

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SUNRIDGE CANYON

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<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Initially Submitted
"B"	Land Subject to Annexation
"C"	Use Restrictions and Rules

150

151

152 AMENDED AND RESTATED

153
154 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

155
156 FOR

157
158 SUNRIDGE CANYON

159
160 WHEREAS, SunRidge Canyon, L.L.C. (the "Declarant") was the owner of
161 certain property located in Maricopa County, Arizona and more particularly described in
162 Exhibit "A;"

163
164 WHEREAS, on September 1, 1995, a Declaration of Covenants,
165 Conditions and Restrictions for SunRidge Canyon was recorded at instrument number
166 1995-0532019 in the official records of the Maricopa County Recorder (the "Original
167 Declaration") burdening the property described in Exhibit "A;"

168
169 WHEREAS, the Original Declaration was amended by the First
170 Amendment to Declaration of Covenants, Conditions and Restrictions for SunRidge
171 Canyon recorded on November 5, 1998 at instrument number 1998-1001167 in the
172 official records of the Maricopa County Recorder (the "First Amendment");

173
174 WHEREAS, the SunRidge Canyon Community Association, Inc. (the
175 "Association") desires to amend and restate the Original Declaration and First
176 Amendment.

177
178 THEREFORE, this Amended and Restated Declaration of Covenants,
179 Conditions and Restrictions for SunRidge Canyon is intended to amend, restate,
180 supersede and replace in its entirety, the Original Declaration and First Amendment.

181
182 IN WITNESS WHEREOF, the Association has executed this Amended
183 and Restated Declaration of Covenants, Conditions and Restrictions for SunRidge
184 Canyon as of the 16th day of February, 2012.

190 **Article I - Definitions**

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195

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.

196 1.0 "Alternate Neighborhood Representative": See Section 1.24 -
197 "Neighborhood Representative".
198

199 1.1 "Area of Common Responsibility": The Common Area, together
200 with such other areas for which the Association is assigned or assumes responsibility
201 pursuant to the terms of this Declaration, any Supplemental Declaration or other
202 applicable covenants, contracts or agreements.
203

204 1.2 "Articles of Incorporation" or "Articles": The Articles of Incorporation
205 of SunRidge Canyon Community Association, Inc., as filed with the State of Arizona
206 Corporation Commission.
207

208 1.3 "Association": SunRidge Canyon Community Association, Inc., an
209 Arizona nonprofit corporation, its successors or assigns.
210

211 1.4 "Base Assessments": Assessments levied on all Units subject to
212 assessment under Section 8.8 - "Date of Commencement of Assessments" to fund
213 Common Expenses for the general benefit of all Units, as more particularly described in
214 Section 8.1 - "Creation of Assessments" and Section 8.2 - "Computation of Base
215 Assessments".
216

217 1.5 "Board of Directors" or "Board": The body responsible for
218 administration of the Association, selected as provided in the By-Laws and generally
219 serving the same role as the board of directors under State of Arizona corporation law.
220

221 1.6 "Builder": Any Person which purchases one (1) or more Units for
222 the purpose of constructing improvements for later sale to consumers or purchases one
223 (1) or more parcels of land within the Properties for development and/or resale in the
224 ordinary course of such Person's business.
225

226 1.7 "By-Laws": The By-Laws of SunRidge Canyon Community
227 Association, Inc., as they may be amended. The By-Laws are published as a separate
228 document and may be amended independently of these CC&Rs.

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1.8 "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 in Section 1.14 - "Limited Common Area".

1.9 "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 - "Association's Responsibility".

1.10 "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 Board of Directors and the Architectural Review Committee.

1.11 "Covenant to Share Costs": That certain Declaration recorded in the Public Records on March 30, 1995, at Instrument No. 1995-0172717, and any other declarations of easements and covenants to share costs executed by the original 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.

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

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

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,

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

311

312 1.22 "Neighborhood Association": Any owners' association having
313 concurrent jurisdiction with the Association over any Neighborhood.

314

315 1.23 "Neighborhood Expenses": The actual and estimated expenses
316 incurred or anticipated to be incurred by the Association for the benefit of Owners of
317 Units within a particular Neighborhood or Neighborhoods, which may include a
318 reasonable reserve for capital repairs and replacements, as the Board may specifically
319 authorize from time to time and as may be authorized herein or in Supplemental
320 Declaration applicable to such Neighborhood(s).

321

322 1.24 "Neighborhood Representative": The representative considered to
323 be in Good Standing selected by Members within each Neighborhood to be responsible
324 for casting the Neighborhood votes on all matters requiring a vote of the membership
325 (except as otherwise specifically provided in this Declaration and in the By-Laws). The
326 term "Neighborhood Representative" shall also refer to any "Alternate Neighborhood
327 Representative" acting in the absence of the Neighborhood Representative pursuant to
328 Section 3.4(b) - "Neighborhoods and Neighborhood Representatives -
329 Neighborhood Representatives".

330

331 1.25 "Owner": One or more Persons who hold the record title to any
332 Unit, but excluding in all cases any party holding an interest merely as security for the
333 performance of an obligation. If a Unit is sold under a recorded contract of sale, then
334 upon recording of such contract, the purchaser (rather than the fee owner) will be
335 considered the Owner, if the contract specifically so provides.

336

337 1.26 "Person": A natural person, a corporation, a partnership, a trustee,
338 or any other legal entity.

339

340 1.27 "Private Amenities": Certain real property and any facilities and
341 improvements thereon located adjacent to, in the vicinity of, or within the Properties,
342 which are privately owned and operated by Persons other than the Association for
343 recreational and related purposes, whether on a use fee basis, a club membership
344 basis, or otherwise. The Private Amenities shall be limited to the golf course currently
345 called SunRidge Canyon Golf Club and all related and supporting facilities and
346 improvements.

347

348 1.28 “Properties”: The real property described on Exhibit “A,” together
349 with such additional property as is subjected to this Declaration in accordance with
350 Article VII - “Annexation and Withdrawal of Property”.

351
352 1.29 “Public Records”: The Official Records of Maricopa County,
353 Arizona.

354
355 1.30 “Special Assessment”: Assessments levied in accordance with
356 Section 8.5 - “Special Assessments”.

357
358 1.31 “Specific Assessment”: Assessments levied in accordance with
359 Section 8.6 ”.

360
361 1.32 “Supplemental Declaration”: An instrument filed in the Public
362 Records pursuant to Article VII - “Annexation and Withdrawal of Property” which
363 subjects additional property to this Declaration, designates Neighborhoods, and/or
364 imposes, expressly or by reference, additional restrictions and obligations on the land
365 described in such instrument.

366
367 1.33 “Unit”: A portion of the Properties, whether improved or
368 unimproved, which may be independently owned and conveyed and which is intended
369 for development, use and occupancy as a detached residence for a single family. The
370 term shall refer to the land, if any, which is part of the Unit as well as any improvements
371 thereon. The term shall include, by way of illustration but not limitation, single-family
372 detached houses on separately platted lots, as well as vacant land intended for
373 development as such, but shall not include Common Area, common property of any
374 Neighborhood Association, or property dedicated to the public.

375
376 In the case of a parcel of vacant land or land on which improvements are
377 under construction, the parcel shall be deemed to be a single Unit until such time as a
378 subdivision plat is filed of record on all or a portion of the parcel. Thereafter, the portion
379 encompassed by such plat shall contain the number of Units determined as set forth in
380 the preceding paragraph and any portion not encompassed by such plat shall continue
381 to be treated in accordance with this paragraph.

