

2. Unless the Parties agree in writing to be bound by the arbitrator's decision (the "Award") prior to the commencement of arbitration proceedings, any Party shall be free to reject the Award within 30 days thereafter by written notice to each Party and to sue in any court of competent jurisdiction or initiate proceedings before any appropriate administrative tribunal. Failure to reject the Award within 30 days shall be deemed an acceptance of the Award and it shall thereupon become final and binding and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Arizona.

14.4. Allocation of Costs of Resolving Claims.

(a) Subject to Section 14.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

(c) If any of the Parties rejects the Award and any nonrejecting Party pursues a judicial resolution under Section 14.3(d)(2), and the final judgment is either the same as the Award or more advantageous to any nonrejecting Party, each such nonrejecting Party shall be entitled to recover its Post Mediation Costs from the rejecting Party. If there is more than one rejecting Party, such nonrejecting Party's Post Mediation Costs shall be allocated pro rata among all rejecting Parties.

14.5. Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures

set forth in Section 14.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

## **Article XVI GENERAL PROVISIONS**

### **15.1. Duration.**

(a) Unless terminated as provided in Section 15.1(b), this Declaration shall have perpetual duration. If State of Arizona law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise required by State of Arizona law, in which case such law shall control, this Declaration may not be terminated within the first 30 years after the date of recording except by an instrument signed by Owners of at least 75% of the total Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records. After the thirtieth anniversary of the date of recording, termination may be accomplished by an instrument signed by Owners of at least 51% of the total Units within the Properties and signed by the Declarant, if the Declarant owns any portion of the Properties. Any such instrument shall set forth the intent to terminate this Declaration and shall be recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

### **15.2. Amendment.**

(a) By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any

such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as the Declarant owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than the Declarant, and the consent of the Declarant, so long the Declarant has an option to subject additional property to this Declaration pursuant to Section 7.1. In addition, the approval requirements set forth in Article XII shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. No amendment may directly or indirectly remove, revoke, or modify any right or privilege of, nor impose any obligation upon, the Declarant, the Maintenance Corporation or the Class "B" Member without the written consent of the Declarant, the Maintenance Corporation or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

15.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4. Litigation. Except as provided below, after termination of the Class "B" membership, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Voting Members. A Voting Member representing Units owned by Persons other than himself shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners holding 75% of the total votes attributable to Units in the Neighborhood represented by the Voting Member. This Section shall not apply, however, to (a) actions brought

by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XIV, if applicable.

**15.5. Cumulative Effect; Conflict.** The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any Neighborhood, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any Neighborhood; provided, however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and Use Restrictions and Rules of the Association shall prevail over those of any Neighborhood. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

**15.6. Use of the Words "SunRidge Canyon" or "SunRidge Canyon".** No Person shall use the words "SunRidge Canyon" or "SunRidge Canyon" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the term "SunRidge Canyon" in printed or promotional matter where such term is used solely to specify that particular property is located within SunRidge Canyon and the Association shall be entitled to use the words "SunRidge Canyon" in its name.

**15.7. Compliance.** Every Owner and occupant of any Unit shall comply with this Declaration, any applicable Supplemental Declaration, the By-Laws, and the Use Restrictions and Rules promulgated pursuant to Article X and with the Maintenance Corporation By-Laws. Subject to the terms of Article XIV, failure to comply shall be grounds for an action by the Association, the Maintenance Corporation or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association, the Maintenance Corporation in Section 4.3, in the By-Laws, or in the Maintenance Corporation By-Laws.

Each Owner shall indemnify and hold harmless the Association and the Maintenance Corporation from any loss, damages, and expenses, including counsel fees, which it may incur as a result of the failure of such Owner, any occupant of such Owner's Unit, or any contractor, employee, or agent of such Owner acting within the scope of his contract, agency or employment, to comply with this Declaration, any Supplemental Declaration or other covenants



applicable to such Owner's Unit, the Design Guidelines, By-Laws and rules of the Association, or the Maintenance Corporation By-Laws and rules promulgated thereunder.

**15.8. Notice of Sale or Transfer of Title.** Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

**15.9. Notice.** Except as may otherwise be provided in this Declaration, all notices, demands, bills, statements, or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to the Declarant, at the address of the Declarant's principal place of business in the State of Arizona or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

(d) if to the Declarant, at the address of the Declarant's principal place of business in the State of Arizona or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

All notices sent in compliance with the above shall be deemed received on the third day after the date postmarked. Nothing in this Section shall invalidate notice given by personal delivery (which shall include overnight delivery service or courier service) or by any other means, if actually received by the addressee.

**15.10. Captions.** Titles or captions of Sections contained in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Declaration or the intent of any provision hereof.

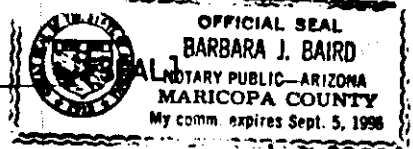
**15.11. Applicable Law.** This Declaration shall be construed and interpreted under the laws of the State of Arizona.

15.12. Exhibits. Exhibits "A," "B" and "D" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

SUNRIDGE CANYON, L.L.C., an Arizona limited liability company

By: Ray Baldwin  
Its: Project Manager



Attest: Judy Mavroleon  
Its: Financial Analyst



STATE OF ARIZONA )  
 ) ss.:  
COUNTY OF Maricopa )

The foregoing instrument was acknowledged before me this 30th day of August, 1995, by Ray Baldwin, as Project Manager and Judy Mavroleon as Proj. Analyst of SunRidge Canyon, L.L.C., an Arizona limited liability company.

Witness my hand and official seal.

Barbara J. Baird  
Notary Public Babara J. Baird

My Commission expires: / Sept. 5, 1996

DOCS3999--05/12/95

Land Initially Submitted

PARCEL 1.

Legal Description  
 Sunridge Canyon  
 Fountain Hills, Arizona

Portions of Sections 7, 8, 9, 16 and 17 in Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona and more particularly described as follows:

BEGINNING at the most northerly corner of Fountain Hills Arizona Final Plat No. 603-A Amended as recorded in Book 196 Page 28 of the records of Maricopa County, Arizona, thence South 61° 00' 00" West along the northerly line of Palisades Boulevard a distance of 370.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 958.00 feet; thence along the arc of said curve through a central angle of 15° 35' 00" an arc length of 260.56 feet; thence South 76° 35' 00" West a distance of 195.00 feet to the beginning of a tangent curve concave southeasterly and having a radius of 1042.00 feet; thence along the arc of said curve through a central angle of 20° 09' 59" an arc length of 366.75 feet to the most westerly corner of said Final Plat No. 603-A Amended; thence departing last said plat boundary and continuing along the westerly line of Palisades Boulevard and the arc of last said curve through a central angle of 01° 04' 46" an arc length of 19.63 feet to a point of cusp, said point being at the beginning of a curve concave westerly and having a radius of 20.00 feet, a radial line passing through said point bears North 34° 39' 45" West; thence northerly along the arc of said curve through a central angle of 88° 55' 15" an arc length of 31.04 feet; thence North 33° 35' 00" West, a distance of 96.86 feet to the beginning of a tangent curve being concave southwesterly and having a radius of 400.00 feet; thence along the arc of said curve through a central angle of 29° 51' 00" an arc length of 201.39 feet; thence North 63° 26' 00" West, a distance of 87.34 feet to the beginning of a tangent curve concave northeasterly and having a radius of 250.00 feet; thence along the arc of said curve through a central angle of 32° 41' 00" an arc length of 142.61 feet; thence North 30° 45' 00" West, a distance of 44.44 feet to a point on the East-West quarter section line of said Section 17 from which the east quarter corner of said Section 17 bears South 89° 54' 22" East a distance of 1309.90 feet; thence North 89° 54' 22" West along said line a distance of 526.39 feet, thence North 60° 00' 00" West, a distance of 162.63 feet; thence North 54° 30' 00" West, a distance of 753.41 feet; thence North 03° 10' 34" West, a distance of 382.71 feet; thence North 62° 29' 08" West, a distance of 328.61 feet to the beginning of a tangent curve concave northeasterly and having a radius of 500.00 feet; thence along the arc of said curve through a central angle of 29° 12' 45" an arc length of 254.93 feet; thence North 33° 16' 23" West, a distance 458.83 feet to the beginning of

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a tangent curve concave southwesterly and having a radius of 500.00 feet; thence along the arc of said curve through a central angle of 59° 48' 50" an arc length of 521.97 feet; thence South 86° 54' 47" West, a distance of 154.35 feet; thence North 43° 05' 26" East a distance of 120.82 feet; thence North 28° 53' 48" East a distance of 205.00 feet; thence South 64° 25' 41" East a distance of 1155.81 feet; thence South 84° 33' 54" East a distance of 1004.50 feet; thence North 43° 24' 28" East a distance of 963.00 feet; thence North 34° 59' 16" East a distance of 976.50 feet; thence North 01° 22' 34" West a distance of 420.00 feet; thence North 89° 16' 42" West a distance of 160.00 feet; thence North 77° 52' 11" West a distance of 475.50 feet; thence North 32° 00' 02" West a distance of 990.50 feet; thence North 61° 42' 39" West a distance of 517.00 feet; thence South 60° 09' 09" West a distance of 351.50 feet; thence North 85° 56' 43" West a distance of 1413.50 feet; thence North 45° 20' 48" West a distance of 1434.00 feet; thence South 90° 00' 00" West a distance of 443.00 feet to the west line of said Section 8; thence North 33° 51' 28" West a distance of 1080.50 feet; thence North 47° 05' 38" East a distance of 965.00 feet; thence South 89° 51' 08" East a distance of 1170.00 feet; thence South 52° 42' 47" East a distance of 1380.05 feet to a point on the boundary of Fountain Hills, Arizona Final Plat No. 513 as recorded in Book 387, Page 30 of said County Records; thence South 23° 07' 08" West along said boundary a distance of 148.62 feet; thence South 35° 04' 57" East a distance of 301.68 feet; thence South 83° 05' 10" East a distance of 144.15 feet to the West line of Lot 6, Block 5 of Fountain Hills Arizona Final Plat No. 507-D as recorded in Book 165, Page 42 of said County Records; thence continuing South 83 degrees 05 minutes 10 seconds East a distance of 232.05 feet; thence South 70° 48' 30" East a distance of 41.55 feet to the South line of said Lot 6; thence continuing South 70 degrees 48 minutes 30 seconds East a distance of 145.13 feet to a point on the westerly line of Montezuma Boulevard and the boundary of Fountain Hills Arizona Final Plat 509 as recorded in Book 354 Page 2 of said county records, thence along the boundary of said Plat 509 North 84° 33' 17" East a distance of 171.18 feet; thence South 73° 50' 34" East a distance of 111.40 feet; thence North 66° 42' 08" East a distance of 455.11 feet; thence North 29° 27' 01" East a distance of 168.81 feet; thence North 54° 11' 48" East a distance of 150.43 feet; thence South 80° 41' 14" East a distance of 315.15 feet; thence North 79° 06' 05" East a distance of 163.96 feet; thence South 62° 22' 44" East a distance of 97.06 feet; thence South 79° 45' 21" East a distance of 337.38 feet; thence North 68° 11' 55" East a distance of 140.01 feet; thence South 83° 17' 25" East a distance of 85.59 feet; thence North 69° 35' 06" East a distance of 237.95 feet; thence North 47° 53' 11" East a distance of 168.51 feet; thence North 71° 33' 54" East a distance of 16.37 feet to the South line of Lot 66, Block 4, Fountain Hills Arizona Final Plat No. 507-A as recorded in Book 165, Page 41; thence continuing North

71 degrees 35 minutes 54 seconds East a distance of 7.05 feet to the Easterly line of said Lot; thence departing said Plat No. 507-A, North 71 degrees 35 minutes 54 seconds East a distance of 115.72 feet; thence North 17° 24' 27" East a distance of 183.29 feet to the boundary of Fountain Hills Arizona Final Plat No. 508 Replat as recorded in Book 336 Page 2; thence South 54° 48' 11" East along the boundary of said Plat No. 508 Replat a distance of 499.48 feet; thence South 65° 44' 14" East a distance of 523.22 feet; thence North 08° 43' 47" East a distance of 538.14 feet to a point on the Southerly line of Parcel "C", of said Fountain Hills Arizona Final Plat No. 507-A; thence continuing North 08 degrees 43 minutes 47 seconds East along the boundary of said Plat 508 Replat a distance of 259.09 feet; thence North 20° 39' 31" East a distance of 286.92 feet; thence North 44° 45' 11" East a distance of 120.00 feet; thence South 45° 14' 49" East a distance of 250.00 feet to the Southeasterly line of said Parcel "C"; thence departing said Plat No. 507-A and continuing along the boundary of said Plat 508 Replat, North 38° 03' 26" East a distance of 246.47 feet; thence North 22° 40' 00" West a distance of 320.00 feet to the southerly line of Sierra Madre Drive and a point on the southerly boundary of Fountain Hills Arizona Final Plat No. 506-C as recorded in Book 159 Page 31; thence departing said Plat 508 Replat, South 71° 37' 00" East along the plat boundary of said Plat No. 506-C, a distance of 85.00 feet; thence departing said plat boundary and continuing along the south line of Sierra Madre Drive South 71° 37' 00" East a distance of 1207.50 feet to the beginning of a tangent curve concave northerly and having a radius of 535.00 feet; thence along the arc of said curve through a central angle of 59° 48' 00" an arc length of 558.38 feet; thence North 48° 35' 00" East a distance of 110.32 feet to a corner of Fountain Hills Arizona Final Plat No. 505-A as recorded in Book 158 Page 40; thence continuing North 48° 35' 00" East a distance of 82.92 feet to the beginning of a tangent curve concave southerly and having a radius of 20.00 feet; thence along the arc of said curve through a central angle of 86° 22' 47" an arc length of 30.15 feet to a point of reverse curvature, said curve concave northeasterly and having a radius of 851.00 feet, said point being also on the westerly line of Golden Eagle Boulevard, a radial line passing through said point bears South 44° 57' 47" West; thence southeasterly along the arc of said curve and said Boulevard through a central angle of 03° 22' 47" an arc length of 50.20 feet; thence South 48° 25' 00" East a distance of 455.25 feet to the beginning of a tangent curve concave southeasterly and having a radius of 749.00 feet; thence along the arc of said curve through a central angle of 56° 55' 00" an arc length of 744.04 feet; thence South 08° 30' 00" West a distance of 350.03 feet to the beginning of a tangent curve concave easterly and having a radius of 851.00 feet; thence along the arc of said curve through a central angle of 35° 03' 21" an arc length of 520.68 feet; thence South 26° 33' 21" East a distance of 716.31 feet to the beginning

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of a tangent curve concave westerly and having a radius of 749.00 feet; thence along the arc of said curve through a central angle of 31° 10' 56" an arc length of 407.63 feet; thence South 04° 37' 35" West a distance of 283.63 feet to the beginning of a tangent curve concave northeasterly and having a radius of 651.00 feet; thence along the arc of said curve through a central angle of 35° 09' 16" an arc length of 399.43 feet; thence South 30° 31' 41" East a distance of 201.61 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet thence along the arc of said curve through a central angle of 90° 00' 00" an arc length of 31.42 feet to the northwesterly line of Palisades Boulevard; thence South 59° 28' 19" West a distance of 325.15 feet to the beginning of a tangent curve concave southeasterly and having a radius of 1055.00 feet; thence along the arc of said curve and said line of Palisades Boulevard through a central angle of 13° 32' 19" an arc length of 249.29 feet; thence South 45° 56' 00" West, a distance of 100.00 feet to a point being on the northerly boundary of Fountain Hills Arizona Final Plat No. 601-3 as recorded in Book 166, Page 31; thence continuing South 45° 56' 00" West, and along said boundary 1330.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 945.00 feet; thence along the arc of said curve through a central angle of 18° 24' 00" an arc length of 303.48 feet; thence South 64° 20' 00" West, a distance of 170.00 feet to a point being on the northerly boundary of Fountain Hills Arizona Final Plat No. 602-A, recorded in Book 161, Page 42 of official records of said county; thence continuing South 64° 20' 00" West, and along said boundary 1080.00 feet to the beginning of a tangent curve concave southeasterly and having a radius of 855.00 feet; thence along the arc of said curve through a central angle of 42° 35' 00" an arc length of 635.45 feet; thence South 21° 45' 00" West, a distance of 210.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 945.00 feet; thence along the arc of said curve through a central angle of 32° 24' 58" an arc length of 534.65 feet to a point on the northerly boundary of Fountain Hills Arizona Final Plat No. 602-D as recorded in Book 166, Page 34 of official records of said county; thence along the arc of said curve and along said plat boundary through a central angle of 22° 30' 02" an arc length of 371.11 feet; thence South 13° 20' 00" East, a distance of 13.00 feet; thence South 76° 40' 00" West, a distance of 250.00 feet to the beginning of a tangent curve concave southerly and having a radius of 1042.00 feet; thence along the arc of said curve through a central angle of 15° 40' 00" an arc length of 284.92 feet; thence South 61° 00' 00" West, a distance of 80.00 feet to the POINT OF BEGINNING. \*\*

Containing an area of 942.127 acres, more or less.

EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED ON EXHIBIT I, II, III ATTACHED HERETO

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EXHIBIT "I"

LEGAL DESCRIPTION  
SUN RIDGE CANYON  
GOLF COURSE

Those parts of Sections 8, 9, 16 and 17 Township 3 North, Range 6 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Southwest Corner of said Section 9:

Thence North 89°48'38" East, along the South line of said Section 9, a distance of 265.52 feet to designated Point "A" and the True Point of Beginning:

Thence North 02°29'12" East, a distance of 100.54 feet;  
Thence North 24°30'39" East, a distance of 682.80 feet;  
Thence North 32°03'19" East, a distance of 574.05 feet;  
Thence North 68°04'39" West, a distance of 804.64 feet;  
Thence North 52°14'20" West, a distance of 303.03 feet;  
Thence North 32°18'26" West, a distance of 107.84 feet;  
Thence North 09°25'25" West, a distance of 100.71 feet;  
Thence North 33°08'02" East, a distance of 390.00 feet;  
Thence South 75°00'29" East, a distance of 852.85 feet;  
Thence South 59°51'27" East, a distance of 601.93 feet;  
Thence North 81°05'16" East, a distance of 182.09 feet;  
Thence North 66°32'59" East, a distance of 433.57 feet;  
Thence North 37°04'48" East, a distance of 323.54 feet;  
Thence North 01°15'39" West, a distance of 633.08 feet;  
Thence North 47°45'22" West, a distance of 75.81 feet;  
Thence North 16°12'55" West, a distance of 160.23 feet;  
Thence North 16°45'02" East, a distance of 177.74 feet;  
Thence North 63°44'12" West, a distance of 498.89 feet;

Thence North 49°51'36" West, a distance of 140.65 feet to a point on the Easterly line of that certain parcel of land as described in Docket 13268, Page 424, Maricopa County Records;

Thence North 14°19'16" East (Record: North 14°31'30" East), along said Easterly line, a distance of 31.29 feet to a point on the Northerly line of said parcel of land;

Thence North 75°40'44" West (Record: North 75°29'30" West) along said Northerly line, a distance of 225.00 feet to a point on the Westerly line of said parcel of land;

Thence South 14°19'16" West (Record: South 14°31'30" West), along said westerly line, a distance of 37.07 feet;

Thence North 31°15'35" West, departing said Westerly line, a distance of 87.63 feet;

Thence North 54°59'31" East, a distance of 754.07 feet;

Thence North 60°28'40" East, a distance of 165.76 feet;

Thence South 67°46'06" East, a distance of 568.23 feet;

Thence South 59°31'46" East, a distance of 866.15 feet;

Thence South 72°25'50" East, a distance of 522.20 feet;

Thence South 84° 01' 51" East, a distance of 365.38 feet (measured 364.42 feet) to a point on a 851.00 foot radius non-tangent curve whose center bears South 84°44'26" East (measured South 84°47'08" East) said point being on the Westerly right of way line of "Golden Eagle Boulevard"; thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses:

Thence Southeasterly along said curve through a central angle of 31°48'55" (measured 31°47'23") a distance of 472.54 feet (measured 472.16 feet);

Thence South 26°33'21" East, a distance of 716.31 feet (measured South 26°34'31" East, a distance of 716.07 feet) to the beginning of a tangent curve of 749.00 foot radius, concave Southwesterly;

Thence Southeasterly along said curve through a central angle of 31°10'56" (measured 31°11'14") a distance of 407.63 feet (measured 407.70 feet);

Thence South 04°37'35" West a distance of 102.60 feet (measured South 04°36'43" West, a distance of 102.86 feet);

Thence North 44°55'52" West, departing said Westerly right-of-way line, a distance of 137.50 feet (measured 137.75 feet);

Thence South 85°58'39" West, a distance of 756.55 feet;

Thence South 59°11'41" West, a distance of 279.16 feet;

Thence South 76°04'24" West, a distance of 61.22 feet;

Thence South 08°36'54" West, a distance of 104.59 feet;

Thence South 23°46'51" East, a distance of 41.09 feet;

Thence South 15°06'03" West, a distance of 550.62 feet;

Thence South 28°21'48" West, a distance of 1,405.19 feet;

Thence South 44°03'53" West, a distance of 222.15 feet;

Thence South 69°46'30" West, a distance of 155.82 feet;

Thence North 82°06'28" West, a distance of 251.13 feet;

Thence South 75°31'46" West, a distance of 299.72 feet;



Thence South 33°36'05" West, a distance of 1,040.01 feet;  
 Thence South 46°43'56" West, a distance of 657.70 feet;  
 Thence South 62°02'40" West, a distance of 411.43 feet;  
 Thence North 89°39'12" West, a distance of 263.40 feet;  
 Thence South 45°35'46" West, a distance of 271.41 feet; \*48°  
 Thence South 66°05'02" West, a distance of 81.63 feet;  
 Thence North 81°25'56" West, a distance of 131.94 feet;  
 Thence South 80°18'35" West, a distance of 460.72 feet;  
 Thence South 49°21'09" West, a distance of 582.57 (measured 582.63) feet;  
 Thence North 63°26'00" West, a distance of 52.73 feet (measured North 63°26'34" West, a distance of 52.48 feet) to the beginning of a tangent curve of 250.00 foot radius, concave Northeasterly;  
 Thence Northwesterly, along said curve, through a central angle of 32°41'00" (measured 32°39'16"), a distance of 142.61 (measured 142.48) feet;  
 Thence North 30°45'00" West, a distance of 44.44 feet (measured North 30°47'18" West, a distance of 44.61 feet);  
 Thence North 89°54'22" West, a distance of 179.31 feet (measured North 89°54'45" West, a distance of 179.06 feet);  
 Thence North 65°51'18" West, a distance of 607.80 feet (measured 608.21 feet);  
 Thence North 47°46'16" West, a distance of 756.08 feet;  
 Thence North 30°27'56" East, a distance of 162.51 feet;  
 Thence South 65°29'17" East, a distance of 620.12 feet;  
 Thence North 76°11'27" East, a distance of 630.00 feet;  
 Thence South 53°36'53" East, a distance of 15.62 feet;  
 Thence North 68°09'19" East, a distance of 85.84 feet;  
 Thence North 76°11'27" East, a distance of 600.00 feet;  
 Thence North 67°01'39" East, a distance of 179.62 feet;  
 Thence North 11°06'38" East, a distance of 585.35 feet;  
 Thence North 31°27'59" East, a distance of 309.79 feet;  
 Thence North 41°51'39" East, a distance of 246.19 feet;  
 Thence North 83°23'21" East, a distance of 196.48 feet;  
 Thence South 13°11'05" East, a distance of 172.39 feet;  
 Thence South 78°33'26" East, a distance of 84.43 feet;  
 Thence North 21°00'27" East, a distance of 165.00 feet;  
 Thence North 12°03'02" West, a distance of 286.42 feet;  
 Thence North 02°29'12" East, a distance of 320.99 feet to designated Point "A";  
 Thence North 89°48'38" East, along the South line of said Section 9, a distance of 327.55 feet;  
 Thence North 07°02'53" East, a distance of 75.31 feet;