382
383 1.34 “Use Restrictions and Rules”: Those use restrictions and rules
384 affecting the Properties, which may be adopted, modified and repealed as set forth in
385 Article X - “Use, Restrictions and Rules”. Additional Use Restrictions and Rules are set
386 forth in Exhibit “C” - “*Use Restrictions and Rules*” and may be amended independently
387 of these CC&Rs.

388

389 **Article II - PROPERTY RIGHTS**

390

391 2.1 Common Area. Every Owner shall have a nonexclusive right and
392 easement of use, access and enjoyment in and to the Common Area, subject to:

393

394 (a) this Declaration and any other applicable covenants;

395

396 (b) any restrictions or limitations contained in any deed conveying such
397 property to the Association;

398

399 (c) the right of the Board and the membership to adopt, amend and repeal
400 rules regulating the use and enjoyment of the Common Area pursuant to Article X - "Use
401 Restrictions and Rules", including rules limiting the number of guests who may use the
402 Common Area;

403

404 (d) the right of the Board to suspend the right of an Owner to use
405 recreational facilities, if any, within the Common Area (i) for any period during which any
406 charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed
407 30 days for a single violation or for a longer period in the case of any continuing violation
408 of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of
409 the Association after notice and a hearing pursuant to Section 3.22 - "Enforcement" of
410 the By-Laws;

411

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

415

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

419

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

423

424 (h) the right of the Association, acting through the Board, to mortgage,
425 pledge or hypothecate any or all of its real or personal property as security for money
426 borrowed or debts incurred, subject to the approval requirements set forth in
427 Section 2.6 - "Actions Requiring Owner Approval" and

428

429 (i) the rights of certain Owners in those portions of the Common Area
430 designated "Limited Common Areas", if any, as more particularly described in Section
431 2.2- "Limited Common Area".

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

437
438 **2.2 Limited Common Area.** Certain portions of the Common Area are
439 designated as Limited Common Area and reserved for the exclusive use or primary
440 benefit of Owners and occupants of Units within a particular Neighborhood or
441 Neighborhoods. By way of illustration and not limitation, Limited Common Areas may
442 include entry features, access gates, private streets, recreational facilities, landscaped
443 medians and cul-de-sacs, ponds and other portions of the Common Area within
444 primarily benefiting a particular Neighborhood or Neighborhoods. All costs associated
445 with maintenance, repair, replacement and insurance of a Limited Common Area shall
446 be assessed as a Neighborhood Assessment against the Owners of Units in the
447 Neighborhood(s) to which the Limited Common Area is assigned.

448
449 Limited Common Areas were designated as such and assigned to a particular
450 Neighborhood or Neighborhoods in the deed conveying it to the Association or on the
451 subdivision plat depicting such Limited Common Area; provided, however, any such
452 assignment shall not preclude the Board of Directors from later assigning use of the
453 same Limited Common Area to additional Units and/or Neighborhoods. A portion of the
454 Common Area may be assigned as Limited Common Area of a particular Neighborhood
455 or Neighborhoods upon approval of the Board and the vote of both 1) a majority of the
456 Neighborhood Representatives and 2) Neighborhood Representatives representing a
457 majority of the total Member votes in the Association voting, including the Neighborhood
458 Representative(s) representing the Member votes within the Neighborhood(s) to which
459 the Limited Common Area is to be assigned. Limited Common Area may be reassigned
460 upon approval of the Board and of Owners of a majority of the Units within the
461 Neighborhood(s) to which the Limited Common Area is assigned and of Owners of a
462 majority of the Units within the Neighborhood(s) to which the Limited Common Area is to
463 be reassigned. Notice of any assignment or reassignment of Limited Common Area
464 shall be filed in the Public Records cross-referencing the deed or subdivision plat
465 pertaining to such Limited Common Area.

466
467 The Association may, upon approval of Owners of a majority of Units within
468 the Neighborhood(s) to which any Limited Common Area is assigned, permit Owners of

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

472

473 **2.3 Private Amenities.** Access to and use of the Private Amenities is
474 strictly subject to the rules and procedures of the owner of such Private Amenities, and
475 no Person gains any right to enter or to use any Private Amenities by virtue of
476 membership in the Association or ownership or occupancy of a Unit.

477

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

484

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

495

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

501

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

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

514
515 2.4 **No Partition.** Except as permitted in this Declaration, there shall be no
516 judicial partition of the Common Area. No Person shall seek any judicial partition unless
517 the portion of the Common Area which is the subject of such partition action has been
518 removed from the provisions of this Declaration. This Article shall not prohibit the Board
519 from acquiring and disposing of tangible personal property nor from acquiring and
520 disposing of real property which may or may not be subject to this Declaration.

521
522 2.5 **Condemnation.** If any part of the Common Area shall be taken (or
523 conveyed in lieu of and under threat of condemnation by the Board acting on the written
524 direction of both a) more than sixty-seven percent (67%) of the Neighborhood
525 Representatives and b) Neighborhood Representatives representing more than sixty-
526 seven percent (67%) of the total votes in the Association) by any authority having the
527 power of condemnation or eminent domain, each Owner shall be entitled to written
528 notice of such taking or conveyance prior to disbursement of any condemnation award
529 or proceeds from such conveyance.

530
531 Such award or proceeds shall be payable to the Association to be disbursed
532 as follows:

533
534 If the taking or conveyance involves a portion of the Common Area on
535 which improvements have been constructed, the Association shall restore or replace
536 such improvements on any unimproved land remaining in the Common Area to the
537 extent feasible, unless within sixty (60) days after such taking, both 1) more than sixty-
538 seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood
539 Representatives representing more than sixty-seven percent (67%) of the total votes in
540 the Association shall otherwise agree.

541
542 Any such construction shall be in accordance with plans approved by the
543 Board. The provisions of Section 6.1(c) - "Damage and Destruction" regarding funds for
544 the repair of damage or destruction shall apply.

545
546 If the taking or conveyance does not involve any improvements on the
547 Common Area, or if a decision is made not to repair or restore, or if net funds remain
548 after any such restoration or replacement is complete, then such award or net funds
549 shall be disbursed to the Association and used for such purposes as the Board shall
550 determine.

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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 both 1) Neighborhood Representatives representing not less than sixty-seven percent (67%) of the total Member votes in the Association: 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 of 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.

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

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

617

618 3.4 Neighborhoods and Neighborhood Representatives.

619

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

628

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

638

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

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

647

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

662

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

680

681 The Board shall call for the election of Neighborhood Representatives from each
682 Neighborhood every two (2) years. Each Member who owns a Unit within the
683 Neighborhood shall be entitled to cast one equal vote per Unit owned. The candidate
684 who receives the greatest number of votes shall be elected as Neighborhood
685 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

696 Article IV - RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

697

698 4.1 Common Area. The Association, subject to the rights of the
699 Owners set forth in this Declaration, shall manage and control the Common Area and all
700 improvements thereon (including, without limitation, furnishings, equipment and other
701 personal property of the Association used in connection with the Common Areas), and
702 shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant
703 to this Declaration and the By-Laws and consistent with the Community-Wide Standard.
704 The Board is specifically authorized, but not obligated, to retain or employ professional
705 management to assist in carrying out the Association's responsibilities under this
706 Declaration, the cost of which shall be a Common Expense.