Thence North 29°39'43" East, a distance of 690.19 feet;  
 Thence North 05°35'58" East, a distance of 641.24 feet;  
 Thence North 54°12'49" West, a distance of 844.90 feet;  
 Thence North 63°18'50" West, a distance of 314.97 feet;  
 Thence North 00°57'13" East, a distance of 67.10 feet;  
 Thence South 67°33'44" East, a distance of 402.05 feet;  
 Thence South 62°05'23" East, a distance of 935.39 feet;  
 Thence South 88°05'22" East, a distance of 202.56 feet;  
 Thence North 32°22'23" East, a distance of 101.05 feet;  
 Thence North 58°17'29" East, a distance of 81.86 feet;  
 Thence South 78°19'25" East, a distance of 189.60 feet;  
 Thence North 64°34'14" East, a distance of 72.79 feet;  
 Thence South 87°55'41" East, a distance of 175.96 feet;  
 Thence North 73°09'15" East, a distance of 105.41 feet;  
 Thence North 55°15'19" East, a distance of 81.02 feet;  
 Thence North 42°07'15" East, a distance of 76.44 feet;  
 Thence North 21°31'39" East, a distance of 100.20 feet;  
 Thence North 00°43'16" West, a distance of 79.73 feet;  
 Thence North 44°30'26" East, a distance of 287.25 feet;  
 Thence North 01°17'41" West, a distance of 91.24 feet;  
 Thence North 09°40'09" East, a distance of 572.36 feet;  
 Thence North 32°27'44" West, a distance of 463.42 feet;  
 Thence North 74°56'56" West, a distance of 122.66 feet;  
 Thence North 63°44'12" West, a distance of 542.46 feet;  
 Thence North 20°48'00" West, a distance of 205.67 feet;  
 Thence North 68°26'08" East, a distance of 797.71 feet;  
 Thence South 48°11'53" East, a distance of 1,044.15 feet;  
 Thence South 73°46'55" East, a distance of 667.84 feet;  
 Thence South 84°54'54" East, a distance of 134.29 feet;  
 Thence South 08°22'54" West, a distance of 170.21 feet;  
 Thence South 26°28'08" East, a distance of 578.85 feet;  
 Thence South 37°40'52" West, a distance of 310.14 feet;  
 Thence North 85°05'00" West, a distance of 186.57 feet;  
 Thence South 55°32'37" West, a distance of 473.58 feet;  
 Thence South 64°21'13" West, a distance of 268.09 feet;  
 Thence South 01°19'14" West, a distance of 93.11 feet;  
 Thence South 08°34'03" West, a distance of 221.61 feet;  
 Thence South 13°13'23" West, a distance of 121.86 feet;  
 Thence South 20°48'34" West, a distance of 88.59 feet;  
 Thence South 30°40'51" West, a distance of 58.80 feet;  
 Thence South 22°42'05" West, a distance of 916.55 feet;  
 Thence South 55°11'44" West, a distance of 141.94 feet;  
 Thence South 67°34'42" West, a distance of 147.91 feet;  
 Thence North 87°08'57" West, a distance of 257.91 feet;  
 Thence South 58°11'21" West, a distance of 761.71 feet;  
 Thence South 35°02'54" West, a distance of 565.87 feet;  
 Thence South 18°52'29" West, a distance of 271.01 feet;  
 Thence South 08°59'41" East, a distance of 111.61 feet;

Thence South 15°52'46" West, a distance of 146.11 feet;  
Thence South 31°39'40" West, a distance of 132.29 feet;  
Thence South 46°05'54" West, a distance of 229.91 feet;  
Thence South 48°05'01" West, a distance of 291.17 feet;  
Thence South 73°32'08" West, a distance of 118.47 feet;  
Thence North 29°39'10" West, a distance of 228.00 feet;  
Thence North 89°08'31" West, a distance of 328.23 feet;  
Thence South 58°17'31" West, a distance of 60.15 feet;  
Thence North 24°37'06" West, a distance of 38.28 feet;  
Thence North 89°06'11" West, a distance of 141.60 feet;  
Thence North 10°28'26" East, a distance of 204.47 feet;  
Thence North 05°08'37" West, a distance of 78.19 feet;  
Thence North 69°26'29" East, a distance of 31.96 feet;  
Thence North 07°44'20" East, a distance of 131.03 feet;  
Thence North 24°22'18" East, a distance of 146.37 feet;  
Thence North 39°29'22" East, a distance of 242.01 feet;  
Thence North 50°16'46" East, a distance of 41.40 feet;  
Thence South 85°57'38" East, a distance of 325.29 feet;  
Thence North 07°02'53" East, a distance of 806.70 feet;  
Thence South 89°48'38" West, a distance of 327.55 feet to the True  
Point of Beginning. \*\*

Containing 184.585 (measured 184.567) Acres more or less.

L.N. #748 Amended  
GWN/dam  
January 20, 1995  
Amended-March 1, 1995

EXHIBIT "II"

That certain parcel of land in the County of Maricopa, State of Arizona, being a portion of Section 9, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, being more particularly described as follows: (using as a base the North line of the Northeast quarter of said Section 9, with an assumed bearing of North 89 degrees 54 minutes 40 seconds East):

COMMENCING at the North quarter corner of said Section 9; thence South 00 degrees 16 minutes 44 seconds East a distance of 2241.67 feet; thence North 70 degrees 40 minutes 00 seconds West, a distance of 325.0 feet; thence South 19 degrees 20 minutes 00 seconds West, a distance of 230.0 feet; thence North 64 degrees 45 minutes 20 seconds West a distance of 830.54 feet to the True Point of Beginning said point also being the most Southeasterly corner of the following described parcel; thence North 75 degrees 28 minutes 30 seconds West a distance of 225.0 feet; thence North 14 degrees 31 minutes 30 seconds East, a distance of 190.0 feet; thence South 75 degrees 28 minutes 30 seconds East a distance of 225.0 feet; thence South 14 degrees 31 minutes 30 seconds West, a distance of 190.0 feet to the True Point of Beginning.

### EXHIBIT "III"

That part of the North Half of Section 9, Township 3 North, Range 6 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Southeast Corner of said Section 9;

Thence South  $89^{\circ}48'38''$  West, along the South line of the Southeast Quarter of said Section 9, a distance of 1,492.03 feet to a point on the Northerly right-of-way line of "Palisades Boulevard", as shown on "Fountain Hills Arizona Final Plat No. 601-B", as recorded in Book 166 of Maps, Page 31 and "Fountain Hills Arizona Final Plat No. 601-D", as recorded in Book 339 of Maps, Page 29, Maricopa County Records;

Thence along the Northerly right-of-way line of "Palisades Boulevard" the following courses;

Thence North  $45^{\circ}55'23''$  East, a distance of 782.01 feet to the beginning of a tangent curve of 1,055.00 foot radius, concave Southeasterly;

Thence Northeasterly, along said curve, through a central angle of  $13^{\circ}32'22''$ , a distance of 249.31 feet;

Thence North  $59^{\circ}27'45''$  East, a distance of 325.07 feet to the beginning of a tangent curve of 20.00 foot radius, concave Westerly;

Thence Northeasterly, along said curve, through a central angle of  $89^{\circ}57'18''$ , a distance of 31.40 feet to a point on the Westerly right-of-way line of "Golden Eagle Boulevard";

Thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses;

Thence North  $30^{\circ}29'33''$  West, a distance of 201.97 feet to the beginning of a tangent curve of 651.00 foot radius, concave Northeasterly;

Thence Northwesterly, along said curve, through a central angle of  $35^{\circ}06'16''$ , a distance of 398.86 feet;

Thence North  $04^{\circ}36'43''$  East, a distance of 283.80 feet to the beginning of a tangent curve of 749.00 foot radius, concave Southwesterly;

Thence Northwesterly, along said curve, through a central angle of  $31^{\circ}11'14''$ , a distance of 407.70 feet;

Thence North  $26^{\circ}34'31''$  West, a distance of 716.07 feet to the beginning of a tangent curve of 851.00 foot radius, concave Northeasterly;

Thence Northwesterly, along said curve, through a central angle of  $31^{\circ}47'23''$ , a distance of 472.16 feet to the True Point of Beginning;

Thence North  $84^{\circ}01'51''$  West, departing said Westerly right-of-way line, a distance of 364.42 feet;

Thence North  $72^{\circ}25'50''$  West, a distance of 522.20 feet;  
Thence North  $59^{\circ}31'46''$  West, a distance of 866.15 feet;  
Thence North  $67^{\circ}46'06''$  West, a distance of 568.23 feet;  
Thence South  $60^{\circ}28'40''$  West, a distance of 165.76 feet;  
Thence South  $54^{\circ}59'31''$  West, a distance of 48.95 feet;

Thence North  $29^{\circ}28'22''$  West, a distance of 398.37 feet to a point on the Easterly Boundary of "Fountain Hills Arizona Final Plat No. 508", as recorded in Book 328 of Maps, Page 28, Maricopa County Records;

Thence along the Easterly Boundary of "Fountain Hills Arizona Final Plat No. 508" the following courses;

Thence North  $38^{\circ}03'11''$  East, a distance of 245.65 feet;

Thence North  $22^{\circ}40'38''$  West, a distance of 320.70 feet to a point on the Southerly right-of-way line of "Sierra Madre Drive", as shown on the "Fountain Hills Arizona Final Plat No. 506-C", as recorded in Book 159 of Maps, Page 31, Maricopa County Records;

Thence along said Southerly right-of-way line of "Sierra Madre Drive" the following courses;

Thence South  $71^{\circ}37'02''$  East, a distance of 1,293.01 feet to the beginning of a tangent curve of 535.00 foot radius, concave Northwesterly;

Thence Northeasterly along said curve, through a central angle of  $53^{\circ}35'00''$ , a distance of 500.33 feet;

Thence South  $36^{\circ}31'25''$  East, departing said Southerly right-of-way line, a distance of 750.00 feet;

Thence South  $47^{\circ}56'35''$  East, a distance of 508.60 feet to a point on the Westerly right-of-way line of "Golden Eagle Boulevard";

Thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses;

Thence South  $08^{\circ}30'19''$  West, a distance of 249.72 feet to the beginning of a tangent curve of 851.00 foot radius, concave Northeasterly;

Thence Southwesterly, along said curve, through a central angle of  $03^{\circ}17'22''$ , a distance of 48.88 feet to the True Point of Beginning.

Containing 39.915 Acres more or less.



## EXHIBIT "B"

### Land Subject to Annexation

A portion of Section 17, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona more particularly described as follows:

Commencing at the West Quarter Corner of said Section 17, thence North 00 degrees 08 minutes 33 seconds West along the westerly line of said Section a distance of 550.00 feet to the POINT OF BEGINNING; thence North 32 degrees 58 minutes 07 seconds East a distance of 1341.31 feet; thence North 71 degrees 54 minutes 40 seconds East a distance of 418.69 feet; thence North 86 degrees 54 minutes 47 seconds East a distance of 362.36 feet to the beginning of a tangent curve concave southwesterly and having a radius of 500.00 feet; thence easterly along the arc of said curve through a central angle of 59 degrees 48 minutes 50 seconds an arc length of 521.98 feet; thence South 33 degrees 16 minutes 23 seconds East a distance of 458.83 feet to the beginning of a tangent curve concave northeasterly and having a radius of 500.00 feet; thence southeasterly along the arc of said curve through a central angle of 29 degrees 12 minutes 45 seconds an arc length of 254.93 feet; thence South 62 degrees 29 minutes 08 seconds East a distance of 328.61 feet; thence South 03 degrees 10 minutes 34 seconds East a distance of 382.71 feet; thence South 54 degrees 30 minutes 00 seconds East a distance of 753.41 feet; thence South 60 degrees 00 minutes 00 seconds East a distance of 162.63 feet; thence South 89 degrees 54 minutes 22 seconds East a distance of 526.39 feet; thence South 30 degrees 45 minutes 00 seconds East a distance of 44.44 feet to the beginning of a tangent curve concave northeasterly and having a radius of 250.00 feet; thence southeasterly along the arc of said curve through a central angle of 32 degree 41 minutes 00 seconds an arc length of 142.61 feet; thence South 63 degrees 26 minutes 00 seconds East a distance of 87.34 feet to the beginning of a tangent curve concave southwesterly and having a radius of 400.00 feet; thence southeasterly along the arc of said curve through a central angle of 29 degrees 51 minutes 00 seconds an arc length of 208.39 feet; thence South 33 degrees 35 minutes 00 seconds East a distance of 96.86 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet; thence southerly along the arc of said curve through a central angle of 88 degrees 55 minutes 15 seconds an arc length of 31.04 feet to a point of reverse curve on the proposed westerly right of way line of Palisades Boulevard, said curve being concave southeasterly and having a radius of 1042.00 feet, a radial line passing through said point bears North 34 degrees 39 minutes 45 seconds West; thence southwesterly along

LN 742

GWN

11-14-94

(Revised 4-17-95)

the arc of said curve and said proposed right of way through a central angle of 56 degrees 50 minutes 15 seconds an arc length of 1033.67 feet; thence South 01 degree 30 minutes 00 seconds East a distance of 110.00 feet; thence departing the proposed westerly right of way of Palisades Boulevard, North 52 degrees 10 minutes 38 seconds West a distance of 528.12 feet; thence North 58 degrees 19 minutes 58 seconds West a distance of 628.59 feet; thence North 38 degrees 57 minutes 38 seconds West a distance of 591.69 feet; thence North 59 degrees 20 minutes 26 seconds West a distance of 450.00 feet; thence North 40 degrees 46 minutes 01 seconds West a distance of 278.53 feet; thence North 72 degrees 26 minutes 23 seconds West a distance of 528.61 feet; thence North 80 degrees 32 minutes 55 seconds West a distance of 1550.97 feet to the POINT OF BEGINNING.

Containing an area of 108.978 acres more or less.



## EXHIBIT "C"

### Initial Use Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited pursuant to Article X of the Declaration.

1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration).

2. Restricted Activities. The following activities are restricted within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Overnight parking of vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, boats, trailers, or stored or inoperable vehicles in places other than enclosed garages, except that commercial vehicles may park on streets or in driveways during daylight hours while making deliveries or providing services to a Unit and overnight guests may park their cars on streets and in driveways for a period not to exceed seven consecutive nights;

(b) Raising, breeding, or keeping of animals, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. Any pet that the Board in its sole discretion determines to be a nuisance shall be removed from the Unit upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(c) Any activity or condition that interferes with the reasonable enjoyment of any part of the Properties or that detracts from the overall appearance of the Properties;

(d) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and filed in the Public Records, except that the Declarant shall be permitted to subdivide or replat Units which it owns;

(e) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(f) Occupancy of a Unit by more than two persons per bedroom in the Unit. For purposes of this provision, "occupancy" shall be defined as staying overnight in the Unit more than 30 days in any six-month period;

(g) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years,

except in those Neighborhoods, if any, where all Units are submitted to a timeshare program;

(h) Any business, trade, garage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; the business activity does not involve regular visitation of the Unit or door-to-door solicitation of residents of the Properties; and the business activity is consistent with the residential character of the Properties and does not violate these Use Restrictions or any other rules of the Board. The Board may restrict any business activities that it determines interfere with the enjoyment or residential purpose of the Properties in its sole and absolute discretion.

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties.

3. Prohibited Conditions. The following shall be prohibited within the Properties:

(a) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind unless completely contained within the dwelling on the Unit so as not to be visible from outside the dwelling or unless otherwise approved pursuant to Article IX; provided, the Declarant and the Association shall have the right, without obligation, to erect or install and maintain such apparatus for the benefit of all or a portion of the Properties.

4. Leasing of Units. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Units may be leased in their entirety, or a garage apartment that is separate from the primary dwelling in a Unit may be leased. No single rooms or other fraction or portion of a Unit may be leased, nor shall any Unit or portion thereof be used for operation of a boarding house, "Bed and Breakfast" establishment, or similar accommodation. There shall be no subleasing or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Unit. All leases shall be in writing. Leases of an entire Unit shall be for an initial term of no less than one year, except with the prior written consent of the Board. Leases of a garage apartment shall be for an initial period of no less than six months, except with the prior written consent of the Board. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations.

## **EXHIBIT "D"**

### **Rules of Arbitration**

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice by registered mail, return receipt requested, to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice"). Such notices shall be sent to the addresses specified in Section 15.10 of the Declaration or, if such Section does not apply to a particular party, to such party at the address of its registered agent in the State of Arizona or, in the case of an individual, its legal residence in the State of Arizona.

2. Each Party shall select an arbitrator ("Party Appointed Arbitrator"). The Party Appointed Arbitrators shall, by agreement, select one or two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Party fails to appoint a Party Appointed Arbitrator within 20 days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Party Appointed Arbitrator. The Neutral arbitrator(s) shall select a chairperson ("Chair").

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, or otherwise upon agreement of the Parties, Claimant may notify the nearest chapter of The Community Associations Institute, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator ("Arbitrator"), and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.

5. The Arbitrator or Chair, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.

10. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no posthearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

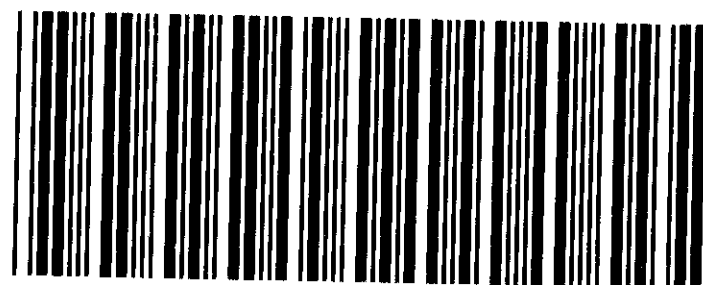
15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

When recorded mail to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City/State/Zip: \_\_\_\_\_  
\_\_\_\_\_



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MARICOPA COUNTY RECORDER  
HELEN PURCELL  
2004-0946564 08/16/04 09:27  
34 OF 41

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this area reserved for county recorder

## CAPTION HEADING:

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DO NOT REMOVE

This is part of the official document.

When recorded, return to: Capital Consultants Management Corporation  
8360 E. Via de Ventura, #L-100  
Scottsdale, AZ 85258

**SunRidge Canyon Association**

Statutory Notice Required  
Pursuant to A.R.S. 33-1807(J)

In accordance with A.R.S. 33-1807(J), SunRidge Canyon Association ("Association") hereby records notice of the following information:

1. Name of the Association: SunRidge Canyon Association
2. Address for the Association: 8369 E. Via de Ventura #L-100, Scottsdale, AZ 85258
3. Telephone number of the Association or its designated agent or management company: 480-921-7500
4. Name of the Community: SunRidge Canyon
5. The date of the recording and the recorded instrument number or book and page for the main document that constitutes the Declaration: 09/01/95 95-0532019

The President of the Association hereby certifies that the above information is true and correct.

DATED this 10<sup>th</sup> day of August, 2004.

SunRidge Canyon Association

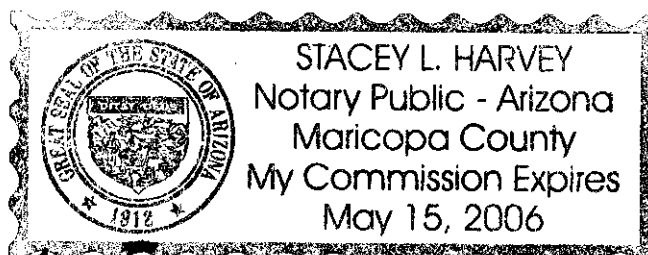
By: Wendy Mueller  
Wendy Mueller

Its: Regional Vice President of  
CCMC the Managing Agent

STATE OF ARIZONA )

) ss.

County of Maricopa )



On this 10<sup>th</sup> day of August, 2004, before me the undersigned Notary Public, personally appeared Wendy Mueller, who acknowledged to me that (s)he is the Managing Agent of the Association and that (s)he executed the foregoing agreement on behalf of the Association for the purposes expressed therein.

Notary Public

My Commission expires:

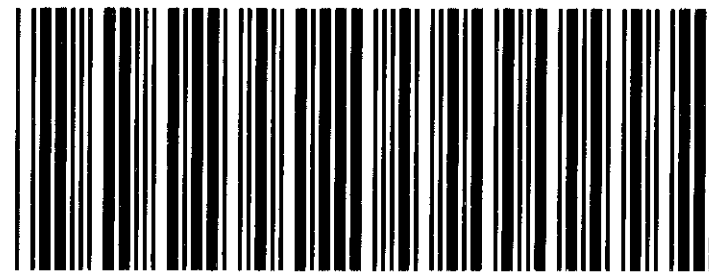
May 15, 2006

Stacey L. Harvey

When recorded mail to:

**CAPITAL CONSULTANTS MGT CORP**\_\_\_\_\_  
**8360 E VIA DE VENTURA**\_\_\_\_\_  
**SUITE 100 BLDG L**\_\_\_\_\_  
**SCOTTSDALE AZ 85258**\_\_\_\_\_

z\_\_\_\_\_



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MARICOPA COUNTY RECORDER  
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2004-1431998 12/07/04 08:26  
31 OF 36

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this area reserved for county recorder

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When recorded, return to: Capital Consultants Management Corporation  
8360 E. Via de Ventura, #L-100  
Scottsdale, AZ 85258

**SunRidge Canyon Association**

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1. Name of the Association: SunRidge Canyon Association
2. Address for the Association: 8360 E. Via de Ventura #L-100, Scottsdale, AZ 85258
3. Telephone number of the Association or its designated agent or management company: 480-921-7500
4. Name of the Community: SunRidge Canyon
5. The date of the recording and the recorded instrument number or book and page for the main document that constitutes the Declaration: 09/01/95 95-0532019

The President of the Association hereby certifies that the above information is true and correct.

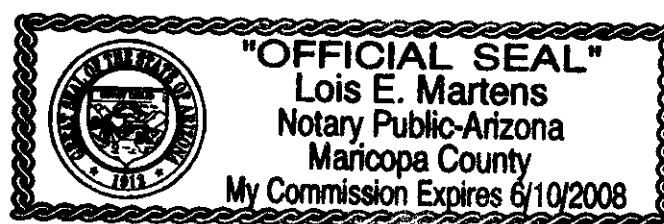
DATED this 12<sup>th</sup> day of November, 2004.

SunRidge Canyon Association

By: Wendy Mueller  
Wendy Mueller

Its: Regional Vice President of  
CCMC the Managing Agent

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )



On this 12<sup>th</sup> day of November, 2004, before me the undersigned Notary Public, personally appeared Wendy Mueller, who acknowledged to me that (s)he is the Managing Agent of the Association and that (s)he executed the foregoing agreement on behalf of the Association for the purposes expressed therein.

Notary Public

Lois E. Martens

My Commission expires: 6/10/08



**FIRST AMERICAN TITLE**

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20100603597 07/15/2010 02:31  
ELECTRONIC RECORDING

When recorded, return to:

SunRidge Canyon, L.L.C.  
c/o SunCor Development Company  
Attn: Legal Department  
80 E. Rio Salado Parkway, Suite 410  
Tempe, Arizona 85281

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434628I-12-1-1--  
Yorkm

**CAPTION HEADING: Declaration of Restriction**

This instrument is being re-recorded to correct the legal description attached to the previously recorded instrument.

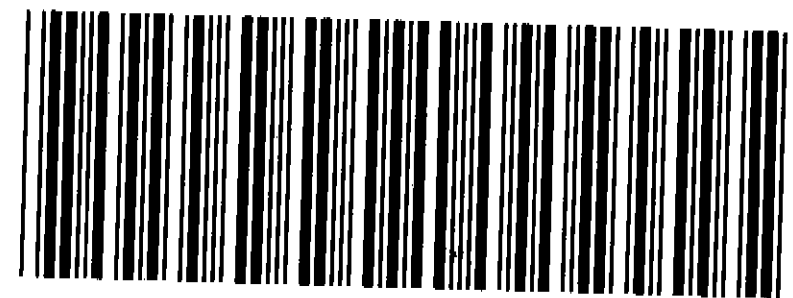
**DO NOT REMOVE**

This is part of the official document.

**COURTESY RECORDING  
NO TITLE LIABILITY**

When recorded, return to:  
Lori Shorall  
SunCor Development Company  
3838 North Central Avenue  
Suite 1500  
Phoenix, Arizona 85012

15-



OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL

98-0046228 01/22/98 03:28

TAMMY 5 OF 95

### **DECLARATION OF RESTRICTIONS**

This Declaration of Restrictions is made as of the date hereinafter set forth by SunRidge Canyon, L.L.C., an Arizona limited liability company ("Declarant").

Whereas, Declarant on its own behalf and on behalf of all other owners of legal or equitable title to that certain real property located in Maricopa County, Arizona, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property") desires to establish for its own benefit and for the mutual benefit of future owners of the Property, or any part thereof, certain restrictions upon the Property.

Now, therefore, Declarant, on its own behalf and on behalf of all others owners of legal or equitable title to the Property, and for the purposes hereinafter set forth, hereby declares as follows:

1. The Property shall be used solely as a golf course, as such term is defined in A.R.S. Section 42-146, or any successor statute thereto.

2. The covenants and restrictions set forth in Paragraph 1 above shall run with the land and shall bind all owners of the Property and their heirs, legal representatives, successors, and assigns for a period of eleven (11) years; provided, however, that on the date one (1) year from the date hereof and upon each anniversary date thereafter, the term of the Declaration shall be extended automatically by one (1) year (so that the restriction will always apply for at least ten (10) years) unless and until the holders of the legal and equitable title to the Premises execute and record an amendment to this Declaration that specifies otherwise.

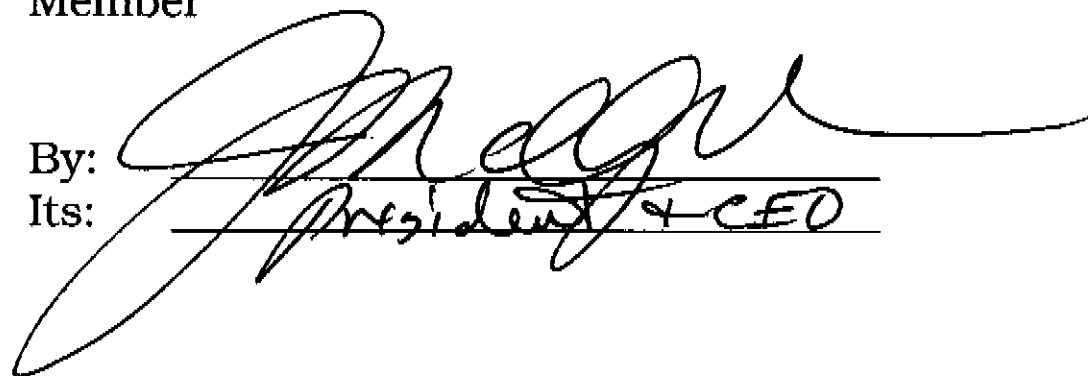
3. Except as otherwise provided in Paragraph 2 hereof, or in A.R.S. Section 42-146, no third party shall, by reason of this Declaration, acquire any rights or interest with respect to the use of the Property.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Restrictions this \_\_\_\_ day of January, 1998.

SUNRIDGE CANYON, L.L.C., an  
Arizona limited liability company

By: SunCor Development Company, an  
Arizona corporation, its Managing  
Member

By:  
Its:

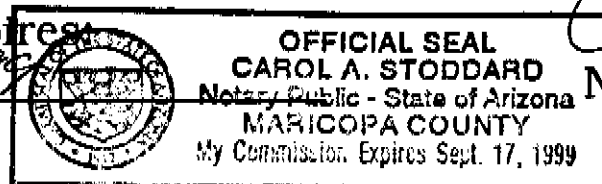
  
President & CEO

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

On this 20<sup>th</sup> day of January, 1998, before me, the undersigned officer, personally appeared John C. Ogden, who acknowledged himself to be the President and CEO of SunCor Development Company, an Arizona corporation, as Managing Member of SunRidge Canyon, L.L.C., an Arizona limited liability company.

My commission expires

9-17-99



  
Notary Public

RATIFICATION:

As Beneficiaries under that certain Deed of Trust, Financing Statement and Security Agreement recorded on December 17, 1997 as Instrument No. 97-0883787 in the records of the Maricopa County, Arizona Recorder, the undersigned has an interest in and hereby acknowledges, approves, and joins in, and subordinates its interest to the recordation of the above Declaration of Restrictions as set forth herein.

PACIFIC LIFE INSURANCE COMPANY,  
a California corporation

Dated: January 21, 1998

By:  
Its:

  
Vice President

By:  
Its:

  
Assistant Secretary

STATE OF CALIFORNIA )  
 )ss.  
County of Orange County )

On this 21 day of January, 1998, before me, the undersigned officer, personally appeared Cindy S. Dillon, who acknowledged himself to be the Vice President of Pacific Life Insurance company, a California corporation, as Beneficiary under that certain Deed of Trust, Financing Statement and Security Agreement recorded on December 17, 1997 as Instrument No. 97-0883787, in the records of Maricopa County, Arizona.

My commission expires:  
9-17-99

Carol A. Stoddard  
Notary Public

STATE OF CALIFORNIA )  
 )ss.  
County of Orange County )



On this 21 day of January, 1998, before me, the undersigned officer, personally appeared Penny S. Sparks, who acknowledged himself to be the Assistant Secretary of Pacific Life Insurance company, a California corporation, as Beneficiary under that certain Deed of Trust, Financing Statement and Security Agreement recorded on December 17, 1997 as Instrument No. 97-0883787, in the records of Maricopa County, Arizona.

My commission expires:  
9-17-99

Carol A. Stoddard  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

## LEGAL DESCRIPTION:

## PARCEL NO. 1:

That part of FINAL PLAT OF SUNRIDGE CANYON, according to Book 406 of Maps, page 23, records of Maricopa County, Arizona; and that part of Sections 8, 9, 16, and 17, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, lying within the following described property.

Commencing at the Southwest corner of said Section 9;

thence North 89° 48' 38" East, along the South line of said Section 9, a distance of 266.52 feet to designated Point "A" and the Point of Beginning;

thence North 02° 29' 12" East, a distance of 100.54 feet;

thence North 24° 30' 39" East, a distance of 682.80 feet;

thence North 32° 03' 19" East, a distance of 354.65 feet;

thence North 68° 26' 19" West, a distance of 127.94 feet

to the beginning of a tangent curve, concave Southwesterly, having a 544.00 foot radius;

thence Northwesterly along said curve through a central angle of 07° 02' 43" a distance of 66.89 feet to a point on a non-tangent curve, whose center bears North 65° 45' 18" East, 25.00 feet;

thence Northwesterly along said curve through a central angle of 35° 39' 33", a distance of 15.56 feet;

thence North 75° 46' 01" West, a distance of 38.41 feet;

thence North 21° 29' 11" East, a distance of 70.87 feet;

thence North 53° 27' 45" East, a distance of 40.39 feet;

thence North 76° 11' 27" East, a distance of 79.50 feet;

thence North 78° 49' 51" East, a distance of 112.20 feet;

thence North 68° 04' 39" West, a distance of 705.20 feet;

thence North 52° 14' 20" West, a distance of 278.31 feet;

thence North 26° 14' 56" West, a distance of 48.45 feet;

thence North 11° 00' 44" West, a distance of 60.27 feet;

thence North 06° 56' 33" West, a distance of 60.83 feet;

thence North 16° 36' 49" West, a distance of 60.00 feet;

thence North 04° 47' 50" West, a distance of 28.34 feet;

thence North 38° 08' 02" East, a distance of 280.82 feet;

thence South 75° 00' 29" East, a distance of 528.80 feet;

thence North 84° 26' 49" East, a distance of 142.44 feet;

thence South 75° 00' 29" East, a distance of 212.06 feet;

thence South 59° 51' 27" East, a distance of 601.89 feet;

thence North 81° 05' 16" East, a distance of 182.09 feet;

thence North 66° 32' 59" East, a distance of 433.57 feet;

thence North 37° 04' 48" East, a distance of 323.94 feet;

thence North 01° 15' 39" West, a distance of 633.10 feet;

thence North 47° 45' 22" West, a distance of 75.81 feet;

thence North 16° 12' 56" West, a distance of 160.25 feet;  
 thence North 16° 45' 02" East, a distance of 191.72 feet;  
 to the Northeast corner of Tract D of Parcel D-North at Sunridge Canyon recorded in Book 434 of maps, page 50, Maricopa County Records, said point also being described as Point B, from said point, thence on a line bearing North 59° 14' 46" West 631.31 feet to a point on the Easterly line of that certain parcel of land as described in Docket 16238, page 424, Maricopa County Records and the Westerly line of Tract A of said Parcel D-North at Sunridge Canyon, said point also being described as Point C;  
 thence North 14° 19' 16" East, along said Easterly line, a distance of 1.16 feet to the Northeast corner of said parcel of land;  
 thence North 75° 40' 44" West, along said Northerly line, a distance of 225.00 feet to the Northwest corner of said parcel of land;  
 thence North 14° 19' 16" East, a distance of 31.97 feet;  
 thence South 81° 16' 13" East, a distance of 45.83 feet;  
 thence North 08° 43' 47" East, a distance of 102.61 feet;  
 thence North 54° 59' 31" East, a distance of 603.38 feet;  
 thence North 60° 28' 40" East, a distance of 165.76 feet;  
 thence South 67° 46' 06" East, a distance of 568.23 feet;  
 thence South 59° 31' 46" East, a distance of 866.15 feet;  
 thence South 72° 25' 50" East, a distance of 522.20 feet;  
 thence South 84° 01' 51" East, a distance of 364.42 feet to a point on a non-tangent curve, whose center bears South 84° 47' 08" East, 851.00 feet, said point being on the Westerly right-of-way line of Golden Eagle Boulevard;  
 thence Southeasterly, along said curve, through a central angle of 22° 00' 57", an arc distance of 327.00 feet;  
 thence South 85° 30' 05" West, a distance of 125.54 feet;  
 thence South 72° 57' 19" West, a distance of 104.14 feet;  
 thence South 06° 12' 58" West, a distance of 26.87 feet to a point on the line common with the northerly right-of-way line of Desert Canyon Drive and PARCEL 2 AT SUNRIDGE CANYON, a subdivision recorded in Book 406 of Maps, Page 23, Maricopa County Records;  
 thence along said common line for the following three courses;  
 thence South 83° 47' 02" East, a distance of 16.39 feet to the beginning of a tangent curve, concave to the north, having a radius of 465.00 feet;  
 thence easterly along said curve through a central angle of 25° 35' 12", a distance of 207.66 feet;  
 thence North 25° 14' 33" East, a distance of 28.66 feet to point on the westerly right of way line of Golden Eagle Boulevard as shown on Book 406 of Maps, Page 23 to the beginning of a non-tangent curve whose center bears North 71° 53' 08" East, a distance of 851.00 feet;  
 thence Southeasterly along said curve through a central angle of 08° 25' 38" an arc distance of 125.17 feet;  
 thence South 26° 34' 31" East, a distance of 716.07 feet to the beginning of a tangent curve Southwesterly, having a radius of 749.00 feet;  
 thence Southeasterly along said curve through a central angle of 30° 23' 09", an arc distance of 397.22 feet;

thence South  $86^{\circ} 10' 00''$  West, a distance of 328.08 feet;  
 thence North  $88^{\circ} 30' 00''$  West, a distance of 299.79 feet;  
 thence South  $89^{\circ} 05' 37''$  West, a distance of 73.58 feet;  
 thence South  $73^{\circ} 45' 00''$  West, a distance of 73.62 feet;  
 thence South  $70^{\circ} 01' 29''$  West, a distance of 73.67 feet;  
 thence South  $58^{\circ} 47' 48''$  West, a distance of 248.13 feet;  
 thence South  $74^{\circ} 33' 12''$  West, a distance of 48.88 feet;  
 thence South  $10^{\circ} 18' 35''$  West a distance of 85.67 feet to a point on a non-tangent curve, the center of which bears North  $10^{\circ} 18' 35''$  East concave to the North having a radius of 175.00 feet;  
 thence Westerly along the arc of said circle, through a central angle of  $23^{\circ} 00' 22''$ , an arc distance of 70.27 feet;  
 thence North  $61^{\circ} 48' 27''$  West, a distance of 5.70 feet;  
 thence South  $28^{\circ} 11' 33''$  West, a distance of 189.98 feet;  
 thence South  $61^{\circ} 48' 27''$  East, a distance of 99.29 feet;  
 thence South  $15^{\circ} 06' 03''$  West, a distance of 305.62 feet;  
 thence South  $33^{\circ} 19' 31''$  West, a distance of 40.97 feet;  
 thence South  $12^{\circ} 11' 38''$  West, a distance of 119.63 feet;  
 thence South  $28^{\circ} 21' 48''$  West, a distance of 1,375.79 feet;  
 thence South  $44^{\circ} 03' 53''$  West, a distance of 222.15 feet;  
 thence South  $69^{\circ} 46' 30''$  West, a distance of 155.82 feet;  
 thence North  $82^{\circ} 06' 28''$  West, a distance of 100.68 feet;  
 thence South  $75^{\circ} 31' 46''$  West, a distance of 502.59 feet;  
 thence South  $33^{\circ} 36' 05''$  West, a distance of 954.34 feet;  
 thence South  $46^{\circ} 43' 56''$  West, a distance of 401.18 feet;  
 thence South  $00^{\circ} 00' 00''$  East, a distance of 115.83 feet;  
 thence South  $53^{\circ} 31' 25''$  West, a distance of 256.34 feet;  
 thence South  $71^{\circ} 03' 22''$  West, a distance of 857.50 feet;  
 thence South  $66^{\circ} 05' 02''$  West, a distance of 81.63 feet;  
 thence North  $81^{\circ} 25' 56''$  West, a distance of 131.94 feet;  
 thence South  $80^{\circ} 18' 35''$  West, a distance of 460.72 feet;  
 thence South  $49^{\circ} 21' 09''$  West, a distance of 582.63 feet;  
 thence North  $63^{\circ} 26' 34''$  West, a distance of 52.48 feet to the beginning of a tangent curve concave Northeasterly, having a radius of 250.00 feet;  
 thence Northwesterly, along said curve, through a central angle of  $32^{\circ} 39' 16''$ , an arc distance of 142.48 feet;  
 thence North  $30^{\circ} 47' 18''$  West, a distance of 44.61 feet to a Point on the East-West mid-section line of said Section 17;  
 thence North  $89^{\circ} 54' 45''$  West, along said East-West mid-section line, a distance of 179.06 feet;  
 thence North  $68^{\circ} 53' 18''$  West, departing said East-West mid-section line, a distance of 630.09 feet;  
 thence North  $59^{\circ} 43' 30''$  West, a distance of 499.54 feet;  
 thence North  $18^{\circ} 58' 30''$  West, a distance of 294.14 feet;  
 thence North  $02^{\circ} 35' 28''$  West a distance of 85.36 feet;  
 thence North  $57^{\circ} 23' 43''$  East a distance of 102.14 feet;



thence South 77° 55' 25" East a distance of 115.69 feet to the southwest corner of Lot 17 per the Final Plat of SUNRIDGE CANYON PARCEL M as recorded in Book 427 of Maps, Page 50 of the Maricopa County Records;

thence South 66° 34' 23" East along the south line of said Lot 17 a distance of 351.67 feet;

thence North 78° 10' 28" East continuing along said south line a distance of 30.71 feet to a point being on the southerly right-of-way line for Rhoads Court, to a point on a non-tangent curve, the center of which bears North 63° 26' 30" East a distance of 45.00 feet; thence Southeasterly, along the arc of said circle, through central angle of 63° 17' 25" a distance of 49.74 feet;

thence South 89° 55' 35" East continuing along said southerly right-of-way line a distance of 410.76 feet;

thence North 10° 29' 18" East, a distance of 13.16 feet;

thence North 76° 11' 27" East, a distance of 264.72 feet;

thence South 53° 36' 53" East, a distance of 15.62 feet;

thence North 68° 09' 19" East, a distance of 85.84 feet;

thence North 76° 11' 27" East, a distance of 600.00 feet;

thence North 67° 01' 39" East, a distance of 179.62 feet;

thence North 11° 06' 38" East, a distance of 585.35 feet;

thence North 31° 27' 59" East, a distance of 179.79 feet;

thence North 40° 48' 10" East, a distance of 392.39 feet;

thence North 83° 23' 21" East, a distance of 37.70 feet;

thence South 60° 40' 00" East, a distance of 22.05 feet;

thence South 64° 06' 09" East, a distance of 83.43 feet;

thence South 60° 39' 33" East, a distance of 35.69 feet to a point on a non tangent curve, the center of which bears South 29° 20' 00" West, a distance of 275.00 feet;

thence Southeasterly, along the arc of said circle, through a central angle of 14° 25' 55", an arc distance of 69.27 feet;

thence North 43° 45' 55" East, a distance of 50.01 feet;

thence North 19° 08' 04" East, a distance of 131.13 feet;

thence North 05° 04' 37" East, a distance of 107.27 feet;

thence North 05° 45' 32" West, a distance of 81.92 feet;

thence North 12° 06' 46" West, a distance of 23.06 feet;

thence North 02° 29' 12" East, a distance of 320.99 feet to designated point "A";

thence North 89° 48' 38" East, along the South line of said Section 9, a distance of 327.51 feet;

thence North 07° 02' 53" East, a distance of 75.33 feet;

thence North 29° 39' 43" East, a distance of 690.19 feet;

thence North 05° 35' 58" East, a distance of 277.78 feet;

thence North 21° 33' 41" East, a distance of 324.11 feet;

thence North 54° 12' 49" West, a distance of 948.01 feet;

thence North 63° 18' 50" West, a distance of 314.97 feet;

thence North 00° 57' 13" East, a distance of 67.10 feet;

thence South 67° 33' 44" East, a distance of 402.05 feet;

thence South 62° 05' 23" East, a distance of 935.39 feet;

thence South 88° 05' 22" East, a distance of 228.49 feet;

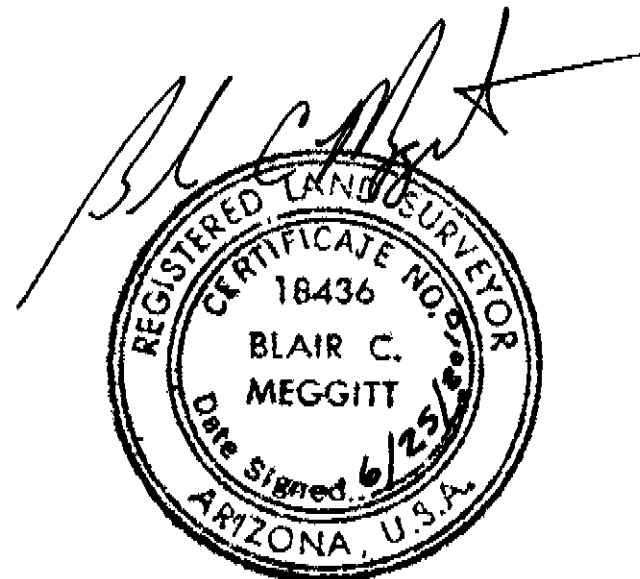
thence North 32° 41' 13" East, a distance of 47.27 feet;  
 thence North 34° 58' 55" East, a distance of 57.49 feet;  
 thence North 73° 39' 12" East, a distance of 88.55 feet;  
 thence South 81° 29' 25" East, a distance of 141.65 feet;  
 thence North 85° 16' 26" East, a distance of 152.31 feet;  
 thence North 82° 10' 17" East, a distance of 90.63 feet;  
 thence North 73° 09' 15" East, a distance of 105.41 feet;  
 thence North 55° 15' 19" East, a distance of 81.02 feet;  
 thence North 46° 26' 00" East, a distance of 61.20 feet;  
 thence North 36° 19' 39" East, a distance of 68.52 feet;  
 thence North 17° 37' 00" East, a distance of 70.04 feet;  
 thence North 13° 14' 01" East, a distance of 80.51 feet;  
 thence North 21° 31' 39" East, a distance of 45.43 feet;  
 thence North 44° 30' 26" East, a distance of 209.92 feet;  
 thence North 01° 17' 32" West, a distance of 91.24 feet;  
 thence North 09° 40' 09" East, a distance of 572.36 feet;  
 thence North 32° 27' 44" West, a distance of 433.05 feet;  
 thence North 71° 12' 13" West, a distance of 131.69 feet;  
 thence North 65° 00' 31" West, a distance of 98.11 feet to  
 the Northeast corner of Tract D of Parcel D-North at Sunridge Canyon recorded in Book  
 434 of maps, page 50, Maricopa County Records, said point also being described as  
 Point B, from said point, thence on a line bearing North 59° 14' 46" West 631.31 feet to  
 a point on the Easterly line of that certain parcel of land as described in Docket 16238,  
 page 424, Maricopa County Records and the Westerly line of Tract A of said Parcel D-  
 North at Sunridge Canyon, said point also being described as Point C;  
 thence North 36° 41' 46" East, a distance of 103.58 feet;  
 thence North 68° 26' 08" East, a distance of 797.71 feet;  
 thence South 48° 11' 53" East, a distance of 1044.15 feet;  
 thence South 73° 46' 55" East, a distance of 667.84 feet;  
 thence South 84° 54' 54" East, a distance of 134.29 feet;  
 thence South 08° 22' 54" West, a distance of 173.81 feet;  
 thence South 83° 47' 02" East, a distance of 22.76 feet;  
 thence South 06° 12' 58" West, a distance of 9.00 feet;  
 thence South 24° 50' 57" East, a distance of 562.34 feet;  
 thence South 22° 18' 00" West, a distance of 133.60 feet;  
 thence South 71° 13' 09" West, a distance of 313.98 feet;  
 thence South 71° 12' 27" West, a distance of 49.10 feet;  
 thence South 60° 38' 43" West, a distance of 43.52 feet;  
 thence South 55° 32' 37" West, a distance of 356.27 feet;  
 thence South 63° 56' 24" West, a distance of 57.53 feet;  
 thence South 64° 21' 13" West, a distance of 150.00 feet;  
 thence South 63° 44' 52" West, a distance of 47.66 feet;  
 thence South 48° 42' 04" West, a distance of 41.07 feet;  
 thence South 25° 52' 43" West, a distance of 51.58 feet;  
 thence South 00° 04' 22" West, a distance of 51.27 feet;  
 thence South 08° 34' 03" West, a distance of 221.61 feet;

thence South 15° 13' 23" West, a distance of 121.86 feet;  
 thence South 20° 48' 34" West, a distance of 88.59 feet;  
 thence South 30° 40' 51" West, a distance of 58.80 feet;  
 thence South 22° 42' 05" West, a distance of 916.55 feet;  
 thence South 55° 11' 44" West, a distance of 141.94 feet;  
 thence South 67° 34' 42" West, a distance of 120.31 feet to a corner on the southerly  
 line common to Lot 33 and Tract "E" as described in Fee No. 2001-0752064 and  
 TRACT "E" OF THE REPLAT OF LOT 33 AND TRACT "E" OF SUNRIDGE CANYON  
 PARCEL "G" SOUTH as shown in Book 498 of Maps, Page 13 Maricopa County  
 Records;  
 thence North 22° 25' 18" West, a distance of 117.24 feet along the common line of Lot  
 33 and Tract "E";  
 thence North 24° 55' 04" East continuing along said common line, 54.98 feet to a point  
 on the westerly right-of-way line of Cactus Drive as shown in Book 498 of Maps, Page  
 13 said point being a point of non-tangent curve, the center of which bears North 62° 29'  
 11" East ; a distance of 45.00 feet;  
 thence Northwesterly, along said right of way and the arc of said circle, a central angle  
 of 14° 56' 10" an arc distance of 11.73 feet;  
 thence South 51° 04' 15" West, a distance of 34.01 feet;  
 thence South 10° 05' 38" West, a distance of 122.50 feet;  
 thence South 48° 19' 29" West, a distance of 50.01 feet;  
 thence North 87° 08' 57" West, a distance of 172.51 feet;  
 thence South 58° 11' 21" West, a distance of 761.61 feet;  
 thence South 35° 02' 54" West, a distance of 565.87 feet;  
 thence South 18° 52' 29" West, a distance of 271.01 feet;  
 thence South 08° 59' 41" East, a distance of 111.61 feet;  
 thence South 15° 52' 46" West, a distance of 146.11 feet;  
 thence South 31° 39' 40" West, a distance of 132.29 feet;  
 thence South 46° 05' 54" West, a distance of 229.91 feet;  
 thence South 48° 05' 01" West, a distance of 291.17 feet;  
 thence South 73° 32' 08" West, a distance of 118.47 feet;  
 thence North 29° 39' 10" West, a distance of 228.00 feet;  
 thence North 89° 08' 31" West, a distance of 328.23 feet;  
 thence South 58° 17' 31" West, a distance of 60.15 feet;  
 thence North 24° 37' 06" West, a distance of 38.28 feet;  
 thence North 89° 06' 11" West, a distance of 141.60 feet;  
 thence North 10° 28' 26" East, a distance of 204.47 feet;  
 thence North 05° 08' 37" West, a distance of 78.19 feet;  
 thence North 69° 26' 29" East, a distance of 31.96 feet;  
 thence North 07° 44' 20" East, a distance of 131.03 feet;  
 thence North 24° 22' 18" East, a distance of 128.19 feet;  
 thence North 44° 18' 30" West, a distance of 53.23 feet;  
 thence North 33° 24' 14" East, a distance of 143.84 feet;  
 thence North 45° 25' 48" East, a distance of 92.19 feet;  
 thence South 57° 48' 49" East, a distance of 65.96 feet to a point on a curve, the center  
 of which bears South 65° 45' 04" East, a distance of 220.00 feet;

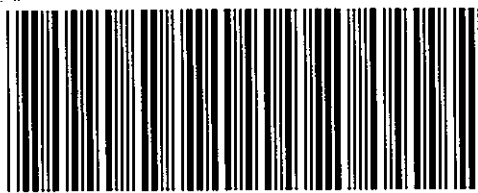
thence Northeasterly, along the arc of said circle, through a central angle of  $24^{\circ} 57' 18''$ , a distance of 95.82 feet;  
 thence North  $50^{\circ} 59' 01''$  East, a distance of 68.96 feet;  
 thence North  $48^{\circ} 09' 07''$  East, a distance of 84.59 feet;  
 thence South  $25^{\circ} 23' 56''$  East, a distance of 18.51 feet;  
 thence South  $53^{\circ} 25' 06''$  East, a distance of 29.46 feet;  
 thence South  $85^{\circ} 08' 09''$  East, a distance of 39.23 feet;  
 thence South  $41^{\circ} 58' 51''$  East, a distance of 42.29 feet;  
 thence South  $02^{\circ} 39' 12''$  East, a distance of 41.73 feet;  
 thence South  $48^{\circ} 02' 21''$  East, a distance of 28.29 feet;  
 thence South  $84^{\circ} 32' 55''$  East, a distance of 61.77 feet;  
 thence North  $07^{\circ} 02' 53''$  East, a distance of 785.18 feet;  
 thence South  $89^{\circ} 48' 38''$  West, a distance of 327.51 feet  
 to the TRUE POINT OF BEGINNING.