707

708 4.2 Personal Property and Real Property for Common Use. The
709 Association, through action of its Board, may acquire, hold and dispose of tangible and
710 intangible personal property and real property. Such property shall be accepted by the
711 Association and thereafter shall be maintained by the Association at its expense for the
712 benefit of its Members, subject to any restrictions set forth in the deed or other
713 instrument transferring such property to the Association.

714

715 4.3 Enforcement. The Association may impose sanctions for violations
716 of this Declaration, any applicable Supplemental Declaration, the By-Laws, or
717 Association rules in accordance with procedures set forth in the By-Laws, including
718 reasonable monetary fines and suspension of the right to vote and to use any
719 recreational facilities within the Common Area. In addition, in accordance with Section
720 3.22 - "Enforcement" of the By-Laws, the Association may exercise self-help to cure
721 violations and may suspend any services it provides to the Unit of any Owner who is
722 delinquent in paying any assessment or other charge due to the Association more than
723 fifteen (15) days (or other such duration as the Board from time to time may establish).
724 All remedies set forth in this Declaration and the By-Laws shall be cumulative of any
725 remedies available at law or in equity. In the event the Association employs any
726 attorney or attorneys to enforce the Declaration, Articles, By-Laws, Use Restrictions and
727 Rules or Architectural Standards, the Owner or Owners whose actions have
728 necessitated the enforcement proceeding shall reimburse the Association for all costs,
729 including all attorneys' fees, expended in such enforcement efforts, regardless of
730 whether or not a lawsuit is actually commenced. Payment of such amounts shall be
731 secured by the Association's lien as provided herein.

732

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

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

740

741 **4.4 Implied Rights: Board Authority.** The Association may exercise any
742 right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably
743 implied from or reasonably necessary to effectuate any such right or privilege. Except
744 as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by
745 law, all rights and powers of the Association may be exercised by the Board without a
746 vote of the membership.

747

748 **4.5 Governmental Interests.** For so long as the Association owns any
749 property described in Exhibits "A" or "B", the Board of Directors may designate sites
750 within the Properties for fire, police and utility facilities, public schools and parks and
751 other public or quasi-public facilities. The sites may include unimproved portions of the
752 Common Areas, in which case the Association shall take whatever action is required
753 with respect to such site to permit such use, including conveyance of the site. The sites
754 may include other property not owned by the Association provided the owner consents.

755

756 **4.6 Indemnification.** The Association shall indemnify current and
757 former officers, directors, Neighborhood Representatives and committee members,
758 including the members of the committees established under Article IX - "Architectural
759 Standards", and any employees and managers or managing agents, against all
760 damages and expenses, including attorneys' fees, reasonably incurred in connection
761 with any action, suit, or other proceeding (including settlement of any suit or proceeding,
762 if approved by the then Board of Directors) to which he or she may be a party by reason
763 of being or having held such position, except that such obligation to indemnify shall be
764 limited to those actions for which liability is limited under this Section or State of Arizona
765 law.

766

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

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

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780 4.7 Dedication of Common Area. Subject to the provisions of Section
781 2.6 - "Actions Requiring Owner Approval", and subject to the approval of and
782 acceptance by such entity, the Association may dedicate portions of the Common Area
783 to Maricopa County, the State of Arizona, the Town of Fountain Hills, or to any other
784 local, state or federal governmental or quasi-governmental entity, including any
785 community facilities district now existing or hereafter created under the laws of the State
786 of Arizona with jurisdiction over all or any portion of the Properties.

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788 4.8 Security. The Association may, but shall not be obligated to,
789 maintain or support certain activities within the Properties designed to make the
790 Properties safer than they otherwise might be. The Association shall not in any way be
791 considered insurers or guarantors of security within the Properties, nor shall the
792 Association be held liable for any loss or damage by reason of failure to provide
793 adequate security or ineffectiveness of security measures undertaken. No
794 representation or warranty is made that any security system or measures, including any
795 mechanism or system designed to limit access to the Properties or any portion of the
796 Properties, cannot be compromised or circumvented, nor that any such systems or
797 measures undertaken will in all cases prevent loss or provide the detection or protection
798 for which the system is designed or intended. Each Owner acknowledges, understands
799 and covenants to inform its tenants and all occupants of its Unit that the Association, its
800 Board of Directors and committees are not insurers and that each Person using the
801 Properties assumes all risks of personal injury and loss or damage to property, including
802 Units and the contents of Units, resulting from acts of third parties.

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803

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

807

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809 4.9 Powers of the Association Relating to Neighborhoods. The
810 Association shall have the power to veto any action taken or contemplated to be taken
811 by any Neighborhood Association or Neighborhood Committee which the Board
812 reasonably determines to be adverse to the interests of the Association or its Members
813 or inconsistent with the Community-Wide Standard. The Association also shall have the
814 power to require specific action to be taken by any Neighborhood Association in
815 connection with its obligations and responsibilities hereunder or under any other
816 covenants affecting the Properties. Without limiting the generality of the foregoing, the
817 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.

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Any action which the Association requires pursuant to the foregoing paragraph shall be taken within the reasonable timeframe 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 8.6 - "Specific Assessments". Such assessments shall be subject to all lien rights provided for in Article VIII - "Assessments".

4.10 Covenants 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.

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 both 1) a majority of the Neighborhood Representatives voting and 2) Neighborhood Representatives representing a majority of the total Member votes in the Association voting, 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 - "Maintenance" of this Declaration, provided that such district is willing to accept the transfer and/or assignment of such properties and/or responsibilities, respectively.

847 Article V - MAINTENANCE

848

849 5.1 Association's Responsibility.

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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:

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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

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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.

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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

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

889

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

901

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

912

913 **5.2 Owner's Responsibility.** Each Owner shall maintain his or her Unit,
914 and all structures, parking areas, and other improvements comprising the Unit, in a
915 manner consistent with the Community-Wide Standard and all applicable covenants,
916 unless such maintenance responsibility is otherwise assumed by or assigned to the
917 Association or a Neighborhood pursuant to any Supplemental Declaration or other
918 declaration of covenants applicable to such Unit. Each Owner shall also maintain the
919 right-of-way or Common Area lying between the Unit boundary and the curb of any
920 street running parallel, more or less, to such Unit boundary. In addition to any other
921 enforcement rights, if an Owner fails properly to perform his or her maintenance
922 responsibility, the Association may perform such maintenance responsibility and assess
923 all costs incurred by the Association against the Unit and the Owner in accordance with
924 Section 8.6 - "Specific Assessments". The Association shall afford the Owner
925 reasonable notice and an opportunity to cure the problem prior to entry, except when
926 entry is required due to an emergency situation.

927

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

945 **Article VI - INSURANCE AND CASUALTY LOSSES**

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6.1 Association Insurance

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(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:

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(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;

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(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;

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

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(iv) Directors and officers liability coverage;

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(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

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(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".