EXCEPT those portions lying within Desert Canyon Drive, Sunridge Drive, Sundown Drive and Brittlebush Lane as dedicated on Final Plat of Sunridge Canyon, according to Book 406 of Maps, Page 23; Sunridge Canyon Parcel A Replat Fountain Hills, Arizona, according to to Book 417 of Maps, Page 37; Final Plat of Parcel D-South at Sunridge Canyon, according to Book 422 of Maps, Page 31; and Final Plat of Parcel D-North at Sunridge Canyon, according to Book 434 of Maps, Page 50 records of Maricopa County, Arizona; and

EXCEPT all oil, gas and other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description and except all material which may be essential to production of fission able material as reserved in Arizona Revised Statutes, as to that part lying with Section 16.



EXPIRES 9/30/2012



OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL

95-0765132 12/13/95 10:44

LILIAN 34 OF 35

STATE OF ARIZONA

COUNTY OF MARICOPA

10/1

When recorded return to :  
SUNRIDGE CANYON L.L.C.  
16605 E PALISADES BLVD #127  
FOUNTAIN HILLS, AZ 85268

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR SUNRIDGE CANYON  
(Parcel C at SunRidge Canyon)**

THIS SUPPLEMENTAL DECLARATION is made this 5 day of Dec., 1995, by SunRidge Canyon, L.L.C., and Arizona limited liability company (hereinafter referred to as "Declarant");

**W I T N E S S E T H**

WHEREAS, on September 1, 1995, Declarant filed that certain Declaration of Covenants, Conditions, and Restrictions for SunRidge Canyon ("Declaration"), recorded at Fee No. 95-0532019, in the Official Records of Maricopa County, Arizona; and

WHEREAS, pursuant to the terms of Article VII, Sections 7.1 and 7.4 of the Declaration, the Declarant may submit certain additional property described on Exhibit "B" of the Declaration to the terms of the Declaration by filing a Supplemental Declaration and may include therein additional covenants and easements applicable to the additional property; and

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto ("Additional Property"); and

WHEREAS, the Additional Property is a portion of that property described in Exhibit "B" to the Declaration; and

WHEREAS, the Declarant desires to submit the Additional Property to the terms of the Declaration and to impose on such property the additional covenants and restrictions set forth below;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the real property described on Exhibit "A" hereof to the provisions of the Declaration and this Supplemental Declaration. Such property shall be sold, transferred used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of the Declaration and this Supplemental Declaration, both of which shall run with the title of such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successor-in-title, and assigns. The provisions of this Supplemental Declaration shall be binding upon SunRidge Canyon Community Association, Inc. in accordance with the terms of the Declaration.

**ARTICLE I**  
**Definitions**

The definitions set forth in Article I of the Declarations are incorporated herein by reference.

**ARTICLE II**  
**Neighborhood Designation**

Pursuant to Section 3.4 (a) of the Declaration, the Additional Property is hereby assigned to the Neighborhood known or to be known as Parcel C at SunRidge Canyon.

**ARTICLE III**  
**Additional Restrictions and Easement**  
None.

**ARTICLE IV**  
**Amendments**

4.1. By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Supplemental Declaration for any purpose; provided, no amendment shall materially adversely affect the title to or the permitted uses of any Unit without the written consent of the Owner of the affected Unit. In addition, the Declarant may unilaterally amend this Supplemental Declaration at any time if such amendment is for the purpose of (a) submitting additional property to the terms of this Supplemental Declaration and assigning it to the Neighborhood designated herein or otherwise redesignating Neighborhood boundaries pursuant to Section 3.4 (a) of the Declaration; (b) bringing any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (c) enabling any reputable title insurance company to issue title insurance coverage on the Units; (d) enabling any institutional or governmental lender or purchases of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or purchaser to make or purchase mortgage loans on the Units; (e) enabling any governmental agency or reputable private insurance company to insure mortgage loans on the Units; or (f) satisfying the requirements of any governmental agency; provided, such amendment shall not materially adversely affect the title to any Unit without the written consent of the Owner of the affected Unit.

4.2. By Owners . Except as provided above and otherwise specifically provided herein, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or combination thereof, of Owners of a majority of Units within the Additional Property, the written consent of the Association acting upon resolution of its Board of Directors, and so long as the Declarant has an option to subject additional Property to the Declaration pursuant to Article VII, Section 7.1 of the Declaration, the consent of the Declarant. No amendment shall be inconsistent with the Declaration.

Notwithstanding the above, no amendment adopted pursuant to this Section 4.2 shall be effective to withdraw the real property described herein from the provisions of the Declaration unless also approved by Members representing 75% of the total Class "A" votes in the Association and the Class "B" Member, if such exists. The percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause, To be effective, any amendment must be recorded in the Official Records of Maricopa County, Arizona.

If an Owner consents to any amendment to this Supplemental Declaration, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration the day and year first above written.

DECLARANT: SUNRIDGE CANYON, L.L.C., an Arizona  
limited liability company

By: Ray Baldwin  
Name: Ray Baldwin  
As Its: Project Manager

STATE OF ARIZONA )

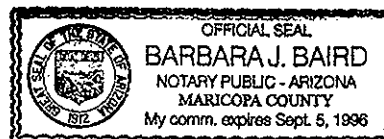
) s.s.

COUNTY OF Maricopa )

The foregoing instrument was acknowledged before me this 5th day of, December 1995, by Ray Baldwin, as Project Manager of SunRidge Canyon, L.L.C., an Arizona limited liability company.

By: Barbara J. Baird  
Name: Barbara J. Baird  
Title: Notary Public-Arizona

(NOTARIAL SEAL)



**EXHIBIT "A"**

**Additional Property**

**Parcel C at SunRidge Canyon as recorded in Book 406, Page 25, Document No. 95-0689011 as recorded in the Official Records of the Maricopa County Recorder.**



When recorded return to:

SunRidge Canyon Community Association  
16810 Avenue of the Fountains, Suite 113  
Fountain Hills, AZ 85268

SUNRIDGE0001NORDR-1-1-1--  
chagollaj

### NOTICE OF RELINQUISHMENT OF DECLARANT RIGHTS

Sunridge Canyon, LLC, the Declarant under that certain Declaration of Covenants, Conditions and Restrictions for Sunridge Canyon, recorded on September 1, 1995 at instrument no. 1995-0532019 in the official records of the Maricopa County Recorder, as amended from time to time ("Declaration"), provides this notice to serve as record that Sunridge Canyon, LLC relinquishes its position as the Declarant under the Declaration effective immediately, hereby relinquishing all Declarant rights under the Declaration.

Signed and Accepted by;

Sunridge Canyon, LLC: Joseph F. Lapinsky

Printed Name: Joseph F. Lapinsky

Position: President

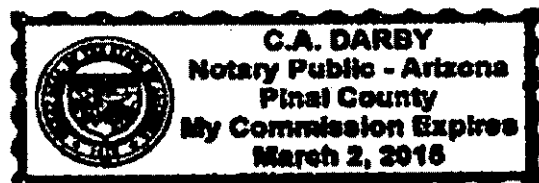
Date: February 14, 2012

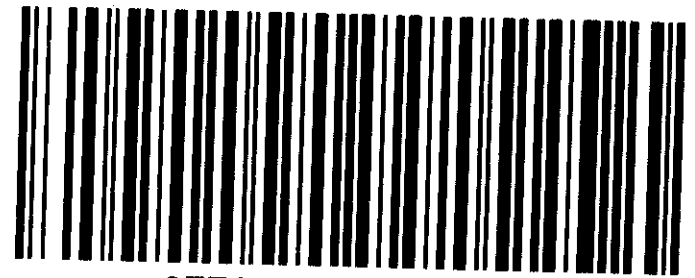
Witnessed and Notarized by: C.A. Darby

Notary Name: [Signature]

Date: February 14, 2012

Place seal here:





OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
2012-0155205 02/27/12 10:04 AM  
6 OF 6

PALUMBOA

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**SUNRIDGE CANYON**

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"C"	Use Restrictions and Rules

150  
151

## AMENDED AND RESTATED

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

## SUNRIDGE CANYON

WHEREAS, SunRidge Canyon, L.L.C. (the "Declarant") was the owner of certain property located in Maricopa County, Arizona and more particularly described in Exhibit "A;"

WHEREAS, on September 1, 1995, a Declaration of Covenants, Conditions and Restrictions for SunRidge Canyon was recorded at instrument number 1995-0532019 in the official records of the Maricopa County Recorder (the "Original Declaration") burdening the property described in Exhibit "A;"

WHEREAS, the Original Declaration was amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions for SunRidge Canyon recorded on November 5, 1998 at instrument number 1998-1001167 in the official records of the Maricopa County Recorder (the "First Amendment");

WHEREAS, the SunRidge Canyon Community Association, Inc. (the "Association") desires to amend and restate the Original Declaration and First Amendment.

THEREFORE, this Amended and Restated Declaration of Covenants, Conditions and Restrictions for SunRidge Canyon is intended to amend, restate, supersede and replace in its entirety, the Original Declaration and First Amendment.

IN WITNESS WHEREOF, the Association has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for SunRidge Canyon as of the 16<sup>th</sup> day of February, 2012.

## Article I - Definitions

The terms used in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.0 “Alternate Neighborhood Representative”: See Section 1.24 -  
“Neighborhood Representative”.

1.1 “Area of Common Responsibility”: The Common Area, together with such other areas for which the Association is assigned or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts or agreements.

1.2 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of SunRidge Canyon Community Association, Inc., as filed with the State of Arizona Corporation Commission.

1.3 “Association”: SunRidge Canyon Community Association, Inc., an Arizona nonprofit corporation, its successors or assigns.

1.4 “Base Assessments”: Assessments levied on all Units subject to assessment under Section 8.8 - “Date of Commencement of Assessments” to fund Common Expenses for the general benefit of all Units, as more particularly described in Section 8.1 - “Creation of Assessments” and Section 8.2 - “Computation of Base Assessments”.

1.5 “Board of Directors” or “Board”: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under State of Arizona corporation law.

1.6 “Builder”: Any Person which purchases one (1) or more Units for the purpose of constructing improvements for later sale to consumers or purchases one (1) or more parcels of land within the Properties for development and/or resale in the ordinary course of such Person’s business.

1.7 “By-Laws”: The By-Laws of SunRidge Canyon Community Association, Inc., as they may be amended. The By-Laws are published as a separate document and may be amended independently of these CC&Rs.



229  
230           1.8 "Common Area": All real and personal property, including  
231 easements, which the Association owns, leases, or otherwise holds possessory or use  
232 rights in for the common use and enjoyment of the Owners. The term shall include any  
233 Limited Common Area, as defined in Section 1.14 - "Limited Common Area".  
234

235           1.9 "Common Expenses": The actual and estimated expenses  
236 incurred, or anticipated to be incurred, by the Association for the general benefit of all  
237 Owners, including any reasonable reserve, as the Board may find necessary and  
238 appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation,  
239 including, without limitation, the costs of performing the Association's responsibilities  
240 under Section 5.1 - "Association's Responsibility".  
241

242           1.10 "Community-Wide Standard": The standard of conduct,  
243 maintenance, or other activity generally prevailing throughout the Properties. Such  
244 standard is expected to evolve over time as development progresses and may be more  
245 specifically determined by the Board of Directors and the Architectural Review  
246 Committee.  
247

248           1.11 "Covenant to Share Costs": That certain Declaration recorded in  
249 the Public Records on March 30, 1995, at Instrument No. 1995-0172717, and any other  
250 declarations of easements and covenants to share costs executed by the original  
251 Declarant and recorded in the Public Records which create easements for the benefit of  
252 the Association and Unit Owners and provide for certain costs to be shared between the  
253 Owners and other Persons. All payments made by the Association pursuant to the  
254 terms of the Covenant to Share Costs shall be a Common Expense.  
255

256           1.12 "Design Guidelines": The design and construction guidelines and  
257 application and review procedures applicable to the Properties promulgated and  
258 administered in accordance with Article IX - "Architectural Standards". The name of the  
259 *Design Guidelines* may be changed from time to time as specified in Section 9.3 (b) -  
260 "Guidelines and Procedures". The *Design Guidelines* are published as a separate  
261 document and may be amended independently of these CC&Rs.  
262

263           1.13 "Good Standing": Membership in good standing is defined as all  
264 obligations (such as quarterly assessments, special assessments and fines, if any) to  
265 SunRidge Canyon Community Association being current and not being known to be in  
266 violation of CC&Rs and By-Laws. (A member deemed not in good standing shall lose  
267 the right to vote, to speak at Association meetings and to hold office.)  
268

269           1.14 **“Limited Common Area”**: A portion of the Common Area intended  
 270 for the exclusive or primary use or benefit of one or more, but less than all,  
 271 Neighborhoods, as more particularly described in Article II - “Property Rights”.  
 272

273           1.15 **“Master Plan”**: The land use plan for the development of  
 274 SunRidge Canyon, which plan includes the property described on Exhibit “A” and all or a  
 275 portion of the property described on Exhibit “B”. Inclusion of property on the Master  
 276 Plan did not and shall not, under any circumstances, obligate the Board of Directors to  
 277 subject such property to this Declaration, nor shall the exclusion of property described  
 278 on Exhibit “B” from the Master Plan bar its later annexation in accordance with Article VII  
 279 - “Annexation and Withdrawal of Property”.  
 280

281           1.16 **“Member”**: A Person subject to membership in the Association as  
 282 provided in Section 3.2 - “Membership”.  
 283

284           1.17 **“Mortgage”**: A mortgage, a deed of trust, a deed to secure debt, or  
 285 any other form of security instrument affecting title to any Unit.  
 286

287           1.18 **“Mortgagee”**: A beneficiary or holder of a Mortgage.  
 288

289           1.19 **“Mortgagor”**: Any Person who gives a Mortgage.  
 290

291           1.20 **“Neighborhood”**: A portion of the Properties designated as a  
 292 Neighborhood pursuant to Section 3.4(a) - “Neighborhoods and Neighborhood  
 293 Representatives - Neighborhoods” in which the Units may (a) share one or more  
 294 common features not common to all Units within the Properties, and/or (b) receive  
 295 special services from the Association which are not provided to all Units within the  
 296 Properties. Examples of such common features might include, without limitation, a  
 297 common theme, housing type, entry monument, privacy gate, private streets, or Limited  
 298 Common Areas intended for the primary benefit of that group of Units, among other  
 299 things. Examples of such special services might include landscaping maintenance or  
 300 exterior maintenance of structures on Units, among other things.  
 301

302           Where the context permits or requires, the term “Neighborhood” shall also  
 303 refer to the Neighborhood Committee (established in accordance with the By-Laws) or  
 304 Neighborhood Association (as defined below) having concurrent jurisdiction with the  
 305 Association over the property within the Neighborhood.  
 306

307           1.21 **“Neighborhood Assessments”**: Assessments levied against the  
 308 Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses,

as described in Section 8.1 - "Creation of Assessments" and Section 8.3 - "Computation of Neighborhood Assessments".

1.22 "Neighborhood Association": Any owners' association having concurrent jurisdiction with the Association over any Neighborhood.

1.23 "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declaration applicable to such Neighborhood(s).

1.24 "Neighborhood Representative": The representative considered to be in Good Standing selected by Members within each Neighborhood to be responsible for casting the Neighborhood votes on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Neighborhood Representative" shall also refer to any "Alternate Neighborhood Representative" acting in the absence of the Neighborhood Representative pursuant to Section 3.4(b) - "Neighborhoods and Neighborhood Representatives - Neighborhood Representatives".

1.25 "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, then upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, if the contract specifically so provides.

1.26 "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.27 "Private Amenities": Certain real property and any facilities and improvements thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, whether on a use fee basis, a club membership basis, or otherwise. The Private Amenities shall be limited to the golf course currently called SunRidge Canyon Golf Club and all related and supporting facilities and improvements.

1.28 "Properties": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII - "Annexation and Withdrawal of Property".

1.29 "Public Records": The Official Records of Maricopa County, Arizona.

1.30 "Special Assessment": Assessments levied in accordance with Section 8.5 - "Special Assessments".

1.31 "Specific Assessment": Assessments levied in accordance with Section 8.6 ".

1.32 "Supplemental Declaration": An instrument filed in the Public Records pursuant to Article VII - "Annexation and Withdrawal of Property" which subjects additional property to this Declaration, designates Neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.33 "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as a detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include, by way of illustration but not limitation, single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property of any Neighborhood Association, or property dedicated to the public.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.34 "Use Restrictions and Rules": Those use restrictions and rules affecting the Properties, which may be adopted, modified and repealed as set forth in Article X - "Use, Restrictions and Rules". Additional Use Restrictions and Rules are set forth in Exhibit "C" - "*Use Restrictions and Rules*" and may be amended independently of these CC&Rs.

## Article II - PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a nonexclusive right and easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) this Declaration and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the right of the Board and the membership to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area pursuant to Article X - "Use Restrictions and Rules", including rules limiting the number of guests who may use the Common Area;
- (d) the right of the Board to suspend the right of an Owner to use recreational facilities, if any, within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of the Association after notice and a hearing pursuant to Section 3.22 - "Enforcement" of the By-Laws;
- (e) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
- (f) the right of the Board to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
- (g) the right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;
- (h) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 2.6 - "Actions Requiring Owner Approval" and

(i) the rights of certain Owners in those portions of the Common Area designated "Limited Common Areas", if any, as more particularly described in Section 2.2- "Limited Common Area".

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees and guests, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit, but shall retain the obligations set forth in this Declaration, the By-Laws, or rules and regulations.

**2.2 Limited Common Area.** Certain portions of the Common Area are designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of Units within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, access gates, private streets, recreational facilities, landscaped medians and cul-de-sacs, ponds and other portions of the Common Area within primarily benefiting a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement and insurance of a Limited Common Area shall be assessed as a Neighborhood Assessment against the Owners of Units in the Neighborhood(s) to which the Limited Common Area is assigned.

Limited Common Areas were designated as such and assigned to a particular Neighborhood or Neighborhoods in the deed conveying it to the Association or on the subdivision plat depicting such Limited Common Area; provided, however, any such assignment shall not preclude the Board of Directors from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods. A portion of the Common Area may be assigned as Limited Common Area of a particular Neighborhood or Neighborhoods upon approval of the Board and the vote of both 1) a majority of the Neighborhood Representatives and 2) Neighborhood Representatives representing a majority of the total Member votes in the Association voting, including the Neighborhood Representative(s) representing the Member votes within the Neighborhood(s) to which the Limited Common Area is to be assigned. Limited Common Area may be reassigned upon approval of the Board and of Owners of a majority of the Units within the Neighborhood(s) to which the Limited Common Area is assigned and of Owners of a majority of the Units within the Neighborhood(s) to which the Limited Common Area is to be reassigned. Notice of any assignment or reassignment of Limited Common Area shall be filed in the Public Records cross-referencing the deed or subdivision plat pertaining to such Limited Common Area.

The Association may, upon approval of Owners of a majority of Units within the Neighborhood(s) to which any Limited Common Area is assigned, permit Owners of

Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

**2.3 Private Amenities.** Access to and use of the Private Amenities is strictly subject to the rules and procedures of the owner of such Private Amenities, and no Person gains any right to enter or to use any Private Amenities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Association, or by any Person acting on behalf of the Association, with regard to the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenities.

The ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent Person, or (b) establishment of, or conversion of the membership structure to an "equity" club or similar arrangement whereby the members of the Private Amenities or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenities. No consent of the Association, any Neighborhood Association, any Neighborhood Representative or any Owner shall be required to effectuate any change in ownership or operation of any Private Amenities, except as may otherwise be provided in any written agreements entered into by the owner of the Private Amenities.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by the owner of the Private Amenities. Such owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Private Amenities which it owns and to terminate use rights altogether.

Neither the Association, nor the owner of any Private Amenities, guarantees or represents that any view from Units over and across the Private Amenities will be preserved without impairment. No Owner shall have the right to require the owner of any Private Amenities to prune or thin trees or other landscaping within the boundaries of the Private Amenities, nor any right to prevent the owner of any Private Amenities from adding trees and other landscaping to the Private Amenities in its sole and absolute discretion. In addition, the owner of any Private Amenities which include a golf course may, in its sole and absolute discretion, but shall not be obligated to, change the



location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

**2.4 No Partition.** Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

**2.5 Condemnation.** If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of both a) more than sixty-seven percent (67%) of the Neighborhood Representatives and b) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance.

Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on any unimproved land remaining in the Common Area to the extent feasible, unless within sixty (60) days after such taking, both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association shall otherwise agree.

Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.1(c) - "Damage and Destruction" regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.