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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;

- 1067 (iv) an endorsement excluding Owners' individual policies
1068 from consideration under any "other insurance" clause;
1069
1070 (v) an endorsement requiring at least thirty (30) days' prior
1071 written notice to the Association of any cancellation,
1072 substantial modification, or non-renewal;
1073
1074 (vi) a cross liability provision; and
1075
1076 (vii) a provision vesting in the Board exclusive authority to
1077 adjust losses; provided, however, no Mortgagee having an
1078 interest in such losses may be prohibited from participating
1079 in the settlement negotiations, if any, related to the loss.
1080

1081 (c) Damage and Destruction. Immediately after damage or destruction
1082 to all or any part of the Properties covered by insurance written in the name of the
1083 Association, the Board or its duly authorized agent shall file and adjust all insurance
1084 claims and obtain reliable and detailed estimates of the cost of repair or reconstruction.
1085 Repair or reconstruction, as used in this paragraph, means repairing or restoring the
1086 property to substantially the condition in which it existed prior to the damage, allowing
1087 for changes or improvements necessitated by changes in applicable building codes.
1088

1089 Any damage to, or destruction of, the Common Area shall be repaired or
1090 reconstructed unless both 1) more than sixty-seven percent (67%) of the Neighborhood
1091 Representatives and 2) Neighborhood Representatives representing more than sixty-
1092 seven percent (67%) of the total votes in the Association, decide within sixty (60) days
1093 after the loss not to repair or reconstruct.
1094

1095 If either the insurance proceeds or reliable and detailed estimates of the
1096 cost of repair or reconstruction, or both, are not available to the Association within such
1097 sixty-day (60-day) period, then the period shall be extended until such funds or
1098 information are available. However, such extension shall not exceed sixty (60)
1099 additional days. No Mortgagee shall have the right to participate in the determination of
1100 whether the damage or destruction to the Common Area shall be repaired or
1101 reconstructed.
1102

1103 If determined in the manner described above that the damage or
1104 destruction to the Common Area shall not be repaired or reconstructed and no
1105 alternative improvements are authorized, the affected property shall be cleared of all
1106 debris and ruins and, thereafter, shall be maintained by the Association in a neat and
1107 attractive, landscaped condition consistent with the Community-Wide Standard.

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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 Neighborhood Representatives, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a) - "Association Insurance - Required Coverages".

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 benefited Unit and the Owner thereof pursuant to Section 8.6 - "Specific Assessments".

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 - "Architectural Standards". 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 was an Owner and the common property was 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.

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.
1161

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.

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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 other entities for payment of Common Expenses.

8.2 Computation of Base Assessments. At least thirty (30) 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 8.4 - "Reserve Budget and Capital Contributions".

Base Assessments shall be levied equally against all Units and shall be set at a level which is reasonably expected to produce total revenue 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

1229 from any additional Units reasonably anticipated to become subject to assessment
1230 during the fiscal year, as well as any income expected pursuant to covenants imposed
1231 on land that is not included in the Properties but that benefits from the Association's
1232 maintenance or other activities.

1233

1234 The Board shall provide the budget summary and notice of the amount of
1235 the Base Assessment for the following year to each Owner at least thirty (30) days prior
1236 to the proposed effective date of such budget. The budget and assessment shall
1237 become effective unless disapproved at a meeting by vote of both 1) more than sixty-
1238 seven percent (67%) of the Neighborhood Representatives and 2) Neighborhood
1239 Representatives representing more than sixty-seven percent (67%) of the total votes in
1240 the Association at a meeting duly called for such purpose. There shall be no obligation
1241 to call a meeting for the purpose of considering the budget except on petition of the
1242 Neighborhood Representatives as provided for special meetings in Section 2.4 -"Special
1243 Meetings" of the By-Laws, which petition must be presented to the Board within ten (10)
1244 days after delivery of the budget and notice of assessments.

1245

1246

1247 The Board may revise the budget and any assessment from time to time
1248 during the year, subject to the notice requirements and the right of the Members to
1249 disapprove the revised budget as set forth above.

1250

1251 If any proposed budget is disapproved or the Board fails for any reason to
1252 determine the budget for any year, then until such time as a budget is determined, the
1253 budget most recently in effect shall continue in effect until a new budget becomes
1254 effective hereunder.

1255

1256 **8.3 Computation of Neighborhood Assessments.** At least thirty (30)
1257 days before the beginning of each fiscal year, the Board shall prepare a separate
1258 budget covering the estimated Neighborhood Expenses for each Neighborhood on
1259 whose behalf Neighborhood Expenses are expected to be incurred during the coming
1260 year. The Board shall be entitled to set such budget only to the extent that this
1261 Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the
1262 Board to assess certain expenses as a Neighborhood Assessment. Any Neighborhood
1263 may request that additional services or a higher level of services be provided by the
1264 Association and, upon approval of Owners in accordance with Section 3.4(a) -
1265 "Neighborhoods and Neighborhood Representatives - Neighborhoods", any additional
1266 expenses, including any additional overhead expenses associated with such services,
1267 shall be added to such budget. Such budget shall include a capital contribution
1268 establishing a reserve fund for repair and replacement of capital items maintained as a
1269 Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall

1270 be allocated equally among all Units within the Neighborhood benefited thereby and
1271 levied as a Neighborhood Assessment; provided, if so specified in the Supplemental
1272 Declaration applicable to such Neighborhood or, if so directed by petition signed by a
1273 majority of the Owners within the Neighborhood, any portion of the assessment intended
1274 for exterior maintenance of structures, insurance on structures, or replacement reserves
1275 which pertain to particular structures shall be levied on each of the benefited Units in
1276 proportion to the benefit received.

1277
1278 The Board shall cause a copy of such budget and notice of the amount of
1279 the Neighborhood Assessment for the coming year to be delivered to each Owner of a
1280 Unit in the Neighborhood at least thirty (30) days prior to the proposed effective date of
1281 such budget. Such budget and assessment shall become effective unless disapproved
1282 at a meeting of the Neighborhood by Owners of a majority of the Units in the
1283 Neighborhood to which the Neighborhood Assessment applies. However, there shall be
1284 no obligation to call a meeting for the purpose of considering the budget except on
1285 petition of Owners of more than twenty five percent (25%) of the Units in such
1286 Neighborhood. This right to disapprove shall only apply to those line items in the
1287 Neighborhood budget which are attributable to services requested by the Neighborhood.

1288
1289 The Board may revise the budget and any assessment from time to time
1290 during the year, subject to the notice requirements and the right of the Members to
1291 disapprove the revised budget as set forth above.

1292
1293 If the proposed budget for any Neighborhood is disapproved or if the
1294 Board fails for any reason to determine the budget for any year, then until such time as a
1295 budget is determined, the budget most recently in effect shall continue in effect until a
1296 new budget becomes effective hereunder.

1297
1298 **8.4 Reserve Budget and Capital Contributions.** The Board shall
1299 annually prepare reserve budgets for both general and Neighborhood purposes which
1300 take into account the number and nature of those assets within the Area of Common
1301 Responsibility which have an expected life of more than one year, the expected life of
1302 each asset, and the expected repair or replacement cost. The Board shall set the
1303 required capital contribution in an amount sufficient to permit meeting the projected
1304 needs of the Association, as shown on the budget, with respect both to amount and
1305 timing by annual Base Assessments or Neighborhood Assessments, as appropriate,
1306 over the budget period.

1307
1308 **8.5 Special Assessments.** In addition to other authorized
1309 assessments, the Association may levy Special Assessments from time to time to cover
1310 unbudgeted, extraordinary or other expenses which the Board determines to be more

1311 appropriately handled outside of the annual operating budget. Any such Special
1312 Assessment may be levied against all Units, if such Special Assessment is for Common
1313 Expenses, or against the Units within a particular Neighborhood or Neighborhoods, if
1314 such Special Assessment is for Neighborhood Expenses. Special Assessments shall
1315 be payable in such manner and at such times as determined by the Board, and may be
1316 payable in installments extending beyond the fiscal year in which the Special
1317 Assessment is approved. Any Special Assessment adopted by the Board shall become
1318 effective thirty (30) days after notice of such Special Assessment is sent to the Owners
1319 unless disapproved at a meeting by a majority of the Owners of Units subject to the
1320 Special Assessment; provided, there shall be no obligation to call a meeting for the
1321 purpose of considering the Special Assessment except on petition of Owners of more
1322 than twenty-five percent (25%) of the Units subject to the Special Assessment, which
1323 petition must be submitted to the Board within ten (10) days after the date of such
1324 notice. In the event of any such petition, the Special Assessment shall not become
1325 effective unless and until the meeting is held and the requisite vote to disapprove is not
1326 obtained.

1327

1328 **8.6 Specific Assessments.** The Association shall have the power to
1329 levy Specific Assessments against a particular Unit or Units constituting less than all
1330 Units within the Properties or within a Neighborhood as follows:

1331

1332 (a) to cover the costs, including overhead and administrative costs, of
1333 providing benefits, items or services to the Unit or occupants thereof upon request of the
1334 Owner pursuant to a menu of special services which the Board may from time to time
1335 authorize to be offered to Owners and occupants (which might include, without
1336 limitation, landscape maintenance, janitorial service, pest control, etc.), which
1337 assessments may be levied in advance of the provision of the requested benefit, item or
1338 service as a deposit against charges to be incurred by the Owner; and

1339

1340 (b) to cover costs incurred in bringing the Unit into compliance with the
1341 terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or
1342 rules, or costs incurred as a consequence of the conduct of the Owner or occupants of
1343 the Unit, their agents, contractors, employees, licensees, invitees or guests; provided,
1344 the Board shall give the Unit Owner prior written notice and an opportunity for a hearing,
1345 in accordance with Section 3.22 - "Enforcement" of the By-Laws, before levying any
1346 Specific Assessment under this subsection (b).

1347

1348 The Association may also levy a Specific Assessment against the Units
1349 within any Neighborhood to reimburse the Association for costs incurred in bringing the
1350 Neighborhood into compliance with the provisions of the Declaration, any applicable
1351 Supplemental Declaration, the Articles, the By-Laws, and rules, provided the Board

1352 gives prior written notice to the Owners of Units in, or the Neighborhood Representative
1353 representing, the Neighborhood and an opportunity for such Owners or Neighborhood
1354 Representative to be heard before levying any such assessment.
1355

1356 **8.7 Lien for Assessments.** All assessments authorized in this Article
1357 shall constitute a lien in favor of the Association against the Unit upon which they are
1358 levied until paid. The lien shall also secure payment of interest, late charges, and costs
1359 of collection (including all attorneys' fees). Such lien shall be superior to all other liens,
1360 except (a) the liens of all taxes, bonds, assessments and other levies which by law
1361 would be superior, and (b) the lien or charge of any first Mortgage of record (meaning
1362 any recorded Mortgage with first priority over other Mortgages) made in good faith and
1363 for value. Such lien, when delinquent, may be enforced by suit, judgment, and
1364 foreclosure in the same manner as Mortgages on real property are foreclosed under the
1365 laws of the State of Arizona, which shall include the right of non-judicial foreclosure if
1366 permitted under the laws of the State of Arizona.
1367

1368 The Association may bid for the Unit at the foreclosure sale and acquire,
1369 hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association
1370 following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no
1371 assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to
1372 its usual assessment, its pro rata share of the assessment that would have been
1373 charged such Unit had it not been acquired by the Association. The Association may
1374 sue for unpaid Common Expenses and costs without foreclosing or waiving the lien
1375 securing the same.
1376

1377 The sale or transfer of any Unit shall not affect the assessment lien or
1378 relieve such Unit from the lien for any subsequent assessments. However, the sale or
1379 transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien
1380 as to any installments of such assessments due prior to such sale or transfer. A
1381 Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the
1382 Mortgage shall not be personally liable for assessments on such Unit due prior to such
1383 acquisition of title. Such unpaid assessments shall be deemed to be Common
1384 Expenses collectible from Owners of all Units subject to assessment under Section 8.7 -
1385 "Lien for Assessments", including such acquirer, its successors and assigns.
1386

1387 **8.8 Date of Commencement of Assessments.** The obligation to pay
1388 assessments shall commence as to each Unit on the first day of the month following:
1389 (a) the month in which the Unit is made subject to this Declaration, or (b) the month in
1390 which the Board first determines a budget and levies assessments pursuant to this
1391 Article, whichever is later. The first annual Base Assessment and Neighborhood

1392 Assessment, if any, levied on each Unit shall be adjusted according to the number of
393 months remaining in the fiscal year at the time assessments commence on the Unit.

1394

1395 **8.9 Failure to Assess.** Failure of the Board to fix assessment amounts
1396 or rates or to deliver or mail each Owner an assessment notice shall not be deemed a
1397 waiver, modification, or a release of any Owner from the obligation to pay assessments.
1398 In such event, each Owner shall continue to pay Base Assessments and Neighborhood
1399 Assessments on the same basis as during the last year for which an assessment was
1400 made, if any, until a new assessment is levied, at which time the Association may
1401 retroactively assess any shortfalls in collections.

1402

1403 **8.10 Exempt Property.** The following property shall be exempt from
1404 payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

1405 (a) all Common Area pursuant to Section 5.1 - "Association's
1406 Responsibility".

1407

1408 (b) any property dedicated to and accepted by any governmental
1409 authority or public utility.

1410

1411 (c) any Unit owned by the Association.

1412

1413 **8.11 Effect of Nonpayment of Assessments; Remedies of Association.**

1414 Any assessment, or any installment of an assessment, not paid within fifteen (15) days
1415 after the assessment, or the installment of the assessment, first became due shall bear
1416 interest from the due date at the rate of interest set from time to time by the Board. In
1417 addition, the Board may establish a late fee to be charged to any Owner who has not
1418 paid any assessment, or any installment of an assessment, within fifteen (15) days after
1419 such payment was due.

1420

1421 The Association shall have the right, at its option, to enforce collection of
1422 any delinquent assessments together with all interest, lien fees, all attorneys' fees, costs
1423 and any other sums due to the Association in any manner allowed by law including, but
1424 not limited to: (a) bringing an action at law against the Owner personally obligated to pay
1425 the delinquent assessments and such action may be brought without waiving the
1426 Association's lien for assessments; or (b) bringing an action to foreclose the
1427 Association's lien for assessments against the Unit in the manner provided by law for
1428 the foreclosure of a realty mortgage.

1429

1430 In the event the Association employs any attorney or attorneys to collect
1431 any amounts due pursuant to the Declaration, Articles, By-Laws, Use Restrictions and
1432 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.

1437 **Article IX - ARCHITECTURAL STANDARDS**

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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.