551  
552           **2.6 Actions Requiring Owner Approval.** If either the U.S. Department of  
553 Housing and Urban Development or the U.S. Department of Veterans Affairs is insuring  
554 or guaranteeing the Mortgage on any Unit, then the following actions shall require the  
555 prior approval of both 1) Neighborhood Representatives representing not less than  
556 sixty-seven percent (67%) of the total Member votes in the Association: merger,  
557 consolidation or dissolution of the Association; annexation of additional property other  
558 than that described on Exhibit "B;" and dedication, conveyance or mortgaging of  
559 Common Area. Notwithstanding anything to the contrary in Section 2.5 of this Section,  
560 the Association, acting through the Board, may grant easements over the Common Area  
561 for installation and maintenance of utilities and drainage facilities and for other purposes  
562 not inconsistent with the intended use of the Common Area, without the approval of the  
563 membership.  
564

## 565 **Article III - MEMBERSHIP AND VOTING RIGHTS**

566           3.1 **Function of Association.** The Board, acting on behalf of the  
 567 Association, shall be the entity responsible for management, maintenance, operation  
 568 and control of the Common Area and other portions of the Area of Common  
 569 Responsibility to the extent such responsibility is assigned to or assumed by the  
 570 Association. The Association shall be the primary entity responsible for enforcement of  
 571 this Declaration and such reasonable rules regulating use of the Properties as the Board  
 572 or the membership may adopt pursuant to Article X - "Use Restrictions and Rules". The  
 573 Board of Directors and subordinate committees, acting on behalf of the Association,  
 574 shall also be responsible for administering and enforcing the architectural standards and  
 575 controls set forth in this Declaration and in the Design Guidelines. The Board and  
 576 Committees shall perform their functions in accordance with this Declaration, the By-  
 577 Laws, the Articles and the laws of the State of Arizona.

578  
 579           3.2 **Membership.** Every Owner shall be a Member of the Association.  
 580 There shall be only one membership per Unit. If a Unit is owned by more than one  
 581 Person, all co-Owners shall share the privileges of such membership, subject to  
 582 reasonable Board regulation and the restrictions on voting set forth in Section 3.3 (b) -  
 583 "Voting - Exercise of Voting Rights" and in the By-Laws, and all such co-Owners shall  
 584 be jointly and severally obligated to perform the responsibilities of Owners. The  
 585 membership rights and privileges of an Owner which is not a natural person may be  
 586 exercised by any officer, director, partner or trustee, or by any other individual  
 587 designated from time to time by the Owner in a written instrument provided to the  
 588 Secretary of the Association. A member deemed not in good standing shall lose the  
 589 right to vote, to speak at Association meetings and to hold office.

590  
 591           3.3 **Voting.** The Association shall have a single class of membership  
 592 called Members.

593  
 594           (a) Members shall have one equal vote for each Unit in which they hold  
 595 the interest required for membership under Section 3.2 - "Membership"; provided, there  
 596 shall be only one vote per Unit and no vote shall be exercised for any property which is  
 597 exempt from assessment under Section 8.10 - "Exempt Property". All votes shall be  
 598 cast as provided in Section 3.3 (b) - "Voting - Exercise of Voting Rights".

599  
 600           (b) **Exercise of Voting Rights.** Except as otherwise specified in this  
 601 Declaration or the By-Laws, the vote of each Unit owned by a Member shall be  
 602 exercised by the Neighborhood Representative representing the Neighborhood of which  
 603 the Unit is a part as provided in Section 3.4 (b) - "Neighborhoods and Neighborhood  
 604 Representatives - Neighborhood Representatives". The Neighborhood Representative

may cast all such votes as it, in its discretion, deems appropriate. When voting for members of the Board of Directors, votes may be cast as specified in Article 3.3 (b) - "Election Procedures" of the By-Laws. When voting on other matters, Neighborhood Representatives may cast any number of the votes assigned to it for or against any proposal. Proposals shall pass or fail based upon the majority of the votes cast. When more than two options are being voted upon, an initial vote shall be taken to reduce the number of options to two, with the two options receiving the most votes in the initial vote moving into a runoff election. In the runoff election, the option receiving the majority of the votes cast shall prevail. Ties shall be broken by adopting the option receiving votes from the greater number of Neighborhood Representatives. If a tie still exists, then by drawing or other method agreed upon at the time of the vote by the Neighborhood Representatives

### 3.4 Neighborhoods and Neighborhood Representatives.

(a) Neighborhoods. Every Unit shall be located within a Neighborhood. The Units within a particular Neighborhood may be subject to additional covenants and/or the Unit Owners may all be members of a Neighborhood Association in addition to the Association. However, a Neighborhood Association shall not be required except in the case of a condominium or otherwise as required by law. Any Neighborhood which does not have a Neighborhood Association may elect a Neighborhood Committee, as described in Section 5.2 - "Neighborhood Committees" of the By-Laws, to represent the interest of Owners of Units in such Neighborhood.

Any Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood and, upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment pursuant to Article VIII - "Assessments" hereof.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. The Board of Directors may amend this Declaration or any Supplemental Declaration from time to time to redesignate Neighborhood boundaries; provided, two or more existing Neighborhoods

shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

The Owners of a majority of the total number of Units within any Neighborhood may, at any time, petition the Board of Directors to divide the property comprising the Neighborhood into two (2) or more Neighborhoods. The Board of Directors may also initiate such a petition which would then require the approval of the Owners of a majority of the total number of Units within a Neighborhood. Such petition shall be in writing and shall include a survey of the entire parcel which indicates the proposed boundaries of the new Neighborhoods or otherwise identifies the Units to be included within the proposed Neighborhoods. Such petition shall be deemed denied sixty (60) days following the filing of all required documents with the Board unless the Board of Directors grants such application in writing within such 60-day period. The Board may approve an application only upon determining that there is a reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

(b) Neighborhood Representatives. Each Neighborhood shall elect a Neighborhood Representative who shall be responsible for casting all votes attributable to Units owned by Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood may elect one Alternate Neighborhood Representative who shall be responsible for casting such votes in the absence of the Neighborhood Representative. The neighborhood may elect any number of non-voting Alternate Neighborhood Representatives. The Neighborhood Representative and the Alternate Neighborhood Representatives from each Neighborhood shall be elected for a two (2) year term (or for a term as designated by the Board of Directors), either by written ballot cast by mail or at a meeting of the Members within such Neighborhood, as the Board determines; provided, upon written petition signed by Members holding more than twenty-five percent (25%) of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Members representing more than twenty-five percent (25%) of the total votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting.

The Board shall call for the election of Neighborhood Representatives from each Neighborhood every two (2) years. Each Member who owns a Unit within the Neighborhood shall be entitled to cast one equal vote per Unit owned. The candidate who receives the greatest number of votes shall be elected as Neighborhood Representative and second greatest number of votes as the Alternate Neighborhood

686 Representative. The Alternate Neighborhood Representative may cast the  
687 neighborhood votes in the absence of the Neighborhood Representative. The  
688 Neighborhood Representative and the Alternate Neighborhood Representative shall  
689 serve until their successors are elected.

690  
691 Any Neighborhood Representative or Alternate Neighborhood Representative  
692 may be removed, with or without cause, upon the vote or written petition of Owners of a  
693 majority of the total number of Units in the Neighborhood which the Neighborhood  
694 Representative or Alternate Neighborhood Representative represents.

695

## Article IV - RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 **Common Area.** The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment and other personal property of the Association used in connection with the Common Areas), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to this Declaration and the By-Laws and consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

4.2 **Personal Property and Real Property for Common Use.** The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association.

4.3 **Enforcement.** The Association may impose sanctions for violations of this Declaration, any applicable Supplemental Declaration, the By-Laws, or Association rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with Section 3.22 - "Enforcement" of the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Unit of any Owner who is delinquent in paying any assessment or other charge due to the Association more than fifteen (15) days (or other such duration as the Board from time to time may establish). All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In the event the Association employs any attorney or attorneys to enforce the Declaration, Articles, By-Laws, Use Restrictions and Rules or Architectural Standards, the Owner or Owners whose actions have necessitated the enforcement proceeding shall reimburse the Association for all costs, including all attorneys' fees, expended in such enforcement efforts, regardless of whether or not a lawsuit is actually commenced. Payment of such amounts shall be secured by the Association's lien as provided herein.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be

construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

**4.4 Implied Rights: Board Authority.** The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

**4.5 Governmental Interests.** For so long as the Association owns any property described in Exhibits "A" or "B", the Board of Directors may designate sites within the Properties for fire, police and utility facilities, public schools and parks and other public or quasi-public facilities. The sites may include unimproved portions of the Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site. The sites may include other property not owned by the Association provided the owner consents.

**4.6 Indemnification.** The Association shall indemnify current and former officers, directors, Neighborhood Representatives and committee members, including the members of the committees established under Article IX - "Architectural Standards", and any employees and managers or managing agents, against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having held such position, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section or State of Arizona law.

Such persons shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such person harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any such person may be entitled. The Association shall, as a Common

Expense, maintain adequate general liability and officers and directors liability insurance to fund this obligation, if such insurance is reasonably available.

**4.7 Dedication of Common Area.** Subject to the provisions of Section 2.6 - "Actions Requiring Owner Approval", and subject to the approval of and acceptance by such entity, the Association may dedicate portions of the Common Area to Maricopa County, the State of Arizona, the Town of Fountain Hills, or to any other local, state or federal governmental or quasi-governmental entity, including any community facilities district now existing or hereafter created under the laws of the State of Arizona with jurisdiction over all or any portion of the Properties.

**4.8 Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. The Association shall not in any way be considered insurers or guarantors of security within the Properties, nor shall the Association be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures, including any mechanism or system designed to limit access to the Properties or any portion of the Properties, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

ALL OWNERS AND OCCUPANTS ARE HEREBY ADVISED THAT THE TOWN OF FOUNTAIN HILLS, ARIZONA, HAS, IN THE PAST AND MAY CONTINUE IN THE FUTURE, TO RESTRICT OR PROHIBIT INSTALLATION OF STREET LIGHTS WITHIN ITS BOUNDARIES.

**4.9 Powers of the Association Relating to Neighborhoods.** The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association or Neighborhood Committee which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be



817 effectuated by the Neighborhood Association, and (b) require that a proposed budget  
818 include certain items and that expenditures be made therefore.

819  
820 Any action which the Association requires pursuant to the foregoing  
821 paragraph shall be taken within the reasonable timeframe set by the Association in a  
822 written notice to the Neighborhood Association. If the Neighborhood Association fails to  
823 comply with the requirements set forth in such written notice, the Association shall have  
824 the right to effect such action on its behalf and assess the Units in such Neighborhood  
825 for their pro-rata share of any expenses incurred by the Association in taking such  
826 action pursuant to Section 8.6 - "Specific Assessments". Such assessments shall be  
827 subject to all lien rights provided for in Article VIII - "Assessments".

828  
829 **4.10 Covenants to Share Costs.** The Association shall include in its  
830 annual operating budget such amounts as are necessary to fulfill the Association's  
831 financial obligations under the Covenant to Share Costs.

832  
833 **4.11 Transfer of Responsibilities to Community Facilities District.** If, at  
834 any time, a community facilities district is formed under State of Arizona law, the  
835 boundaries of which encompass all or any portion of the Properties, the Association  
836 shall have the right, acting through the Board and with the approval of both 1) a majority  
837 of the Neighborhood Representatives voting and 2) Neighborhood Representatives  
838 representing a majority of the total Member votes in the Association voting, to convey to  
839 such district any or all of the Common Area owned by the Association (but not Limited  
840 Common Area) and/or to transfer and assign to such district any or all of the  
841 Association's responsibilities under Article V - "Maintenance" of this Declaration,  
842 provided that such district is willing to accept the transfer and/or assignment of such  
843 properties and/or responsibilities, respectively.

847 **Article V - MAINTENANCE**

848

849 **5.1 Association's Responsibility.**

850

851 (a) The Association shall maintain and keep in good repairs the Area of  
852 Common Responsibility, which shall include, but need not be limited to:

853

854 (i) all landscaping and other flora, parks, ponds, signage,  
855 structures, and other improvements within the Common  
856 Area, including any private streets which are part of the  
857 Common Area; and

858

859 (ii) landscaping within any public rights-of-way within or  
860 abutting the Properties;

861

862 (iii) such portions of any additional property included within  
863 the Area of Common Responsibility as may be dictated by  
864 this Declaration, any Supplemental Declaration, or any  
865 covenant, contract or agreement for maintenance thereof  
866 entered into by the Association.

867

868 The Association may assume maintenance responsibility for property  
869 within any Neighborhood, in addition to that designated by any Supplemental  
870 Declaration, either by agreement with the Neighborhood or because, in the opinion of  
871 the Board, the level and quality of service then being provided is not consistent with the  
872 Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall  
873 be assessed as a Neighborhood Assessment only against the Units within the  
874 Neighborhood to which the services are provided. The provision of services in  
875 accordance with this Section shall not constitute discrimination within a class.

876

877 The Association may maintain other property which it does not own,  
878 including, without limitation, property dedicated to the public, if the Board of Directors  
879 determines that such maintenance is necessary or desirable to maintain the  
880 Community-Wide Standard.

881

882 (b) There are hereby reserved to the Association easements over the  
883 Properties as necessary to enable the Association to fulfill such responsibilities. The  
884 Association shall maintain the facilities and equipment within the Area of Common  
885 Responsibility in continuous operation, except for any periods necessary, as determined  
886 in the sole discretion of the Board, to perform required maintenance or repairs, unless

Members representing more than sixty-seven percent (67%) of the votes in the Association agree in writing to discontinue such operation.

(c) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Limited Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Units within the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

Upon resolution of the Board of Directors, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and green space between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and arroyos or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

**5.2 Owner's Responsibility.** Each Owner shall maintain his or her Unit, and all structures, parking areas, and other improvements comprising the Unit, in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit. Each Owner shall also maintain the right-of-way or Common Area lying between the Unit boundary and the curb of any street running parallel, more or less, to such Unit boundary. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibility and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.6 - "Specific Assessments". The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

928                   **5.3 Neighborhood's Responsibility.** Any Neighborhood Association  
929 having responsibility for maintenance within a particular Neighborhood pursuant to  
930 additional covenants applicable to such Neighborhood shall perform such maintenance  
931 responsibility in a manner consistent with the Community-Wide Standard. If it fails to do  
932 so, the Association may perform such responsibilities and assess the costs as a Specific  
933 Assessment against all Units within such Neighborhood as provided in Section 8.6 -  
934 "Specific Assessments".  
935

936                   **5.4 Standard of Performance.** Unless otherwise specifically provided  
937 herein or in other instruments creating and assigning such maintenance responsibility,  
938 maintenance shall include responsibility for repair and replacement, as necessary. All  
939 maintenance shall be performed in a manner consistent with the Community-Wide  
940 Standard and all applicable covenants. The Association, and/or an Owner and/or a  
941 Neighborhood Association shall not be liable for any damage or injury occurring on or  
942 arising out of the condition of, property which it does not own except to the extent that it  
943 has been negligent in the performance of its maintenance responsibilities.  
944

## Article VI - INSURANCE AND CASUALTY LOSSES

### 6.1 Association Insurance

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, in such amounts as the Board deems appropriate in the exercise of its business judgment:

(i) Blanket property insurance covering all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount approximately equal to one-fourth of the annual Base Assessments on all Units plus cash and investments on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) such additional insurance as the Board, in the exercise of its business judgment determines advisable.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Neighborhood in such amounts and with such coverage as may be agreed upon pursuant to Section 3.4(a) - "Neighborhoods and Neighborhood Representatives - Neighborhoods". Any such policies shall provide for a certificate of insurance to be furnished, upon request, to the Neighborhood Association or Neighborhood Committee, as applicable, and to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment, except that (i) premiums for property insurance obtained on behalf of a Neighborhood shall be charged to the Owners of Units within the benefited Neighborhood as a Neighborhood Assessment; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. The Association shall have no insurance responsibility for any portion of the Private Amenities.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Phoenix area.

All Association policies shall provide for a certificate of insurance to be furnished, upon request, to each Member insured and to the Association.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a) - "Association Insurance - Required Coverages". In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.22 - "Enforcement" of the By-Laws, that the loss is the result of the omission, negligence or willful misconduct of one or more Owners, their guests, invitees or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.6 - "Specific Assessments".

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Arizona whose primary business is providing insurance coverage and which satisfies such minimum financial size and strength requirements as the Board deems appropriate in the exercise of its business judgment;

(ii) be written in the name of the Association. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners of Units within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants, servants, agents and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(v) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(vi) a cross liability provision; and

(vii) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) **Damage and Destruction.** Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to, or destruction of, the Common Area shall be repaired or reconstructed unless both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association, decide within sixty (60) days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty-day (60-day) period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and, thereafter, shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.



1108  
 1109 Any insurance proceeds remaining after paying the costs of repair or  
 1110 reconstruction, or after such settlement as is necessary and appropriate, shall be  
 1111 retained by and for the benefit of the Association or the Neighborhood, as appropriate,  
 1112 and placed in a capital improvements account. This is a covenant for the benefit of  
 1113 Mortgagees and may be enforced by the Mortgagee of any affected Unit.  
 1114

1115 If insurance proceeds are insufficient to cover the costs of repair or  
 1116 reconstruction, the Board of Directors may, without a vote of the Neighborhood  
 1117 Representatives, levy Special Assessments to cover the shortfall against those Owners  
 1118 responsible for the premiums for the applicable insurance coverage under Section  
 1119 6.1(a) - "Association Insurance - Required Coverages".  
 1120

1121 **6.2 Owners' Insurance.** By virtue of taking title to a Unit, each Owner  
 1122 covenants and agrees with all other Owners and with the Association to carry property  
 1123 insurance for the full replacement cost of all insurable improvements on his or her Unit,  
 1124 less a reasonable deductible, unless either the Neighborhood Association (if any) for the  
 1125 Neighborhood in which the Unit is located or the Association carries such insurance  
 1126 (which they may, but are not obligated to do hereunder). If the Association assumes  
 1127 responsibility for obtaining any insurance coverage on behalf of Owners, the premiums  
 1128 for such insurance shall be levied as a Specific Assessment against the benefited Unit  
 1129 and the Owner thereof pursuant to Section 8.6 - "Specific Assessments".  
 1130

1131 Each Owner further covenants and agrees that, in the event of damage to  
 1132 or destruction of structures on or comprising his Unit, the Owner shall proceed promptly  
 1133 to repair or to reconstruct in a manner consistent with the original construction or such  
 1134 other plans and specifications as are approved in accordance with Article IX -  
 1135 "Architectural Standards". Alternatively, the Owner shall clear the Unit of all debris and  
 1136 ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with  
 1137 the Community-Wide Standard. The Owner shall pay any costs which are not covered  
 1138 by insurance proceeds.  
 1139

1140 The requirements of this Section shall apply to any Neighborhood  
 1141 Association responsible for common property within the Neighborhood in the same  
 1142 manner as if the Neighborhood Association was an Owner and the common property  
 1143 was a Unit. Additional recorded covenants applicable to any Neighborhood may  
 1144 establish more stringent requirements for insurance and more stringent standards for  
 1145 rebuilding or reconstructing structures on the Units within such Neighborhood and for  
 1146 clearing and maintaining the Units in the event the structures are not rebuilt or  
 1147 reconstructed.  
 1148

## 1149 **Article VII - ANNEXATION AND WITHDRAWAL OF PROPERTY**

1150  
 1151           7.1   **Annexation with Approval of Membership.** The Association may annex  
 1152 any real property to the provisions of this Declaration with the consent vote of both 1) a  
 1153 majority of the Neighborhood Representatives voting and 2) Neighborhood  
 1154 Representatives representing a majority of the total votes in the Association voting at a  
 1155 meeting duly called for such purpose.

1156  
 1157           7.2   Such annexation shall be accomplished by filing a Supplemental  
 1158 Declaration describing the property being annexed in the Public Records. Any  
 1159 such Supplemental Declaration shall be signed by the President and Secretary  
 1160 of the Association, and by the owner upon filing unless otherwise provided therein.

## 1162 **Article VIII - ASSESSMENTS**

1163  
 1164           8.1   **Creation of Assessments.** There are hereby created and the  
 1165 Association is hereby authorized to levy assessments against each Unit for Association  
 1166 expenses as the Board may specifically authorize from time to time. There shall be four  
 1167 types of assessments: (a) Base Assessments to fund Common Expenses for the  
 1168 general benefit of all Units; (b) Neighborhood Assessments for Neighborhood Expenses  
 1169 benefiting only Units within a particular Neighborhood or Neighborhoods; (c) Special  
 1170 Assessments as described in Section 8.5 - "Special Assessments"; and (d) Specific  
 1171 Assessments as described in Section 8.6 - "Specific Assessments". Each Owner, by  
 1172 accepting a deed or entering into a recorded contract of sale for any portion of the  
 1173 Properties, is deemed to covenant and agree to pay these assessments.

1174  
 1175           All assessments, together with interest (computed from the due date of  
 1176 such assessment at a rate of ten percent (10%) per annum or such other rate as the  
 1177 Board may establish, subject to the limitations of State of Arizona law), late charges in  
 1178 such amount as the Board may establish by resolution, costs, and all attorneys' fees,  
 1179 shall be a charge and continuing lien upon each Unit against which the assessment is  
 1180 levied until paid, as more particularly provided in Section 8.7 - "Lien for Assessments".  
 1181 Each such assessment, together with interest, late charges, costs and all attorneys'  
 1182 fees, shall be the personal obligation of the Person who was the Owner of such Unit at  
 1183 the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be  
 1184 jointly and severally liable with the grantor for any assessments and other charges due  
 1185 at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by  
 1186 exercising the remedies provided in its Mortgage shall be liable for unpaid assessments  
 1187 which accrued prior to such acquisition of title.

1188  
 1189           The Association shall, upon request, furnish to any Owner liable for any  
 1190 type of assessment, an estoppel certificate in writing signed by an Association officer  
 1191 setting forth whether such assessment has been paid. Such certificate shall be  
 1192 conclusive evidence of payment. The Association may require the advance payment of  
 1193 a reasonable processing fee for the issuance of such certificate.

1194  
 1195           Assessments shall be paid in such manner and on such dates as the  
 1196 Board may establish. The Board may require advance payment of assessments at  
 1197 closing of the transfer of title to a Unit and impose special requirements for Owners with  
 1198 a history of delinquent payment. If the Board so elects, assessments may be paid in two  
 1199 or more installments. Unless the Board otherwise provides, the Base Assessment and  
 1200 any Neighborhood Assessment shall be due and payable in advance on the first day of  
 1201 each fiscal year. If any Owner is delinquent in paying any assessments or other  
 1202 charges levied on his Unit, the Board may require any unpaid installments of all  
 1203 outstanding assessments to be paid in full immediately.

1204  
 1205           No Owner may exempt himself from liability for assessments by non-use  
 1206 of Common Area, abandonment of his Unit, or any other means. The obligation to pay  
 1207 assessments is a separate and independent covenant on the part of each Owner. No  
 1208 diminution or abatement of assessments or set-off shall be claimed or allowed for any  
 1209 alleged failure of the Association or Board to take some action or perform some function  
 1210 required of it, or for inconvenience or discomfort arising from the making of repairs or  
 1211 improvements, or from any other action it takes.

1212  
 1213           The Association is specifically authorized to enter into subsidy contracts or  
 1214 contracts for "in kind" contribution of services, materials, or a combination of services  
 1215 and materials with other entities for payment of Common Expenses.

1216  
 1217           **8.2 Computation of Base Assessments.** At least thirty (30) days before  
 1218 the beginning of each fiscal year, the Board shall prepare a budget covering the  
 1219 estimated Common Expenses for the coming year, including a capital contribution to  
 1220 establish a reserve fund in accordance with a budget separately prepared as provided in  
 1221 Section 8.4 - "Reserve Budget and Capital Contributions".

1222  
 1223           Base Assessments shall be levied equally against all Units and shall be  
 1224 set at a level which is reasonably expected to produce total revenue for the Association  
 1225 equal to the total budgeted Common Expenses, including reserves. In determining the  
 1226 total funds to be generated through the levy of Base Assessments, the Board, in its  
 1227 discretion, may consider other sources of funds available to the Association, including  
 1228 any surplus from prior years and any assessment income expected to be generated

from any additional Units reasonably anticipated to become subject to assessment during the fiscal year, as well as any income expected pursuant to covenants imposed on land that is not included in the Properties but that benefits from the Association's maintenance or other activities.

The Board shall provide the budget summary and notice of the amount of the Base Assessment for the following year to each Owner at least thirty (30) days prior to the proposed effective date of such budget. The budget and assessment shall become effective unless disapproved at a meeting by vote of both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association at a meeting duly called for such purpose. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Neighborhood Representatives as provided for special meetings in Section 2.4 - "Special Meetings" of the By-Laws, which petition must be presented to the Board within ten (10) days after delivery of the budget and notice of assessments.

The Board may revise the budget and any assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget most recently in effect shall continue in effect until a new budget becomes effective hereunder.

**8.3 Computation of Neighborhood Assessments.** At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain expenses as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, upon approval of Owners in accordance with Section 3.4(a) - "Neighborhoods and Neighborhood Representatives - Neighborhoods", any additional expenses, including any additional overhead expenses associated with such services, shall be added to such budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall

be allocated equally among all Units within the Neighborhood benefited thereby and levied as a Neighborhood Assessment; provided, if so specified in the Supplemental Declaration applicable to such Neighborhood or, if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Unit in the Neighborhood at least thirty (30) days prior to the proposed effective date of such budget. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of more than twenty five percent (25%) of the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

The Board may revise the budget and any assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget most recently in effect shall continue in effect until a new budget becomes effective hereunder.

**8.4 Reserve Budget and Capital Contributions.** The Board shall annually prepare reserve budgets for both general and Neighborhood purposes which take into account the number and nature of those assets within the Area of Common Responsibility which have an expected life of more than one year, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments or Neighborhood Assessments, as appropriate, over the budget period.

**8.5 Special Assessments.** In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted, extraordinary or other expenses which the Board determines to be more

appropriately handled outside of the annual operating budget. Any such Special Assessment may be levied against all Units, if such Special Assessment is for Common Expenses, or against the Units within a particular Neighborhood or Neighborhoods, if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Any Special Assessment adopted by the Board shall become effective thirty (30) days after notice of such Special Assessment is sent to the Owners unless disapproved at a meeting by a majority of the Owners of Units subject to the Special Assessment; provided, there shall be no obligation to call a meeting for the purpose of considering the Special Assessment except on petition of Owners of more than twenty-five percent (25%) of the Units subject to the Special Assessment, which petition must be submitted to the Board within ten (10) days after the date of such notice. In the event of any such petition, the Special Assessment shall not become effective unless and until the meeting is held and the requisite vote to disapprove is not obtained.

**8.6 Specific Assessments.** The Association shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Properties or within a Neighborhood as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.22 - "Enforcement" of the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules, provided the Board



gives prior written notice to the Owners of Units in, or the Neighborhood Representative representing, the Neighborhood and an opportunity for such Owners or Neighborhood Representative to be heard before levying any such assessment.

**8.7 Lien for Assessments.** All assessments authorized in this Article shall constitute a lien in favor of the Association against the Unit upon which they are levied until paid. The lien shall also secure payment of interest, late charges, and costs of collection (including all attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as Mortgages on real property are foreclosed under the laws of the State of Arizona, which shall include the right of non-judicial foreclosure if permitted under the laws of the State of Arizona.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.7 - "Lien for Assessments", including such acquirer, its successors and assigns.

**8.8 Date of Commencement of Assessments.** The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood

Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

**8.9 Failure to Assess.** Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

**8.10 Exempt Property.** The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) all Common Area pursuant to Section 5.1 - "Association's Responsibility".

(b) any property dedicated to and accepted by any governmental authority or public utility.

(c) any Unit owned by the Association.

**8.11 Effect of Nonpayment of Assessments; Remedies of Association.** Any assessment, or any installment of an assessment, not paid within fifteen (15) days after the assessment, or the installment of the assessment, first became due shall bear interest from the due date at the rate of interest set from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any assessment, or any installment of an assessment, within fifteen (15) days after such payment was due.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with all interest, lien fees, all attorneys' fees, costs and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving the Association's lien for assessments; or (b) bringing an action to foreclose the Association's lien for assessments against the Unit in the manner provided by law for the foreclosure of a realty mortgage.

In the event the Association employs any attorney or attorneys to collect any amounts due pursuant to the Declaration, Articles, By-Laws, Use Restrictions and Rules or Architectural Standards, the Owner or Owners whose actions have



1433 necessitated the collection proceeding shall reimburse the Association for all costs,  
1434 including all attorneys' fees, expended in such collection efforts, regardless of whether  
1435 or not a lawsuit is actually commenced. Payment of such amounts shall be secured by  
1436 the Association's lien as provided herein.

## Article IX - ARCHITECTURAL STANDARDS

9.1 Architectural Review Responsibility. The Architectural Review Committee (ARC) shall consist of at least three (3), but not more than five (5), persons and shall have jurisdiction over all construction and modifications on any portion of the Properties including but not limited to, modifications to any portion of a Unit visible from outside of the Unit, subject to authority being granted by the Board. The Board shall appoint the members of the ARC, who shall thereafter serve and may be removed at the Board's discretion. The members of the ARC must be Members of the Association. The ARC shall appoint one of its members as chairperson who shall serve until (1) resignation, (2) removal by a majority vote of the ARC or (3) a majority vote by the Board of Directors. The ARC shall be responsible for administration of the *Design Guidelines* and review of all applications for construction and modifications under this Article. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review. Such fees may include the reasonable costs incurred by the ARC in having any application reviewed by architects, engineers or other professionals.

9.2 General. All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by the ARC in its discretion. No structure shall be placed, erected or installed upon any Unit and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and referred to in this Article as "Work") shall take place except in compliance with this Article and the prior approval of the ARC, under Section 9.1 - "Architectural Review Responsibility", unless exempted from the application and approval requirements pursuant to Section 9.3 - "Guidelines and Procedures".

### 9.3 Guidelines and Procedures.

(a) *Design Guidelines*. The *Design Guidelines* contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. The *Design Guidelines* are intended to provide guidance to Owners and Builders regarding matters of particular concern to the ARC in considering applications hereunder.

The *Design Guidelines* are not the exclusive basis for decisions by the ARC and compliance with the *Design Guidelines* in itself does not guarantee approval of any application.

The ARC shall have full authority to recommend amendments to the *Design Guidelines* to the Board of Directors for their approval. The Board of Directors has final approval for the contents of the *Design Guidelines*. There shall be no limitation on the scope of amendments to the *Design Guidelines*; the ARC is expressly authorized to recommend to the Board amending the *Design Guidelines* to remove requirements previously imposed or otherwise to make the *Design Guidelines* less restrictive.

Any amendments to the *Design Guidelines* shall be prospective only and shall not apply to construction previously approved.

The ARC shall make copies of the *Design Guidelines* available to Owners and Builders who seek to engage in development or construction within the Properties and may charge a reasonable fee to cover its printing costs.

(b) The ARC reserves the right to change the name of this document from time to time as annotated here and in the *Design Guidelines*.

Prior to the date hereof - *Design Guidelines*

Subsequent to the date hereof - *Architectural Standards and Landscape Standards*

(c) **Procedures.** The ARC shall document its operational procedures, forms, penalties, and fine schedules in a document titled *Architectural Review Committee Operational Procedures*.

Prior to commencing any Work within the scope of Section 9.2 - "General", an application for approval of such Work shall be submitted to the ARC, in such form as is required. The ARC may require the submission of such additional information as it deems necessary to consider any application.

The application shall include plans and specifications ("Plans") showing the site layout and placement of all proposed structures and improvements, the structural design, exterior elevations and exterior materials and colors for all structures and improvements, landscaping, drainage, exterior lighting and other features of the proposed construction, as required by the *Design Guidelines* and as applicable. In reviewing each submission, the committees may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography and finish grade elevation, among other things. The reviewer may require the submission of such additional information as it deems necessary to consider any application.

The reviewer may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and

environment, location in relation to surrounding structures and plant life, compliance with the Design Guidelines and architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The review shall, within 30 days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the disapproval of such Plans, specifying the segments or features of the Plans which are objectionable. The reviewer may make suggestions for curing such objections. In the event the reviewer fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, the applicant may give the reviewer written notice of such failure to respond and stating that, unless the reviewer responds within 10 days of receipt of such notice, approval shall be deemed granted and, upon such further failure, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing pursuant to Section 9.5 - "Variance". Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

If construction does not commence on any Work for which approval has been granted within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans for reconsideration prior to commencing such Work. All Work shall be completed within one year of commencement or such other period as may be specified in the notice of approval, unless completion is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the reviewer.

**9.4 No Waiver of Future Approvals.** Each Owner acknowledges that the members of the ARC reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the *Design Guidelines*, may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any matter requiring approval, shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters whatever subsequently or additionally submitted for approval.

**9.5 Variance.** The ARC may, but shall not be required to, authorize variances from compliance with any of the provisions of the *Design Guidelines* when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however,

when unique circumstances exist and no Owner shall have any right to demand a variance, regardless of the circumstances. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ARC from denying a variance in other circumstances.

**9.6 Limitation of Liability.** The standards and procedures established by this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. The ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements nor for ensuring that all structures and improvements constructed within the properties are of comparable quality, value or size, or of similar design. Neither the Association, the Board, the ARC, nor any member of any of the foregoing shall be held liable for soil conditions, drainage problems or other general site work, nor for defects in any plans or specifications submitted, revised or approved hereunder, nor for any structural or other defects in work done according to approved plans, nor for any injury, damages, or loss arising out of the manner, design or quality of approved construction on or modifications to any unit

**9.7 Enforcement.** Any work performed in violation of this Article or in a manner inconsistent with the approved Plans shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, correct any nonconforming condition or remove any nonconforming structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board, the ARC or their designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass. Upon demand, the Owner shall reimburse all costs incurred by any of the foregoing in exercising its rights under this Section. The Association may assess any costs incurred in taking enforcement action under this Section, together with interest at the maximum rate then allowed by law, against the benefited Unit as a Specific Assessment.

Unless otherwise specified in writing by the ARC, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with Section 3.22 - "Enforcement" of the By-Laws, to enter upon the Unit

1606 and remove or complete any incomplete work and to assess all costs incurred against  
1607 the Unit and the Owner thereof as a Specific Assessment.  
1608

1609           The Association may preclude any contractor, subcontractor, agent,  
1610 employee, or other invitee of an Owner who fails to comply with the terms and  
1611 provisions of this Article and the *Design Guidelines* from continuing or performing any  
1612 further activities in the Properties, subject to the notice and hearing procedures  
1613 contained in the By-Laws. In such event, neither the Association, nor its officers,  
1614 directors nor agents shall be held liable to any Person for exercising the rights granted  
1615 by this paragraph.  
1616

1617           In addition to the foregoing, the Association shall have the authority and  
1618 standing to pursue all legal and equitable remedies available to enforce the provisions of  
1619 this Article and the decisions of the ARC and the Board of Directors.  
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## Article X - USE RESTRICTIONS AND RULES

10.1 Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties as a master planned community in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, technology, conditions, needs and desires within the master planned community and to regulate and control the Area of Common Responsibility. The Properties are subject to the *Design Guidelines*, the land development, architectural and design provisions described in Article IX - "Architectural Standards", the other provisions of this Declaration governing individual conduct and uses of and actions upon the Properties, and the Use Restrictions and Rules, all of which establish affirmative and negative covenants, easements and restrictions on the Properties.

All provisions of this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide or shall be deemed to provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws and the rules of the Association.

10.2 Authority to Promulgate Use Restrictions and Rules. The Use Restrictions and Rules applicable to all of the Properties are attached as Exhibit "C" to this Declaration. Subject to the terms of this Article, such Use Restrictions and Rules may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to its duty to exercise business judgment and reasonableness, on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules set forth in the Exhibit "C". The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless disapproved at a meeting by a vote of both 1) a majority of the Neighborhood Representatives and 2) Neighborhood Representatives representing a majority of the total votes in the Association. The Board shall have no obligation to call a meeting of the Neighborhood Representatives to consider disapproval except upon receipt of a petition of the Neighborhood Representatives as required for special

meetings in the By-Laws, which petition is received by the Board within thirty (30) days after written notice of such rule is mailed to the Members. Upon such petition of the Neighborhood Representatives prior to the effective date of any Board action under this Section, the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, the Neighborhood Representatives, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of both 1) a majority of the Neighborhood Representatives and 2) Neighborhood Representatives representing a majority of the total votes in the Association. .

(c) At least thirty (30) days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner specifying the effective date. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) Nothing in the Article shall authorize the Board or the Neighborhood Representatives to modify, repeal or expand the Design Guidelines, which may be modified only as provided in Article IX - Architectural Standards". All matters of architectural control and aesthetics shall be governed by the Design Guidelines.

**10.3 Owners' Acknowledgment and Notice to Purchasers.** All Owners and occupants of Units are given notice that use of their Unit(s) is limited by the Use Restrictions and Rules as they may be amended, expanded or otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her Unit can be affected by this provision and that the Use Restrictions and Rules may change from time to time. The Association has adopted changes to the original Use Restrictions and Rules. Copies of the current Use Restrictions and Rules may be obtained from the Association.

**10.4 Rights of Owners.** In recognition of the flexibility that this procedure for adopting and changing Use Restrictions and Rules provides to address changes in circumstances, conditions, needs and desires within the Properties over time, it is appropriate for the protection of each Owner to establish certain parameters within which the Board and the Members may make modifications and additions to the Use Restrictions. Therefore, except as may be specifically set forth in this Declaration (either initially or by amendment) or in Exhibit "C" - "Use Restrictions and Rules", neither the Board nor the Members may adopt any rule in violation of the following provisions:



1707 (a) Equal Treatment. Similarly situated Owners and occupants shall  
1708 be treated similarly; provided, the Use Restrictions and Rules may vary by  
1709 Neighborhood.

1710 (b) Political Signs. No rules shall regulate the content of political signs;  
1711 however, rules may regulate the time, place and manner of posting such signs  
1712 (including design criteria).

1713 (c) Religious and Holiday Displays. No rules shall restrict the rights of  
1714 Owners to display religious and holiday signs, symbols and decorations of the kinds  
1715 normally displayed on property located in single-family residential neighborhoods. The  
1716 Association may adopt time, place and manner restrictions for displays visible on the  
1717 outside of the Unit.

1718 (d) Household Composition. No rule shall interfere with the freedom  
1719 of occupants of Units to determine the composition of their households, except that the  
1720 Association shall have the power to require that all occupants be members of a single  
1721 housekeeping unit and to limit the total number of occupants permitted in each Unit on  
1722 the basis of the size and facilities of the Unit and its fair use of the Common Area.

1723  
1724 (e) Activities within Dwellings. No rule shall interfere with the activities  
1725 carried on within the confines of dwellings, except that the Association may prohibit  
1726 activities not normally associated with property restricted to residential use, and it may  
1727 restrict or prohibit any activities that create monetary costs for the Association or other  
1728 Owners, that create a danger to the health or safety of occupants of other Units, that  
1729 generate excessive noise or traffic, that create unsightly conditions visible outside the  
1730 dwelling, or that create an unreasonable source of annoyance.

1731  
1732 (f) Allocation of Burdens and Benefits. No rule shall alter the allocation  
1733 of financial burdens among the various Units or rights to use the Common Area to the  
1734 detriment of any Owner over that Owner's objection expressed in writing to the  
1735 Association. Nothing in this provision shall prevent the Association from changing the  
1736 Common Areas available, from adopting generally applicable rules for use of Common  
1737 Area, or from denying use privileges to those who abuse the Common Area, violate  
1738 rules or this Declaration, or fail to pay assessments. This provision does not affect the  
1739 right to increase the amount of assessments as provided in Article VIII - "Assessments".

1740  
1741 (g) Alienation. No rule shall prohibit leasing or transfer of any Unit, or  
1742 require consent of the Association or Board for leasing or transfer of any Unit; provided,  
1743 the Association or the Board may require a minimum lease term of up to twelve (12)  
1744 months. The Association may require that Owners use lease forms approved by the  
1745 Association, but shall not impose any fee on the lease or transfer of any Unit greater  
1746 than an amount reasonably based on the costs to the Association of administering that  
1747 lease or transfer.

1748  
1749 (h) Abridging Existing Rights. If any rule would otherwise require  
1750 Owners or occupants of Units to dispose of personal property which they maintained in  
1751 or on the Unit prior to the effective date of such rules, or to vacate a Unit in which they  
1752 resided prior to the effective date of such rule, and such property was maintained or  
1753 such occupancy was in compliance with this Declaration and all rules previously in  
1754 force, such rules shall not apply to any such Owners without their written consent unless  
1755 the rule was in effect at the time such Owners or occupants acquired their interest in the  
1756 Unit.

1757 The limitations in this Section 10.4 - "Rights of Owners" shall apply to new  
1758 rules only; they shall not invalidate any of the Use Restrictions and Rules set forth in  
1759 Exhibit "C" - "Use Restrictions and Rules" nor shall they apply to amendments to this  
1760 Declaration adopted in accordance with Section 12.2 ".  
1761  
1762

1763 **Article XI - EASEMENTS**

1764

1765           11.1 Easements of Encroachment. There shall be reciprocal  
1766 appurtenant easements of encroachment, and for maintenance and use of any  
1767 permitted encroachment, between each Unit and any adjacent Common Area and  
1768 between adjacent Units due to the unintentional placement or settling or shifting of the  
1769 improvements constructed, reconstructed or altered on the Unit or the Common Area (in  
1770 accordance with the terms of these restrictions) to a distance of not more than three  
1771 feet, as measured from any point on the common boundary along a line perpendicular to  
1772 such boundary. However, in no event shall an easement for encroachment exist if such  
1773 encroachment occurred due to willful and knowing conduct on the part of, or with the  
1774 knowledge and consent of, the Person claiming the benefit of such easement.

1775

1776           11.2 Easements for Utilities, Etc.

1777

1778           (a) There are hereby reserved to the Association, and its designees  
1779 (which may include, without limitation, any governmental or quasi-governmental entity  
1780 and any utility company) perpetual non-exclusive easements upon, across, over and  
1781 under all the Properties (but not through a structure) to the extent reasonably necessary  
1782 for the purpose of monitoring, replacing, repairing, maintaining and operating cable  
1783 television systems, master television antenna systems, and other devices for sending or  
1784 receiving data and/or other electronic signals; security and similar systems; roads,  
1785 walkways, pathways and trails; lakes, ponds, arroyos and drainage systems; effluent  
1786 distribution equipment, liens, and pumps; street lights and signage; and all utilities,  
1787 including, but not limited to, water, sewers, telephone, gas and electricity, and utility  
1788 meters; for the purpose of installing any of the foregoing on property which the  
1789 Association owns or within easements designated for such purposes on recorded plats  
1790 of the Properties; and for the purpose of altering drainage and water flow across the  
1791 Properties.

1792

1793           Declarant specifically granted to the local water supplier, electric company,  
1794 telephone company and natural gas supplier easements across the Properties for  
1795 ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines,  
1796 meters and boxes, as applicable.

1797

1798           (b) There is hereby reserved to the Association, so long as the  
1799 Association owns any property described on Exhibit "A" or "B" of this Declaration, the  
1800 non-exclusive right and power to grant such specific easements as may be necessary,  
1801 in the sole discretion of the Association, in connection with the orderly development of  
1802 any property described on Exhibits "A" or "B," and upon the Association's request, the

Owner of the underlying property shall execute such instruments as may reasonably be required to acknowledge and confirm such specific grant.

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

**11.3 Right of Entry.** The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security and safety reasons, to perform maintenance pursuant to Article V - "Maintenance" hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, the By-Laws, Design Guidelines and Use Restrictions and Rules. Such right may be exercised by any member of the Board, the Association's officers, agents, employees and managers, the members of the ARC pursuant to Article IX - "Architectural Standards", and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to perform maintenance or cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

**11.4 Easements for Storm Water Drainage and Retention.** Each portion of the Properties is hereby subjected to a non-exclusive easement appurtenant to and for the benefit of each other portion of the Properties for the purpose of storm water drainage and runoff, which easement shall include but shall not be limited to, the right to tie in to existing storm water drainage facilities and to divert storm water runoff from each Unit into such storm water drainage facilities at such points and in such manner as approved by the Association, and for the flow of storm water runoff over the Properties to such points and from such points through the storm water drainage facilities into arroyos, ponds or retention facilities within or outside the Properties. The foregoing easements shall be subject to any and all restrictions regarding quantity, rate and quality of discharge which the Association may hereafter impose or which may be imposed on the Properties, the Association or any Owner by any governmental entity having jurisdiction.

**11.5 Easements for Golf Course.**

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(a) Every Unit and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Units or common property of a Neighborhood and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relive golfers of liability for damage caused by errant golf balls. UNDER NO CIRCUMSTANCES SHALL ANY OF THE FOLLOWING PERSONS BE HELD LIABLE FOR ANY DAMAGE OR INJURY RESULTING FROM ERRANT GOLF BALLS OR THE EXERCISE OF THIS EASEMENT: THE ASSOCIATION OR ITS MEMBERS (IN THEIR CAPACITY AS SUCH); SUNRIDGE CANYON, L.L.C., ITS SUCCESSORS, SUCCESSORS-IN-TITLE TO THE GOLF COURSE, OR ASSIGNS; SUNCOR DEVELOPMENT COMPANY, ITS SUCCESSOR ASSIGNS; ANY BUILDER OR CONTRACTOR (IN THEIR CAPACITIES AS SUCH); ANY OFFICER, DIRECTOR OR PARTNER OF ANY OF THE FOREGOING, OR ANY OFFICER OR DIRECTOR OF ANY PARTNER; OR ANY MEMBER OR AFFILIATE OF ANY OF THE FOREGOING.

(b) The owner of any golf course within or adjacent to any portion of the Properties, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of its golf course.

(c) Any portion of the Properties immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course and for runoff from the golf course. Under no circumstances shall the Association or the owner of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(d) The owner of any golf course within or adjacent to any portion of the Properties, its successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from any bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

## Article XII - GENERAL PROVISIONS

### 12.1 Duration.

(a) Unless terminated as provided in Section 12.1(b) - "Duration", this Declaration shall have perpetual duration. If State of Arizona law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise required by State of Arizona law, in which case such law shall control, this Declaration may not be terminated within the first thirty (30) years after the date of recording of the Original Declaration except by an instrument signed by Owners of at least seventy-five percent (75%) of the total Units within the Properties. After the thirtieth (30<sup>th</sup>) anniversary of the date of recording, termination may be accomplished by an instrument signed by Owners of at least fifty-one percent (51%) of the total Units within the Properties. Any such instrument shall set forth the intent to terminate this Declaration and shall be recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

### 12.2 Amendment.

(a) By Members. Except as otherwise specifically provided elsewhere in this Declaration, the Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

### (b) Validity and Effective Date.

1923 If an Owner consents to any amendment to this Declaration or the By-  
 1924 Laws, it will be conclusively presumed that such Owner has the authority to consent,  
 1925 and no contrary provision in any Mortgage or contract between the Owner and a third  
 1926 party will affect the validity of such amendment.

1927  
 1928 Any amendment shall become effective upon recording in the Public  
 1929 Records, unless a later effective date is specified in the amendment. Any procedural  
 1930 challenge to an amendment must be made within three (3) months of its recordation or  
 1931 such amendment shall be presumed to have been validly adopted. In no event shall a  
 1932 change of conditions or circumstances operate to amend any provisions of this  
 1933 Declaration.

1934  
 1935 **12.3 Severability.** Invalidation of any provision of this Declaration, in  
 1936 whole or in part, or any application of a provision of this Declaration by judgment or  
 1937 court order shall in no way affect other provisions or applications.

1938  
 1939 **12.4 Cumulative Effect: Conflict.** The provisions of this Declaration  
 1940 shall be cumulative with any additional covenants, restrictions, and declarations  
 1941 applicable to any Neighborhood, and the Association may, but shall not be required to,  
 1942 enforce the covenants, conditions and provisions applicable to any Neighborhood;  
 1943 provided, however, in the event of a conflict between or among this Declaration and  
 1944 such covenants or restrictions, and/or the provisions of any articles of incorporation, By-  
 1945 Laws, rules and regulations, policies, or practices adopted or carried out pursuant  
 1946 thereto, this Declaration, the By-Laws, Articles and Use Restrictions and Rules of the  
 1947 Association shall prevail over those of any Neighborhood. The foregoing priorities shall  
 1948 apply, but not be limited to, the lien for assessments created in favor of the Association.  
 1949 Nothing in this Section shall preclude any Supplemental Declaration or other recorded  
 1950 declaration, covenants and restrictions applicable to any portion of the Properties from  
 1951 containing additional restrictions or provisions which are more restrictive than the  
 1952 provisions of this Declaration, and the Association shall have the standing and authority  
 1953 to enforce the same.