1478 The ARC shall have full authority to recommend amendments to the
1479 *Design Guidelines* to the Board of Directors for their approval. The Board of Directors
1480 has final approval for the contents of the *Design Guidelines*. There shall be no limitation
1481 on the scope of amendments to the *Design Guidelines*; the ARC is expressly authorized
1482 to recommend to the Board amending the *Design Guidelines* to remove requirements
1483 previously imposed or otherwise to make the *Design Guidelines* less restrictive.
1484

1485 Any amendments to the *Design Guidelines* shall be prospective only and
1486 shall not apply to construction previously approved.
1487

1488 The ARC shall make copies of the *Design Guidelines* available to Owners
1489 and Builders who seek to engage in development or construction within the Properties
1490 and may charge a reasonable fee to cover its printing costs.
1491

1492 (b) The ARC reserves the right to change the name of this document from
1493 time to time as annotated here and in the *Design Guidelines*:
1494

1495 Prior to the date hereof - *Design Guidelines*

1496 Subsequent to the date hereof - *Architectural Standards and Landscape Standards*
1497

1498 (c) **Procedures.** The ARC shall document its operational procedures,
1499 forms, penalties, and fine schedules in a document titled *Architectural Review*
1500 *Committee Operational Procedures*.
1501

1502 Prior to commencing any Work within the scope of Section 9.2 - "General", an
1503 application for approval of such Work shall be submitted to the ARC, in such form as is
1504 required. The ARC may require the submission of such additional information as it
1505 deems necessary to consider any application.
1506

1507 The application shall include plans and specifications ("Plans") showing the site layout
1508 and placement of all proposed structures and improvements, the structural design,
1509 exterior elevations and exterior materials and colors for all structures and improvements,
1510 landscaping, drainage, exterior lighting and other features of the proposed construction,
1511 as required by the *Design Guidelines* and as applicable. In reviewing each submission,
1512 the committees may consider the quality of workmanship and design, harmony of
1513 external design with existing structures, and location in relation to surrounding
1514 structures, topography and finish grade elevation, among other things. The reviewer
1515 may require the submission of such additional information as it deems necessary to
1516 consider any application.
1517

1518 The reviewer may consider (but shall not be restricted to consideration of)
1519 visual and environmental impact, ecological compatibility, natural platforms and finish
1520 grade elevation, harmony of external design with surrounding structures and

1521 environment, location in relation to surrounding structures and plant life, compliance
1522 with the Design Guidelines and architectural merit. Decisions may be based on purely
1523 aesthetic considerations. Each Owner acknowledges that determinations as to such
1524 matters are purely subjective and opinions may vary as to the desirability and/or
1525 attractiveness of particular improvements.

1526
1527 The review shall, within 30 days after receipt of each submission of the
1528 Plans, advise the party submitting the same, in writing, at an address specified by such
1529 party at the time of submission, of (i) the approval of Plans, or (ii) the disapproval of
1530 such Plans, specifying the segments or features of the Plans which are objectionable.
1531 The reviewer may make suggestions for curing such objections. In the event the
1532 reviewer fails to advise the submitting party by written notice within the time set forth
1533 above of either the approval or disapproval of the Plans, the applicant may give the
1534 reviewer written notice of such failure to respond and stating that, unless the reviewer
1535 responds within 10 days of receipt of such notice, approval shall be deemed granted
1536 and, upon such further failure, approval shall be deemed to have been given. However,
1537 no approval, whether expressly granted or deemed granted pursuant to the foregoing,
1538 shall be inconsistent with the Design Guidelines unless a variance has been granted in
1539 writing pursuant to Section 9.5 - "Variance". Notice shall be deemed to have been given
1540 at the time the envelope containing such notice, properly addressed and postage
1541 prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return
1542 receipt requested. Personal delivery of such written notice shall, however, be sufficient
1543 and shall be deemed to have been given at the time of delivery.

1544
1545 If construction does not commence on any Work for which approval has
1546 been granted within 12 months of such approval, such approval shall be deemed
1547 withdrawn, and it shall be necessary for the Owner to re-submit the Plans for
1548 reconsideration prior to commencing such Work. All Work shall be completed within
1549 one year of commencement or such other period as may be specified in the notice of
1550 approval, unless completion is delayed due to causes beyond the reasonable control of
1551 the Owner, as determined in the sole discretion of the reviewer.

1552
1553 **9.4 No Waiver of Future Approvals.** Each Owner acknowledges that the
1554 members of the ARC reviewing applications under this Article will change from time to
1555 time and that opinions on aesthetic matters, as well as interpretation and application of
1556 the *Design Guidelines*, may vary accordingly. Approval of proposals, plans and
1557 specifications, or drawings for any work done or proposed, or in connection with any
1558 matter requiring approval, shall not be deemed a waiver of the right to withhold approval
1559 as to any similar proposals, plans and specifications, drawings or other matters
1560 whatever subsequently or additionally submitted for approval.

1561
1562 **9.5 Variance.** The ARC may, but shall not be required to, authorize
1563 variances from compliance with any of the provisions of the *Design Guidelines* when
1564 circumstances such as topography, natural obstructions, hardship, or aesthetic or
1565 environmental considerations require. Such variances may only be granted, however,

1566 when unique circumstances exist and no Owner shall have any right to demand a
1567 variance, regardless of the circumstances. No variance shall (a) be effective unless in
1568 writing; (b) be contrary to this Declaration; or (c) estop the ARC from denying a variance
1569 in other circumstances.

1570

1571 9.6 **Limitation of Liability.** The standards and procedures established by
1572 this Article are intended to provide a mechanism for maintaining and enhancing the
1573 overall aesthetics of the Properties but shall not create any duty to any Person. The
1574 ARC shall not bear any responsibility for ensuring the structural integrity or soundness
1575 of approved construction or modifications, nor for ensuring compliance with building
1576 codes and other governmental requirements nor for ensuring that all structures and
1577 improvements constructed within the properties are of comparable quality, value or size,
1578 or of similar design. Neither the Association, the Board, the ARC, nor any member of
1579 any of the foregoing shall be held liable for soil conditions, drainage problems or other
1580 general site work, nor for defects in any plans or specifications submitted, revised or
1581 approved hereunder, nor for any structural or other defects in work done according to
1582 approved plans, nor for any injury, damages, or loss arising out of the manner, design or
1583 quality of approved construction on or modifications to any unit

1584

1585 9.7 **Enforcement.** Any work performed in violation of this Article or in a
1586 manner inconsistent with the approved Plans shall be deemed to be nonconforming.
1587 Upon written request from the Board, Owners shall, at their own cost and expense,
1588 correct any nonconforming condition or remove any nonconforming structure or
1589 improvement and restore the property to substantially the same condition as existed
1590 prior to the nonconforming work. Should an Owner fail to remove and restore as
1591 required, the Board, the ARC or their designees shall have the right to enter the
1592 property, remove the violation, and restore the property to substantially the same
1593 condition as previously existed and any such action shall not be deemed a trespass.
1594 Upon demand, the Owner shall reimburse all costs incurred by any of the foregoing in
1595 exercising its rights under this Section. The Association may assess any costs incurred
1596 in taking enforcement action under this Section, together with interest at the maximum
1597 rate then allowed by law, against the benefited Unit as a Specific Assessment.

1598

1599 Unless otherwise specified in writing by the ARC, all approvals granted
1600 hereunder shall be deemed conditioned upon completion of all elements of the
1601 approved work and all work previously approved with respect to the same Unit, unless
1602 approval to modify any application has been obtained. In the event that any Person fails
1603 to commence and diligently pursue to completion all approved work, the Association
1604 shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard
1605 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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1625 **Article X - USE RESTRICTIONS AND RULES**

1626

1627 10.1 Plan of Development; Applicability; Effect. Declarant has
1628 established a general plan of development for the Properties as a master planned
1629 community in order to enhance all Owners' quality of life and collective interests, the
1630 aesthetics and environment within the Properties, and the vitality of and sense of
1631 community within the Properties, all subject to the Board's and the Members' ability to
1632 respond to changes in circumstances, technology, conditions, needs and desires within
1633 the master planned community and to regulate and control the Area of Common
1634 Responsibility. The Properties are subject to the *Design Guidelines*, the land
1635 development, architectural and design provisions described in Article IX - "Architectural
1636 Standards", the other provisions of this Declaration governing individual conduct and
1637 uses of and actions upon the Properties, and the Use Restrictions and Rules, all of
1638 which establish affirmative and negative covenants, easements and restrictions on the
1639 Properties.