1954  
 1955 **12.5 Litigation.** Except as provided below, no judicial or administrative  
 1956 proceeding shall be commenced or prosecuted by the Association unless approved by a  
 1957 vote of seventy-five percent (75%) of the Neighborhood Representatives. A  
 1958 Neighborhood Representative representing Units owned by Persons other than himself  
 1959 shall not vote in favor of bringing or prosecuting any such proceeding unless authorized  
 1960 to do so by a vote of Owners holding seventy-five (75%) of the total votes attributable to  
 1961 Units in the Neighborhood represented by the Neighborhood Representative. This  
 1962 Section shall not apply, however, to (a) actions brought by the Association to enforce  
 1963 the provisions of this Declaration (including, without limitation, the foreclosure of liens);



1964 (b) the imposition and collection of assessments as provided in Article VIII -  
 1965 "Assessments"; (c) proceedings involving challenges to ad valorem taxation; or (d)  
 1966 counterclaims brought by the Association in proceedings instituted against it. This  
 1967 Section shall not be amended unless such amendment is approved by the percentage  
 1968 of votes, and pursuant to the same procedures, necessary to institute proceedings as  
 1969 provided above.

1970  
 1971  
 1972 **12.6 Compliance.** Every Owner and occupant of any Unit shall comply  
 1973 with this Declaration, any applicable Supplemental Declaration, the By-Laws, and the  
 1974 Use Restrictions and Rules promulgated pursuant to Article X - "Use Restrictions and  
 1975 Rules". Failure to comply shall be grounds for an action by the Association, or, in a  
 1976 proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or  
 1977 injunctive relief, or for any other remedy available at law or in equity, in addition to those  
 1978 enforcement powers granted to the Association, or in the By-Laws.

1979  
 1980 Each Owner shall indemnify and hold harmless the Association from any  
 1981 loss, damages and expenses, including all attorneys' fees, which it may incur as a result  
 1982 of the failure of such Owner, any occupant of such Owner's Unit, or any contractor,  
 1983 employee or agent of such Owner acting within the scope of his contract, agency or  
 1984 employment, to comply with this Declaration, any Supplemental Declaration or other  
 1985 covenants applicable to such Owner's Unit, the Design Guidelines, By-Laws and rules of  
 1986 the Association.

1987  
 1988 **12.7 Notice of Sale or Transfer of Title.** Any Owner desiring to sell or  
 1989 otherwise transfer title to his or her Unit shall give the Association at least seven (7)  
 1990 days' prior written notice of the name and address of the purchaser or transferee, the  
 1991 date of such transfer of title and such other information as the Association may  
 1992 reasonably require. The transferor shall continue to be jointly and severally responsible  
 1993 with the transferee for all obligations of the Owner of the Unit, including assessment  
 1994 obligations, until the date upon which such notice is received by the Association,  
 1995 notwithstanding the transfer of title.

1996  
 1997 **12.8 Notice.** Except as may otherwise be provided in this Declaration,  
 1998 all notices, demands, bills, statements or other communications hereunder shall be in  
 1999 writing and shall be deemed to have been duly given if delivered by personal delivery  
 2000 (which shall include overnight delivery service or courier service), first class mail,  
 2001 postage prepaid, telephone communication, either directly or to a person who would  
 2002 reasonably be expected to communicate such notice promptly, facsimile with  
 2003 confirmation of transmission, or e-mail.



2004  
2005 (a) if to a Member, at the address or email address as shown on the  
2006 records of the Association or, if no such address has been designated, at the address of  
2007 the Unit of such Member; or  
2008  
2009 (b) if to the Association, the Board of Directors, or the managing agent,  
2010 at the principal office of the Association or the managing agent or at such other address  
2011 as shall be designated by notice in writing to the Members pursuant to this Section.  
2012  
2013 All notices sent in compliance with the above shall be deemed received.  
2014  
2015 12.9 Captions. Titles or captions of Sections contained in this  
2016 Declaration are inserted only as a matter of convenience and for reference and in no  
2017 way define, limit, extend or describe the scope of this Declaration or the intent of any  
2018 provision hereof.  
2019  
2020 12.10 Applicable Law. This Declaration shall be construed and  
2021 interpreted under the laws of the State of Arizona.  
2022  
2023 12.11 Exhibits. Exhibits "A", "B" and "C" attached to this Declaration  
2024 are incorporated by this reference and amendment of such exhibits shall be governed  
2025 by the provisions of Section 12.2 - "Amendment". All other12.2 exhibits are attached  
2026 for informational purposes and may be amended as provided therein or in the provisions  
2027 of this Declaration which refer to such exhibits.  
2028

2029 IN WITNESS WHEREOF, the undersigned has executed this Declaration on the date  
2030 and year first written above.  
2031  
2032

2033 SUNRIDGE CANYON COMMUNITY ASSOCIATION

2034 By: Nancy Harris

2035 Its: President

2036 Attest: James J. Howarth

2037 Its: TREASURER

2038

2039

2040

2041

2042 STATE OF ARIZONA )  
 2043 ) ss.:  
 2044 COUNTY OF MARICOPA )  
 2045

2046 The foregoing instrument was acknowledged before me this 16<sup>th</sup> day  
 2047 of February, 2012, by James Horvath,  
 2048 Nancy Harris, and \_\_\_\_\_ of SunRidge  
 2049 Canyon Community Association.

2050 Witness my hand and official seal.

2051 Tammy L. Trammell

2052 Notary Public

2053 My Commission expires: 11-19-2015

2054

2055

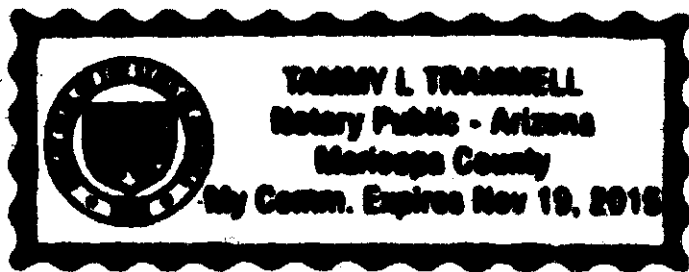
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2061     **EXHIBIT "A" - LAND INITIALLY SUBMITTED**

2062

## EXHIBIT "A"

Land Initially Submitted

PARCEL 1.

Legal Description  
 Sunridge Canyon  
 Fountain Hills, Arizona

Portions of Sections 7, 8, 9, 16 and 17 in Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona and more particularly described as follows:

BEGINNING at the most northerly corner of Fountain Hills Arizona Final Plat No. 603-A Amended as recorded in Book 196 Page 28 of the records of Maricopa County, Arizona, thence South 61° 00' 00" West along the northerly line of Palisades Boulevard a distance of 370.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 958.00 feet; thence along the arc of said curve through a central angle of 15° 35' 00" an arc length of 260.56 feet; thence South 76° 35' 00" West a distance of 195.00 feet to the beginning of a tangent curve concave southeasterly and having a radius of 1042.00 feet; thence along the arc of said curve through a central angle of 20° 09' 59" an arc length of 366.75 feet to the most westerly corner of said Final Plat No. 603-A Amended; thence departing last said plat boundary and continuing along the westerly line of Palisades Boulevard and the arc of last said curve through a central angle of 01° 04' 46" an arc length of 19.63 feet to a point of cusp, said point being at the beginning of a curve concave westerly and having a radius of 20.00 feet, a radial line passing through said point bears North 34° 39' 45" West; thence northerly along the arc of said curve through a central angle of 88° 55' 15" an arc length of 31.04 feet; thence North 33° 35' 00" West, a distance of 96.86 feet to the beginning of a tangent curve being concave southwesterly and having a radius of 400.00 feet; thence along the arc of said curve through a central angle of 29° 51' 00" an arc length of 208.39 feet; thence North 63° 26' 00" West, a distance of 87.34 feet to the beginning of a tangent curve concave northeasterly and having a radius of 250.00 feet; thence along the arc of said curve through a central angle of 32° 41' 00" an arc length of 142.61 feet; thence North 30° 45' 00" West, a distance of 44.44 feet to a point on the East-West quarter section line of said Section 17 from which the east quarter corner of said Section 17 bears South 89° 54' 22" East a distance of 1309.90 feet; thence North 89° 54' 22" West along said line a distance of 526.39 feet, thence North 60° 00' 00" West, a distance of 162.63 feet; thence North 54° 30' 00" West, a distance of 753.41 feet; thence North 03° 10' 34" West, a distance of 382.71 feet; thence North 62° 29' 08" West, a distance of 328.61 feet to the beginning of a tangent curve concave northeasterly and having a radius of 500.00 feet; thence along the arc of said curve through a central angle of 29° 12' 45" an arc length of 254.93 feet; thence North 33° 16' 23" West, a distance 458.83 feet to the beginning of

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a tangent curve concave southwesterly and having a radius of 500.00 feet; thence along the arc of said curve through a central angle of 59° 48' 50" an arc length of 521.97 feet; thence South 85° 54' 47" West, a distance of 154.35 feet; thence North 43° 05' 26" East a distance of 120.82 feet; thence North 28° 53' 48" East a distance of 205.00 feet; thence South 64° 25' 41" East a distance of 1155.81 feet; thence South 84° 33' 54" East a distance of 1004.50 feet; thence North 43° 24' 28" East a distance of 963.00 feet; thence North 34° 59' 16" East a distance of 976.50 feet; thence North 01° 22' 34" West a distance of 420.00 feet; thence North 89° 16' 42" West a distance of 160.00 feet; thence North 77° 52' 11" West a distance of 475.50 feet; thence North 32° 00' 02" West a distance of 990.50 feet; thence North 61° 42' 39" West a distance of 517.00 feet; thence South 60° 09' 09" West a distance of 351.50 feet; thence North 85° 56' 43" West a distance of 1413.50 feet; thence North 45° 20' 48" West a distance of 1434.00 feet; thence South 90° 00' 00" West a distance of 443.00 feet to the west line of said Section 8; thence North 33° 51' 28" West a distance of 1080.50 feet; thence North 47° 05' 38" East a distance of 965.00 feet; thence South 89° 51' 08" East a distance of 1170.00 feet; thence South 52° 42' 47" East a distance of 1380.05 feet to a point on the boundary of Fountain Hills, Arizona Final Plat No. 513 as recorded in Book 387, Page 30 of said County Records; thence South 23° 07' 08" West along said boundary a distance of 148.62 feet; thence South 35° 04' 57" East a distance of 301.68 feet; thence South 83° 05' 10" East a distance of 144.15 feet to the West line of Lot 6, Block 5 of Fountain Hills Arizona Final Plat No. 507-D as recorded in Book 165, Page 42 of said County Records; thence continuing South 83 degrees 05 minutes 10 seconds East a distance of 232.05 feet; thence South 70° 48' 30" East a distance of 41.55 feet to the South line of said Lot 6; thence continuing South 70 degrees 48 minutes 30 seconds East a distance of 145.13 feet to a point on the westerly line of Montezuma Boulevard and the boundary of Fountain Hills Arizona Final Plat 509 as recorded in Book 354 Page 2 of said county records, thence along the boundary of said Plat 509 North 84° 33' 17" East a distance of 171.18 feet; thence South 73° 50' 34" East a distance of 111.40 feet; thence North 66° 42' 08" East a distance of 455.11 feet; thence North 29° 27' 01" East a distance of 168.81 feet; thence North 54° 11' 48" East a distance of 150.43 feet; thence South 80° 41' 14" East a distance of 315.15 feet; thence North 79° 06' 05" East a distance of 163.96 feet; thence South 62° 22' 44" East a distance of 97.06 feet; thence South 79° 45' 21" East a distance of 337.38 feet; thence North 68° 11' 55" East a distance of 140.01 feet; thence South 83° 17' 25" East a distance of 85.59 feet; thence North 69° 35' 06" East a distance of 237.95 feet; thence North 47° 53' 11" East a distance of 168.51 feet; thence North 71° 33' 54" East a distance of 16.37 feet to the South line of Lot 66, Block 4, Fountain Hills Arizona Final Plat No. 507-A as recorded in Book 165, Page 41; thence continuing North

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71 degrees 35 minutes 54 seconds East a distance of 7.05 feet to the Easterly line of said Lot; thence departing said Plat No. 507-A, North 71 degrees 35 minutes 54 seconds East a distance of 115.72 feet; thence North 17° 24' 27" East a distance of 183.29 feet to the boundary of Fountain Hills Arizona Final Plat No. 508 Replat as recorded in Book 336 Page 2; thence South 54° 48' 11" East along the boundary of said Plat No. 508 Replat a distance of 499.48 feet; thence South 65° 44' 14" East a distance of 523.22 feet; thence North 08° 43' 47" East a distance of 538.14 feet to a point on the Southerly line of Parcel "C", of said Fountain Hills Arizona Final Plat No. 507-A; thence continuing North 08 degrees 43 minutes 47 seconds East along the boundary of said Plat 508 Replat a distance of 259.09 feet; thence North 20° 39' 31" East a distance of 286.92 feet; thence North 44° 45' 11" East a distance of 120.00 feet; thence South 45° 14' 49" East a distance of 250.00 feet to the Southeasterly line of said Parcel "C"; thence departing said Plat No. 507-A and continuing along the boundary of said Plat 508 Replat, North 38° 03' 26" East a distance of 246.47 feet; thence North 22° 40' 00" West a distance of 320.00 feet to the southerly line of Sierra Madre Drive and a point on the southerly boundary of Fountain Hills Arizona Final Plat No. 506-C as recorded in Book 159 Page 31; thence departing said Plat 508 Replat, South 71° 37' 00" East along the plat boundary of said Plat No. 506-C, a distance of 85.00 feet; thence departing said plat boundary and continuing along the south line of Sierra Madre Drive South 71° 37' 00" East a distance of 1207.50 feet to the beginning of a tangent curve concave northerly and having a radius of 535.00 feet; thence along the arc of said curve through a central angle of 59° 48' 00" an arc length of 558.38 feet; thence North 48° 35' 00" East a distance of 110.32 feet to a corner of Fountain Hills Arizona Final Plat No. 505-A as recorded in Book 158 Page 40; thence continuing North 48° 35' 00" East a distance of 82.92 feet to the beginning of a tangent curve concave southerly and having a radius of 20.00 feet; thence along the arc of said curve through a central angle of 86° 22' 47" an arc length of 30.15 feet to a point of reverse curvature, said curve concave northeasterly and having a radius of 851.00 feet, said point being also on the westerly line of Golden Eagle Boulevard, a radial line passing through said point bears South 44° 57' 47" West; thence southeasterly along the arc of said curve and said Boulevard through a central angle of 03° 22' 47" an arc length of 50.20 feet; thence South 48° 25' 00" East a distance of 455.25 feet to the beginning of a tangent curve concave southeasterly and having a radius of 749.00 feet; thence along the arc of said curve through a central angle of 56° 55' 00" an arc length of 744.04 feet; thence South 08° 30' 00" West a distance of 350.03 feet to the beginning of a tangent curve concave easterly and having a radius of 851.00 feet; thence along the arc of said curve through a central angle of 35° 03' 21" an arc length of 520.68 feet; thence South 26° 33' 21" East a distance of 716.31 feet to the beginning

of a tangent curve concave westerly and having a radius of 749.00 feet; thence along the arc of said curve through a central angle of 31° 10' 56" an arc length of 407.63 feet; thence South 04° 37' 35" West a distance of 283.63 feet to the beginning of a tangent curve concave northeasterly and having a radius of 651.00 feet; thence along the arc of said curve through a central angle of 35° 09' 16" an arc length of 399.43 feet; thence South 30° 31' 41" East a distance of 201.61 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet thence along the arc of said curve through a central angle of 90° 00' 00" an arc length of 31.42 feet to the northwesterly line of Palisades Boulevard; thence South 59° 28' 19" West a distance of 325.15 feet to the beginning of a tangent curve concave southeasterly and having a radius of 1055.00 feet; thence along the arc of said curve and said line of Palisades Boulevard through a central angle of 13° 32' 19" an arc length of 249.29 feet; thence South 45° 56' 00" West, a distance of 100.00 feet to a point being on the northerly boundary of Fountain Hills Arizona Final Plat No. 601-3 as recorded in Book 166, Page 31; thence continuing South 45° 56' 00" West, and along said boundary 1330.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 945.00 feet; thence along the arc of said curve through a central angle of 18° 24' 00" an arc length of 303.48 feet; thence South 64° 20' 00" West, a distance of 170.00 feet to a point being on the northerly boundary of Fountain Hills Arizona Final Plat No. 602-A, recorded in Book 161, Page 42 of official records of said county; thence continuing South 64° 20' 00" West, and along said boundary 1080.00 feet to the beginning of a tangent curve concave southeasterly and having a radius of 855.00 feet; thence along the arc of said curve through a central angle of 42° 35' 00" an arc length of 635.45 feet; thence South 21° 45' 00" West, a distance of 210.00 feet to the beginning of a tangent curve concave northwesterly and having a radius of 945.00 feet; thence along the arc of said curve through a central angle of 32° 24' 58" an arc length of 534.65 feet to a point on the northerly boundary of Fountain Hills Arizona Final Plat No. 602-D as recorded in Book 166, Page 34 of official records of said county; thence along the arc of said curve and along said plat boundary through a central angle of 22° 30' 02" an arc length of 371.11 feet; thence South 13° 20' 00" East, a distance of 13.00 feet; thence South 76° 40' 00" West, a distance of 250.00 feet to the beginning of a tangent curve concave southerly and having a radius of 1042.00 feet; thence along the arc of said curve through a central angle of 15° 40' 00" an arc length of 284.92 feet; thence South 61° 00' 00" West, a distance of 80.00 feet to the POINT OF BEGINNING. \*\*

Containing an area of 942.127 acres, more or less.

EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED ON EXHIBIT I, II, III ATTACHED HERETO

L.N. 676

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## EXHIBIT "I"

LEGAL DESCRIPTION  
SUN RIDGE CANYON  
GOLF COURSE

Those parts of Sections 8, 9, 16 and 17 Township 3 North, Range 6 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Southwest Corner of said Section 9:

Thence North 89°48'38" East, along the South line of said Section 9, a distance of 266.52 feet to designated Point "A" and the True Point of Beginning:

Thence North 02°29'12" East,	a distance of 100.54 feet;
Thence North 24°30'39" East,	a distance of 682.80 feet;
Thence North 32°03'19" East,	a distance of 574.05 feet;
Thence North 63°04'39" West,	a distance of 804.64 feet;
Thence North 52°14'20" West,	a distance of 303.03 feet;
Thence North 32°18'26" West,	a distance of 107.84 feet;
Thence North 09°25'25" West,	a distance of 100.71 feet;
Thence North 38°08'02" East,	a distance of 390.00 feet;
Thence South 75°00'29" East,	a distance of 852.85 feet;
Thence South 59°51'27" East,	a distance of 601.93 feet;
Thence North 81°05'15" East,	a distance of 182.09 feet;
Thence North 66°32'59" East,	a distance of 433.57 feet;
Thence North 37°04'48" East,	a distance of 323.94 feet;
Thence North 01°15'39" West,	a distance of 633.08 feet;
Thence North 47°45'22" West,	a distance of 75.81 feet;
Thence North 16°12'55" West,	a distance of 160.23 feet;
Thence North 16°45'02" East,	a distance of 177.74 feet;
Thence North 63°44'12" West,	a distance of 498.89 feet;

Thence North 49°51'36" West, a distance of 140.66 feet to a point on the Easterly line of that certain parcel of land as described in Docket 13268, Page 424, Maricopa County Records;

Thence North 14°19'16" East (Record: North 14°31'30" East), along said Easterly line, a distance of 31.29 feet to a point on the Northerly line of said parcel of land;

Thence North 75°40'44" West (Record: North 75°26'30" West) along said Northerly line, a distance of 225.00 feet to a point on the Westerly line of said parcel of land;

Thence South 14°19'16" West (Record: South 14°31'30" West), along said westerly line, a distance of 37.07 feet;

Thence North 31°15'35" West, departing said Westerly line, a distance of 87.53 feet;

Thence North 54°59'31" East, a distance of 754.07 feet;  
 Thence North 60°28'40" East, a distance of 165.76 feet;  
 Thence South 67°46'06" East, a distance of 568.23 feet;  
 Thence South 59°31'46" East, a distance of 866.15 feet;  
 Thence South 72°25'50" East, a distance of 522.20 feet;

Thence South 84° 01' 51" East, a distance of 365.38 feet (measured 364.42 feet) to a point on a 851.00 foot radius non-tangent curve whose center bears South 84°44'26" East (measured South 84°47'08" East) said point being on the Westerly right of way line of "Golden Eagle Boulevard"; thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses:

Thence Southeasterly along said curve through a central angle of 31°48'55" (measured 31°47'23") a distance of 472.54 feet (measured 472.16 feet);

Thence South 26°33'21" East, a distance of 716.31 feet (measured South 26°34'31" East, a distance of 716.07 feet) to the beginning of a tangent curve of 749.00 foot radius, concave Southwesterly;

Thence Southeasterly along said curve through a central angle of 31°10'56" (measured 31°11'14") a distance of 407.63 feet (measured 407.70 feet);

Thence South 04°37'35" West a distance of 102.60 feet (measured South 04°36'43" West, a distance of 102.86 feet);

Thence North 44°55'52" West, departing said Westerly right-of-way line, a distance of 137.50 feet (measured 137.75 feet);

Thence South 85°58'39" West, a distance of 756.35 feet;  
 Thence South 59°11'41" West, a distance of 279.16 feet;  
 Thence South 76°04'24" West, a distance of 61.22 feet;  
 Thence South 08°36'54" West, a distance of 104.59 feet;  
 Thence South 23°46'51" East, a distance of 41.09 feet;  
 Thence South 15°06'03" West, a distance of 550.62 feet;  
 Thence South 28°21'48" West, a distance of 1,405.19 feet;  
 Thence South 44°03'53" West, a distance of 222.15 feet;  
 Thence South 69°46'30" West, a distance of 155.82 feet;  
 Thence North 82°06'28" West, a distance of 251.13 feet;  
 Thence South 75°31'46" West, a distance of 299.72 feet;

Thence South 33°36'05" West, a distance of 1,040.01 feet;  
 Thence South 46°43'56" West, a distance of 657.70 feet;  
 Thence South 62°02'40" West, a distance of 411.43 feet;  
 Thence North 89°39'12" West, a distance of 263.40 feet;  
 Thence South 45°35'46" West, a distance of 271.41 feet; \*48°  
 Thence South 66°05'02" West, a distance of 81.63 feet;  
 Thence North 81°25'56" West, a distance of 131.94 feet;  
 Thence South 80°18'35" West, a distance of 460.72 feet;  
 Thence South 49°21'09" West, a distance of 582.57 (measured 582.63) feet;

Thence North 63°26'00" West, a distance of 52.73 feet (measured North 63°26'34" West, a distance of 52.48 feet) to the beginning of a tangent curve of 250.00 foot radius, concave Northeasterly;  
 Thence Northwesterly, along said curve, through a central angle of 32°41'00" (measured 32°39'15"), a distance of 142.61 (measured 142.48) feet;  
 Thence North 30°45'00" West, a distance of 44.44 feet (measured North 30°47'18" West, a distance of 44.61 feet);

Thence North 89°54'22" West, a distance of 179.31 feet (measured North 89°54'45" West, a distance of 179.06 feet);

Thence North 65°51'18" West, a distance of 607.80 feet (measured 608.21 feet);

Thence North 47°46'16" West, a distance of 756.08 feet;  
 Thence North 30°27'56" East, a distance of 162.51 feet;  
 Thence South 65°29'17" East, a distance of 620.12 feet;  
 Thence North 76°11'27" East, a distance of 630.00 feet;  
 Thence South 53°36'53" East, a distance of 15.62 feet;  
 Thence North 68°09'19" East, a distance of 85.84 feet;  
 Thence North 76°11'27" East, a distance of 600.00 feet;  
 Thence North 67°01'39" East, a distance of 179.62 feet;  
 Thence North 11°06'38" East, a distance of 585.35 feet;  
 Thence North 31°27'59" East, a distance of 309.79 feet;  
 Thence North 41°51'39" East, a distance of 246.19 feet;  
 Thence North 83°23'21" East, a distance of 196.48 feet;  
 Thence South 13°11'05" East, a distance of 172.39 feet;  
 Thence South 78°33'26" East, a distance of 84.43 feet;  
 Thence North 21°00'27" East, a distance of 165.00 feet;  
 Thence North 12°03'02" West, a distance of 286.42 feet;  
 Thence North 02°29'12" East, a distance of 320.99 feet to designated Point "A";

Thence North 89°48'38" East, along the South line of said Section 9, a distance of 327.55 feet;

Thence North 07°02'53" East, a distance of 75.31 feet;

12-13-17

Thence North 29°39'43" East, a distance of 690.19 feet;  
 Thence North 05°35'58" East, a distance of 641.24 feet;  
 Thence North 54°12'49" West, a distance of 844.90 feet;  
 Thence North 63°18'50" West, a distance of 314.97 feet;  
 Thence North 00°57'13" East, a distance of 67.10 feet;  
 Thence South 67°33'44" East, a distance of 402.05 feet;  
 Thence South 62°05'23" East, a distance of 935.39 feet;  
 Thence South 88°05'22" East, a distance of 202.56 feet;  
 Thence North 32°22'23" East, a distance of 101.05 feet;  
 Thence North 58°17'29" East, a distance of 81.86 feet;  
 Thence South 78°19'25" East, a distance of 189.60 feet;  
 Thence North 64°34'14" East, a distance of 72.79 feet;  
 Thence South 87°55'41" East, a distance of 175.96 feet;  
 Thence North 73°09'15" East, a distance of 105.41 feet;  
 Thence North 55°15'19" East, a distance of 81.02 feet;  
 Thence North 42°07'15" East, a distance of 76.44 feet;  
 Thence North 21°31'39" East, a distance of 100.20 feet;  
 Thence North 00°43'16" West, a distance of 79.73 feet;  
 Thence North 44°30'26" East, a distance of 287.25 feet;  
 Thence North 01°17'41" West, a distance of 91.24 feet;  
 Thence North 09°40'09" East, a distance of 572.36 feet;  
 Thence North 32°27'44" West, a distance of 463.42 feet;  
 Thence North 74°56'56" West, a distance of 122.66 feet;  
 Thence North 63°44'12" West, a distance of 542.46 feet;  
 Thence North 20°48'00" West, a distance of 205.57 feet;  
 Thence North 68°25'08" East, a distance of 797.71 feet;  
 Thence South 48°11'53" East, a distance of 1,044.15 feet;  
 Thence South 73°46'55" East, a distance of 667.84 feet;  
 Thence South 84°54'54" East, a distance of 134.29 feet;  
 Thence South 08°22'54" West, a distance of 170.21 feet;  
 Thence South 26°28'08" East, a distance of 578.85 feet;  
 Thence South 37°40'52" West, a distance of 310.14 feet;  
 Thence North 85°05'00" West, a distance of 186.57 feet;  
 Thence South 55°32'37" West, a distance of 473.58 feet;  
 Thence South 64°21'13" West, a distance of 268.09 feet;  
 Thence South 01°19'14" West, a distance of 93.14 feet;  
 Thence South 08°34'03" West, a distance of 221.61 feet;  
 Thence South 15°13'23" West, a distance of 121.86 feet;  
 Thence South 20°48'34" West, a distance of 88.59 feet;  
 Thence South 30°40'51" West, a distance of 58.80 feet;  
 Thence South 22°42'05" West, a distance of 916.55 feet;  
 Thence South 55°11'44" West, a distance of 141.94 feet;  
 Thence South 67°34'42" West, a distance of 147.91 feet;  
 Thence North 87°08'57" West, a distance of 257.91 feet;  
 Thence South 58°11'21" West, a distance of 761.71 feet;  
 Thence South 35°02'54" West, a distance of 565.87 feet;  
 Thence South 18°52'29" West, a distance of 271.01 feet;  
 Thence South 08°59'41" East, a distance of 111.61 feet;

Thence South 15°52'46" West, a distance of 146.11 feet;  
 Thence South 31°39'40" West, a distance of 132.29 feet;  
 Thence South 46°05'54" West, a distance of 229.91 feet;  
 Thence South 48°05'01" West, a distance of 291.17 feet;  
 Thence South 73°32'08" West, a distance of 118.47 feet;  
 Thence North 29°39'10" West, a distance of 228.00 feet;  
 Thence North 89°08'31" West, a distance of 328.23 feet;  
 Thence South 58°17'31" West, a distance of 60.15 feet;  
 Thence North 24°37'06" West, a distance of 38.28 feet;  
 Thence North 89°06'11" West, a distance of 141.60 feet;  
 Thence North 10°28'26" East, a distance of 204.47 feet;  
 Thence North 05°08'37" West, a distance of 78.19 feet;  
 Thence North 69°26'29" East, a distance of 31.96 feet;  
 Thence North 07°44'20" East, a distance of 131.03 feet;  
 Thence North 24°22'18" East, a distance of 146.37 feet;  
 Thence North 39°29'22" East, a distance of 242.01 feet;  
 Thence North 50°16'46" East, a distance of 41.40 feet;  
 Thence South 85°57'38" East, a distance of 325.29 feet;  
 Thence North 07°02'53" East, a distance of 806.70 feet;  
 Thence South 89°48'38" West, a distance of 327.55 feet to the True  
 Point of Beginning. \*\*

Containing 184.585 (measured 184.567) Acres more or less.

L.N. #748 Amended  
 GWN/dam  
 January 20, 1995  
 Amended-March 1, 1995

## EXHIBIT "II"

That certain parcel of land in the County of Maricopa, State of Arizona, being a portion of Section 9, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, being more particularly described as follows: (using as a base the North line of the Northeast quarter of said Section 9, with an assumed bearing of North 89 degrees 54 minutes 40 seconds East):

COMMENCING at the North quarter corner of said Section 9; thence South 00 degrees 16 minutes 44 seconds East a distance of 2241.67 feet; thence North 70 degrees 40 minutes 00 seconds West, a distance of 325.0 feet; thence South 19 degrees 20 minutes 00 seconds West, a distance of 230.0 feet; thence North 64 degrees 45 minutes 20 seconds West a distance of 830.54 feet to the True Point of Beginning said point also being the most Southeasterly corner of the following described parcel; thence North 75 degrees 28 minutes 30 seconds West a distance of 225.0 feet; thence North 14 degrees 31 minutes 30 seconds East, a distance of 190.0 feet; thence South 75 degrees 28 minutes 30 seconds East a distance of 225.0 feet; thence South 14 degrees 31 minutes 30 seconds West, a distance of 190.0 feet to the True Point of Beginning.

## EXHIBIT "III"

That part of the North Half of Section 9, Township 3 North, Range 6 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Southeast Corner of said Section 9;

Thence South  $89^{\circ}48'38''$  West, along the South line of the Southeast Quarter of said Section 9, a distance of 1,492.03 feet to a point on the Northerly right-of-way line of "Palisades Boulevard", as shown on "Fountain Hills Arizona Final Plat No. 601-B", as recorded in Book 166 of Maps, Page 31 and "Fountain Hills Arizona Final Plat No. 601-D", as recorded in Book 339 of Maps, Page 29, Maricopa County Records;

Thence along the Northerly right-of-way line of "Palisades Boulevard" the following courses;

Thence North  $45^{\circ}55'23''$  East, a distance of 782.01 feet to the beginning of a tangent curve of 1,055.00 foot radius, concave Southeasterly;

Thence Northeasterly, along said curve, through a central angle of  $13^{\circ}32'22''$ , a distance of 249.31 feet;

Thence North  $59^{\circ}27'45''$  East, a distance of 325.07 feet to the beginning of a tangent curve of 20.00 foot radius, concave Westerly;

Thence Northeasterly, along said curve, through a central angle of  $89^{\circ}57'18''$ , a distance of 31.40 feet to a point on the Westerly right-of-way line of "Golden Eagle Boulevard";

Thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses;

Thence North  $30^{\circ}29'33''$  West, a distance of 201.97 feet to the beginning of a tangent curve of 651.00 foot radius, concave Northeasterly;

Thence Northwesterly, along said curve, through a central angle of  $35^{\circ}06'16''$ , a distance of 398.86 feet;

Thence North  $04^{\circ}36'45''$  East, a distance of 283.80 feet to the beginning of a tangent curve of 749.00 foot radius, concave Southwesterly;

Thence Northwesterly, along said curve, through a central angle of  $31^{\circ}11'14''$ , a distance of 407.70 feet;

Thence North  $26^{\circ}34'31''$  West, a distance of 716.07 feet to the beginning of a tangent curve of 851.00 foot radius, concave Northeasterly;

Thence Northwesterly, along said curve, through a central angle of  $31^{\circ}47'23''$ , a distance of 472.16 feet to the True Point of Beginning;

Thence North  $84^{\circ}01'51''$  West, departing said Westerly right-of-way line, a distance of 364.42 feet;

Thence North  $72^{\circ}25'50''$  West, a distance of 522.20 feet;  
 Thence North  $59^{\circ}31'46''$  West, a distance of 866.15 feet;  
 Thence North  $67^{\circ}46'06''$  West, a distance of 568.23 feet;  
 Thence South  $60^{\circ}28'40''$  West, a distance of 165.76 feet;  
 Thence South  $54^{\circ}59'31''$  West, a distance of 48.95 feet;

Thence North  $29^{\circ}28'22''$  West, a distance of 398.37 feet to a point on the Easterly Boundary of "Fountain Hills Arizona Final Plat No. 508", as recorded in Book 328 of Maps, Page 28, Maricopa County Records;

Thence along the Easterly Boundary of "Fountain Hills Arizona Final Plat No. 508" the following courses;

Thence North  $38^{\circ}03'11''$  East, a distance of 245.65 feet;

Thence North  $22^{\circ}40'38''$  West, a distance of 320.70 feet to a point on the Southerly right-of-way line of "Sierra Madre Drive", as shown on the "Fountain Hills Arizona Final Plat No. 506-C", as recorded in Book 159 of Maps, Page 31, Maricopa County Records;

Thence along said Southerly right-of-way line of "Sierra Madre Drive" the following courses;

Thence South  $71^{\circ}37'02''$  East, a distance of 1,293.01 feet to the beginning of a tangent curve of 535.00 foot radius, concave Northwesterly;

Thence Northeasterly along said curve, through a central angle of  $53^{\circ}35'00''$ , a distance of 500.33 feet;

Thence South  $36^{\circ}31'25''$  East, departing said Southerly right-of-way line, a distance of 750.00 feet;

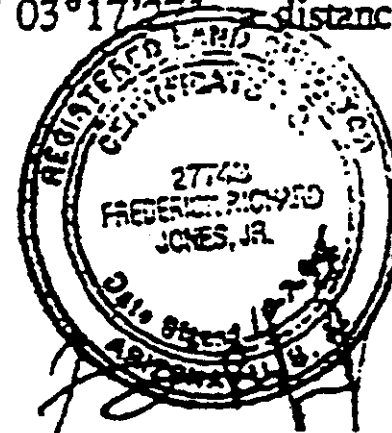
Thence South  $47^{\circ}56'35''$  East, a distance of 508.60 feet to a point on the Westerly right-of-way line of "Golden Eagle Boulevard";

Thence along the Westerly right-of-way line of "Golden Eagle Boulevard" the following courses;

Thence South  $08^{\circ}30'19''$  West, a distance of 249.72 feet to the beginning of a tangent curve of 851.00 foot radius, concave Northeasterly;

Thence Southwesterly, along said curve, through a central angle of  $03^{\circ}17'22''$ , a distance of 48.88 feet to the True Point of Beginning.

Containing 39.915 Acres more or less.





2063 **EXHIBIT “B” - LAND SUBJECT TO ANNEXATION**  
2064

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## EXHIBIT "B"

Land Subject to Annexation

A portion of Section 17, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona more particularly described as follows:

Commencing at the West Quarter Corner of said Section 17, thence North 00 degrees 08 minutes 33 seconds West along the westerly line of said Section a distance of 550.00 feet to the POINT OF BEGINNING; thence North 32 degrees 58 minutes 07 seconds East a distance of 1341.31 feet; thence North 71 degrees 54 minutes 40 seconds East a distance of 418.69 feet; thence North 86 degrees 54 minutes 47 seconds East a distance of 362.36 feet to the beginning of a tangent curve concave southwesterly and having a radius of 500.00 feet; thence easterly along the arc of said curve through a central angle of 59 degrees 48 minutes 50 seconds an arc length of 521.98 feet; thence South 33 degrees 16 minutes 23 seconds East a distance of 458.83 feet to the beginning of a tangent curve concave northeasterly and having a radius of 500.00 feet; thence southeasterly along the arc of said curve through a central angle of 29 degrees 12 minutes 45 seconds an arc length of 254.93 feet; thence South 62 degrees 29 minutes 08 seconds East a distance of 328.61 feet; thence South 03 degrees 10 minutes 34 seconds East a distance of 382.71 feet; thence South 54 degrees 30 minutes 00 seconds East a distance of 753.41 feet; thence South 60 degrees 00 minutes 00 seconds East a distance of 162.63 feet; thence South 89 degrees 54 minutes 22 seconds East a distance of 526.39 feet; thence South 30 degrees 45 minutes 00 seconds East a distance of 44.44 feet to the beginning of a tangent curve concave northeasterly and having a radius of 250.00 feet; thence southeasterly along the arc of said curve through a central angle of 32 degree 41 minutes 00 seconds an arc length of 142.61 feet; thence South 63 degrees 26 minutes 00 seconds East a distance of 87.34 feet to the beginning of a tangent curve concave southwesterly and having a radius of 400.00 feet; thence southeasterly along the arc of said curve through a central angle of 29 degrees 51 minutes 00 seconds an arc length of 208.39 feet; thence South 33 degrees 35 minutes 00 seconds East a distance of 96.86 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet; thence southerly along the arc of said curve through a central angle of 88 degrees 55 minutes 15 seconds an arc length of 31.04 feet to a point of reverse curve on the proposed westerly right of way line of Palisades Boulevard, said curve being concave southeasterly and having a radius of 1042.00 feet, a radial line passing through said point bears North 34 degrees 39 minutes 45 seconds West; thence southwesterly along

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11-14-94

(Revised 4-17-95)

the arc of said curve and said proposed right of way through a central angle of 56 degrees 50 minutes 15 seconds an arc length of 1033.67 feet; thence South 01 degree 30 minutes 00 seconds East a distance of 110.00 feet; thence departing the proposed westerly right of way of Palisades Boulevard, North 52 degrees 10 minutes 38 seconds West a distance of 528.12 feet; thence North 58 degrees 19 minutes 58 seconds West a distance of 628.59 feet; thence North 38 degrees 57 minutes 38 seconds West a distance of 591.69 feet; thence North 59 degrees 20 minutes 26 seconds West a distance of 450.00 feet; thence North 40 degrees 46 minutes 01 seconds West a distance of 278.53 feet; thence North 72 degrees 26 minutes 23 seconds West a distance of 528.61 feet; thence North 80 degrees 32 minutes 55 seconds West a distance of 1550.97 feet to the POINT OF BEGINNING.

Containing an area of 108.978 acres more or less.

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(Revised 4-17-95)

Page 2 of 2

(h) **Leasing of Units.** "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity or emolument. Units must be leased in their entirety. No single rooms or other fraction or portion of a Unit may be leased, nor shall any Unit or portion thereof be used for operation of a boarding house, "Bed and Breakfast" establishment, or similar accommodation.

There shall be no subleasing or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Unit. All leases shall be in writing. Leases of an entire Unit shall be for a term of no less than one year, except with the prior written consent of the Board. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of the execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws and the Use Rules & Regulations.

The leasing of a Unit shall not be considered a business or trade within the meaning of this document.

(i) **Noise Regulations.** Section 11-1-7 of the Town of Fountain Hills' Town Code (as amended from time to time) is adopted as the SunRidge Canyon noise regulations.

(j) **Operation of a timeshare, fraction-sharing, or similar program** whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years.

(k) **Discharge of firearms,** provided the Board shall have no obligation to take action to prevent or stop such discharge.

(l) **Garage Sales.** Section 8-3-3 of the Town of Fountain Hills' Town Code (as amended from time to time) is adopted as the SunRidge Canyon garage sale regulations. In addition any town sign and noise regulations apply.

(m) **Keeping or feeding of Wild Animals.** Feeding wild animals is prohibited by Arizona Statute 13-2927. Although the feeding of birds is permitted, restraint is requested as feeding activities can attract additional wildlife and cause dangerous or unhealthy conditions.

## EXHIBIT "C" - Use Restrictions and Rules

### Section 1 - Initial Use Restrictions and Rules, Additions & Amendments

**1.1 Initial Use Restrictions and Rules.** The initial Use Restrictions & Rules of the Association were written in the CC&Rs Article X and Exhibit "C" - "Use Restrictions and Rules", dated 1995. When the CC&Rs were revised in 2011, Exhibit "C" - "Use Restrictions & Rules" was likewise revised. The Use Restrictions & Rules which regulate activities are separate from the *Design Guidelines (Architectural Standards and Landscape Standards)* which regulate architectural design and aesthetics.

**1.2 Additions and Amendments to Use Restrictions and Rules.** In making new use restrictions & rules or adopting amendments to existing restrictions and rules, the Association follows the procedure in the CC&Rs Article X - "Use Restrictions and Rules", Sections 10.1- "Plan of Development; Applicability; Effect" and 10.2 - "Authority to Promulgate Use Restrictions and Rules".

### Section II - Properties Use

**2.1 General.** The Properties shall be used only for residential, recreational and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Association). The properties may also be used for in-home business uses if they are undetectable from outside the home and result in no door-to-door solicitation, added vehicular or foot traffic, noise, noxious odors or other condition that may interfere with neighborhood quiet and residents' enjoyment of their property.

**2.2 Restricted Activities.** The following activities are restricted within the Properties unless expressly authorized by, and then subject to, such conditions as may be imposed by the Board of Directors:

(a) **Parking of Private Vehicles** on public or private streets or thoroughfares between the hours of 2:00 a.m. and 4:00 a.m., except that overnight guests, with prior approval from the Community Manager, may park their cars on streets for a period not to exceed seven (7) consecutive nights.

(b) **Parking of Commercial Vehicles or equipment, recreational vehicles (RVs), mobile homes, boats, trailers, or stored or inoperable vehicles** in places other than enclosed garages, except that

- commercial vehicles may park on streets or in driveways during daylight hours while making deliveries or providing services to a Unit;
- overnight guests may park RVs in driveways for up to seven (7) consecutive days with prior permission of the Community Manager;

- private boats and trailers may, on an occasional basis, be parked in driveways or on streets during daylight hours to facilitate loading or unloading;
- private boats and trailers may, on an occasional basis with prior permission from the Community Manager, be parked in driveways overnight to facilitate use; and
- public service and public safety emergency vehicles, as defined in ARS 33-1809, may be parked in driveways and streets in accordance with current Arizona law.

A vehicle is considered commercial if it is marked with advertising information and/or visibly carries tools or equipment related to any business, such as ladders, pipe, cable, rakes, and shovels.

The Community Manager may grant temporary exceptions to the parking restrictions of this Article.

(c) Raising, breeding or keeping of animals except that a reasonable number of dogs, cats or other usual and common household pets may be permitted in a Unit. Any pet that the Board, in its sole discretion, determines to be a nuisance shall be removed from the Unit upon request of the Board. If the pet owner fails to honor such request, the Board may have the pet removed by any legal means.

(d) Any activity or condition that interferes with the reasonable enjoyment of any part of the Properties or that detracts from the overall appearance of the Properties.

(e) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and filed in the Public Records, must obtain the approval of the Architectural Review Committee and Board of Directors.

(f) Occupancy of a Unit by more than two persons per bedroom in the Unit. For purposes of this provision, "occupancy" shall be defined as staying overnight in the Unit more than thirty (30) days in any six-month (6 month) period.

(g) Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; the business activity does not involve regular visitation of the Unit or door-to-door solicitation of residents of the Properties; and the business activity is consistent with the residential character of the Properties and does not violate these Use Restrictions and Rules or any other rules of the Board. The Board may restrict any business activities that it determines interfere with the enjoyment or residential purpose of the Properties in its sole and absolute discretion.

SUNRDGCYN01AMEND1-4-1-1--  
Palumbo

**WHEN RECORDED RETURN TO:**

Carpenter, Hazlewood, Delgado & Bolen, PLC  
1400 East Southern Avenue, Suite 400  
Tempe, Arizona 85282

**FIRST AMENDMENT TO  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SUNRIDGE CANYON**

This First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sunridge Canyon ("the Amendment") is made as of this 10 day of April, 2014, by Sunridge Canyon Community Association, Inc., an Arizona nonprofit corporation (the "Association").

**RECITALS**

A. The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sunridge Canyon was recorded on February 27, 2012 at instrument no. 2012-0155205 in the official records of the Maricopa County Recorder (the "Declaration").

B. Section 12.2 of the Declaration provides that the Declaration may be amended at any time by the affirmative vote or written consent, or any combination thereof, of both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association.

C. This amendment was adopted and approved by the affirmative vote or written consent, or any combination thereof, of both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association.

D. This amendment shall become effective no sooner than 1/1/2015.

**AMENDMENT**

**NOW, THEREFORE,** the Declaration is amended as follows:

1. The second paragraph of Section 5.1(a) is deleted in its entirety and replaced with the following:

The Association may assume maintenance responsibility for property within any Neighborhood that lies between streets owned by or dedicated to the Town of Fountain Hills and the exterior walls or gates for the Neighborhood, not including any gate houses and medians containing any such gate house, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. Any decision by the Association to assume maintenance responsibility for property within a Neighborhood must be approved by a majority of all disinterested directors. For the purposes of this provision, "disinterested directors" shall mean those directors not affiliated with the Neighborhood in which the Association will assume maintenance responsibility. Any agreement with a Neighborhood or unilateral assumption of maintenance responsibility for property in a Neighborhood by the Association must be memorialized by a written agreement and/or Board resolution which, at a minimum, describes the property and outlines all maintenance responsibilities assumed by the Association. All costs of maintenance pursuant to this paragraph may be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided or may be paid for by the Association as a Common Expense, as determined by the Board within its sole and absolute discretion. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Except as expressly amended by this First Amendment, the Declaration shall remain in full force and effect. In the event of any conflict or inconsistency between this First Amendment and the Declaration, this First Amendment shall prevail. Unless otherwise defined herein, each capitalized term used in this First Amendment shall have the meaning given to such term in the Declaration.

*[signature pages follow]*



IN WITNESS WHEREOF, Sunridge Canyon Community Association, Inc., an Arizona nonprofit corporation, has executed this First Amendment as of the day and year first above written.

SUNRIDGE CANYON COMMUNITY ASSOCIATION, INC.,  
an Arizona nonprofit corporation

By: Nancy Harris  
Its: Board President

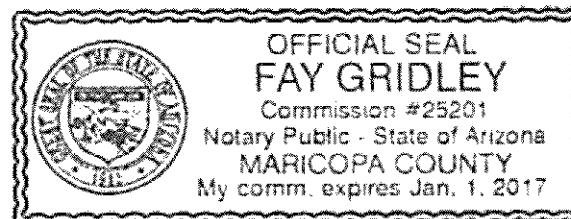
State of Arizona                     )  
  ) ss.  
County of Maricopa                )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this  
9<sup>th</sup> day of May, 2014, by Nancy Harris, the  
\_\_\_\_ of Sunridge Canyon Community Association, Inc., an  
Arizona nonprofit corporation, for and on behalf of the corporation.

My Commission Expires:

Jan. 1 2017

Fay Gridley  
Notary Public



## SECRETARY'S ATTESTATION

I, Bruce Boyce, being the duly elected Secretary of Sunridge Canyon Community Association, Inc., hereby attest that the foregoing Amendment was approved by the affirmative vote or written consent, or any combination thereof, of both 1) more than sixty-seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives representing more than sixty-seven percent (67%) of the total votes in the Association.

By: \_\_\_\_\_

[Signature]  
Secretary, Sunridge Canyon Community Association, Inc.

State of Arizona                    )  
  ) ss.  
County of Maricopa                )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 9 day of May, 2014, by Bruce Boyce, the Secretary of Sunridge Canyon Community Association, Inc., an Arizona nonprofit corporation, for and on behalf of the corporation.

[Signature: Fay Gridley]  
Notary Public

My Commission Expires:

Jan. 1 2017