1640

1641 All provisions of this Declaration and any Association rules shall apply to
1642 all Owners, occupants, tenants, guests and invitees of any Unit. Any lease on any Unit
1643 shall provide or shall be deemed to provide that the lessee and all occupants of the
1644 leased Unit shall be bound by the terms of this Declaration, the By-Laws and the rules of
1645 the Association.

1646

1647 10.2 Authority to Promulgate Use Restrictions and Rules. The Use
1648 Restrictions and Rules applicable to all of the Properties are attached as Exhibit "C" to
1649 this Declaration. Subject to the terms of this Article, such Use Restrictions and Rules
1650 may be modified in whole or in part, repealed or expanded as follows:

1651

1652 (a) Subject to its duty to exercise business judgment and
1653 reasonableness, on behalf of the Association and its Members, the Board may adopt
1654 rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions
1655 and Rules set forth in the Exhibit "C". The Board shall send notice by mail to all Owners
1656 concerning any such proposed action at least five business days prior to the Board
1657 meeting at which such action is to be considered. Members shall have a reasonable
1658 opportunity to be heard at a Board meeting prior to such action being taken.

1659

1660 Such action shall become effective, after compliance with subsection (c)
1661 below, unless disapproved at a meeting by a vote of both 1) a majority of the
1662 Neighborhood Representatives and 2) Neighborhood Representatives representing a
1663 majority of the total votes in the Association. The Board shall have no obligation to call a
1664 meeting of the Neighborhood Representatives to consider disapproval except upon
1665 receipt of a petition of the Neighborhood Representatives as required for special

1666 meetings in the By-Laws, which petition is received by the Board within thirty (30) days
1667 after written notice of such rule is mailed to the Members. Upon such petition of the
1668 Neighborhood Representatives prior to the effective date of any Board action under this
1669 Section, the proposed action shall not become effective until after such meeting is held,
1670 and then subject to the outcome of such meeting.

1671
1672 (b) Alternatively, the Neighborhood Representatives, at an Association
1673 meeting duly called for such purpose, may adopt rules which modify, cancel, limit,
1674 create exceptions to, or expand the Use Restrictions and Rules by a vote of both 1) a
1675 majority of the Neighborhood Representatives and 2) Neighborhood Representatives
1676 representing a majority of the total votes in the Association. .

1677
1678 (c) At least thirty (30) days prior to the effective date of any action taken
1679 under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to
1680 each Owner specifying the effective date. The Association shall provide, without cost, a
1681 copy of the Use Restrictions and Rules then in effect to any requesting Member or
1682 Mortgagee.

1683
1684 (d) Nothing in the Article shall authorize the Board or the Neighborhood
1685 Representatives to modify, repeal or expand the Design Guidelines, which may be
1686 modified only as provided in Article IX - Architectural Standards". All matters of
1687 architectural control and aesthetics shall be governed by the Design Guidelines.

1688
1689 **10.3 Owners' Acknowledgment and Notice to Purchasers.** All Owners
1690 and occupants of Units are given notice that use of their Unit(s) is limited by the Use
1691 Restrictions and Rules as they may be amended, expanded or otherwise modified.
1692 Each Owner, by acceptance of a deed, acknowledges and agrees that the use,
1693 enjoyment and marketability of his or her Unit can be affected by this provision and that
1694 the Use Restrictions and Rules may change from time to time. The Association has
1695 adopted changes to the original Use Restrictions and Rules. **Copies of the current Use**
1696 **Restrictions and Rules may be obtained from the Association.**

1697
1698 **10.4 Rights of Owners.** In recognition of the flexibility that this
1699 procedure for adopting and changing Use Restrictions and Rules provides to address
1700 changes in circumstances, conditions, needs and desires within the Properties over
1701 time, it is appropriate for the protection of each Owner to establish certain parameters
1702 within which the Board and the Members may make modifications and additions to the
1703 Use Restrictions. Therefore, except as may be specifically set forth in this Declaration
1704 (either initially or by amendment) or in Exhibit "C" - "Use Restrictions and Rules", neither
1705 the Board nor the Members may adopt any rule in violation of the following provisions:
1706

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.

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(h) 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 rules, 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 rules 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 - "Rights of Owners" shall apply to new rules only; they shall not invalidate any of the Use Restrictions and Rules set forth in Exhibit "C" - "Use Restrictions and Rules" nor shall they apply to amendments to this Declaration adopted in accordance with Section 12.2 .

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

1803 Owner of the underlying property shall execute such instruments as may reasonably be
1804 required to acknowledge and confirm such specific grant.

1805

1806 (c) Any damage to a Unit resulting from the exercise of the easements
1807 described in subsections (a) and (b) of this Section shall promptly be repaired by, and at
1808 the expense of, the Person exercising the easement. The exercise of these easements
1809 shall not extend to permitting entry into the structures on any Unit, nor shall it
1810 unreasonably interfere with the use of any Unit and, except in an emergency, entry onto
1811 any Unit shall be made only after reasonable notice to the Owner or occupant.

1812

1813

1814 11.3 Right of Entry. The Association shall have the right, but not the
1815 obligation, to enter upon any Unit for emergency, security and safety reasons, to
1816 perform maintenance pursuant to Article V - "Maintenance" hereof, and to inspect for
1817 the purpose of ensuring compliance with this Declaration, any Supplemental
1818 Declaration, the By-Laws, Design Guidelines and Use Restrictions and Rules. Such
1819 right may be exercised by any member of the Board, the Association's officers, agents,
1820 employees and managers, the members of the ARC pursuant to Article IX -
1821 "Architectural Standards", and all policemen, firemen, ambulance personnel and similar
1822 emergency personnel in the performance of their duties. Except in an emergency
1823 situation, entry shall only be during reasonable hours and after notice to the Owner.
1824 This right of entry shall include the right of the Association to enter upon any Unit to
1825 perform maintenance or cure the condition within a reasonable time after requested by
1826 the Board, but shall not authorize entry into any dwelling without permission of the
1827 Owner, except by emergency personnel acting in their official capacities.

1828

1829 11.4 Easements for Storm Water Drainage and Retention. Each portion
1830 of the Properties is hereby subjected to a non-exclusive easement appurtenant to and
1831 for the benefit of each other portion of the Properties for the purpose of storm water
1832 drainage and runoff, which easement shall include but shall not be limited to, the right to
1833 tie in to existing storm water drainage facilities and to divert storm water runoff from
1834 each Unit into such storm water drainage facilities at such points and in such manner as
1835 approved by the Association, and for the flow of storm water runoff over the Properties
1836 to such points and from such points through the storm water drainage facilities into
1837 arroyos, ponds or retention facilities within or outside the Properties. The foregoing
1838 easements shall be subject to any and all restrictions regarding quantity, rate and quality
1839 of discharge which the Association may hereafter impose or which may be imposed on
1840 the Properties, the Association or any Owner by any governmental entity having
1841 jurisdiction.

1842

1843 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.

1883 **Article XII - GENERAL PROVISIONS**

1884
1885 12.1 Duration.

1886
1887 (a) Unless terminated as provided in Section 12.1(b) - "Duration", this
1888 Declaration shall have perpetual duration. If State of Arizona law hereafter limits the
1889 period during which covenants may run with the land, then to the extent consistent with
1890 such law, this Declaration shall automatically be extended at the expiration of such
1891 period for successive periods of 20 years each, unless terminated as provided herein.
1892 Notwithstanding the above, if any of the covenants, conditions, restrictions or other
1893 provisions of this Declaration shall be unlawful, void or voidable for violation of the rule
1894 against perpetuities, then such provisions shall continue only until 21 years after the
1895 death of the last survivor of the now living descendants of Elizabeth II, Queen of
1896 England.

1897
1898 (b) Unless otherwise required by State of Arizona law, in which case
1899 such law shall control, this Declaration may not be terminated within the first thirty (30)
1900 years after the date of recording of the Original Declaration except by an instrument
1901 signed by Owners of at least seventy-five percent (75%) of the total Units within the
1902 Properties. After the thirtieth (30th) anniversary of the date of recording, termination may
1903 be accomplished by an instrument signed by Owners of at least fifty-one percent (51%)
1904 of the total Units within the Properties. Any such instrument shall set forth the intent to
1905 terminate this Declaration and shall be recorded in the Public Records. Nothing in this
1906 Section shall be construed to permit termination of any easement created in this
1907 Declaration without the consent of the holder of such easement.

1908
1909 12.2 Amendment.

1910
1911 (a) By Members. Except as otherwise specifically provided elsewhere
1912 in this Declaration, the Declaration may be amended only by the affirmative vote or
1913 written consent, or any combination thereof, of both 1) more than sixty-seven percent
1914 (67%) of the Neighborhood Representatives and 2) Neighborhood Representatives
1915 representing more than sixty-seven percent (67%) of the total votes in the Association.

1916
1917 Notwithstanding the above, the percentage of votes necessary to amend a
1918 specific clause shall not be less than the prescribed percentage of affirmative votes
1919 required for action to be taken under that clause.

1920
1921 (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.

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(a) if to a Member, at the address or email address as shown on the records of the Association 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 of Directors, 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.

All notices sent in compliance with the above shall be deemed received.

12.9 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.

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

12.11 Exhibits. Exhibits "A", "B" and "C" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 12.2 - "Amendment". All other 12.2 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.

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. Howard

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 16th 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



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2060

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 southwestwardly 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

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 163.95 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

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 407.53 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-B 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

2-08-95

GWN

Page 4 of 4

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 36°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 323.94 feet;
 Thence North 01°15'39" West, a distance of 633.03 feet;
 Thence North 47°45'22" West, a distance of 75.81 feet;
 Thence North 16°12'55" West, a distance of 150.23 feet;
 Thence North 16°45'02" East, a distance of 177.74 feet;
 Thence North 63°44'12" West, a distance of 488.89 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 87.63 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' 31" 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 44.51 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°46'15" 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 93.14 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 $30^{\circ}29'35''$ 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°01'51" West, departing said Westerly right-of-way line, a distance of 364.42 feet;

Thence North 72°25'50" West, a distance of 522.20 feet;
Thence North 59°31'46" West, a distance of 866.15 feet;
Thence North 67°46'06" West, a distance of 568.23 feet;
Thence South 60°28'40" West, a distance of 165.76 feet;
Thence South 54°59'31" West, a distance of 48.95 feet;

Thence North 29°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°03'11" East, a distance of 245.65 feet;

Thence North 22°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°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°35'00", a distance of 500.33 feet;

Thence South 36°31'25" East, departing said Southerly right-of-way line, a distance of 750.00 feet;

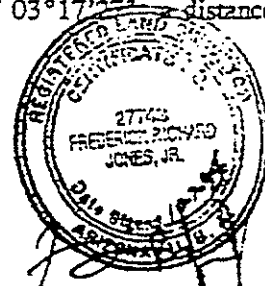
Thence South 47°56'35" East, a distance of 508.60 feet to a point on the Westerly right-of-way line of "Golden Eagle Boulevard";

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

Thence South 08°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°17'27", 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

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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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.

2065 **EXHIBIT “C” - Use Restrictions and Rules**

2066
2067

Section 1 - Initial Use Restrictions and Rules, Additions & Amendments

2068 1.1 **Initial Use Restrictions and Rules.** The initial Use Restrictions & Rules of the
2069 Association were written in the CC&Rs Article X and Exhibit “C” - “Use Restrictions and
2070 Rules”, dated 1995. When the CC&Rs were revised in 2011, Exhibit “C” - “Use
2071 Restrictions & Rules” was likewise revised. The Use Restrictions & Rules which regulate
2072 activities are separate from the *Design Guidelines (Architectural Standards and*
2073 *Landscape Standards)* which regulate architectural design and aesthetics.

2074
2075 1.2 **Additions and Amendments to Use Restrictions and Rules.** In making new use
2076 restrictions & rules or adopting amendments to existing restrictions and rules, the
2077 Association follows the procedure in the CC&Rs Article X - “Use Restrictions and Rules”,
2078 Sections 10.1- “Plan of Development; Applicability; Effect” and 10.2 - “Authority to
2079 Promulgate Use Restrictions and Rules”.

2080
2081 **Section II - Properties Use**

2082 2.1 **General.** The Properties shall be used only for residential, recreational and related
2083 purposes (which may include, without limitation, offices for any property manager
2084 retained by the Association or business offices for the Association). The properties may
2085 also be used for in-home business uses if they are undetectable from outside the home
2086 and result in no door-to-door solicitation, added vehicular or foot traffic, noise, noxious
2087 odors or other condition that may interfere with neighborhood quiet and residents’
2088 enjoyment of their property.

2089
2090 2.2 **Restricted Activities.** The following activities are restricted within the Properties
2091 unless expressly authorized by, and then subject to, such conditions as may be imposed
2092 by the Board of Directors:

2093
2094 (a) **Parking of Private Vehicles** on public or private streets or
2095 thoroughfares between the hours of 2:00 a.m. and 4:00 a.m., except that overnight
2096 guests, with prior approval from the Community Manager, may park their cars on streets
2097 for a period not to exceed seven (7) consecutive nights.

2098
2099 (b) **Parking of Commercial Vehicles** or equipment, recreational vehicles
2100 (RVs), mobile homes, boats, trailers, or stored or inoperable vehicles in places other
2101 than enclosed garages, except that

- 2102
2103
 - 2104 • commercial vehicles may park on streets or in driveways during
2105 daylight hours while making deliveries or providing services to a
Unit;
 - 2106 • overnight guests may park RVs in driveways for up to seven (7)
2107 consecutive days with prior permission of the Community Manager;

- 2108 • private boats and trailers may, on an occasional basis, be parked in
2109 driveways or on streets during daylight hours to facilitate loading or
2110 unloading;
- 2111 • private boats and trailers may, on an occasional basis with prior
2112 permission from the Community Manager, be parked in driveways
2113 overnight to facilitate use; and
- 2114 • public service and public safety emergency vehicles, as defined in
2115 ARS 33-1809, may be parked in driveways and streets in
2116 accordance with current Arizona law.

2117
2118 A vehicle is considered commercial if it is marked with advertising information
2119 and/or visibly carries tools or equipment related to any business, such as ladders,
2120 pipe, cable, rakes, and shovels.

2121
2122 The Community Manager may grant temporary exceptions to the parking
2123 restrictions of this Article.

2124
2125 (c) Raising, breeding or keeping of animals except that a reasonable
2126 number of dogs, cats or other usual and common household pets may be permitted in a
2127 Unit. Any pet that the Board, in its sole discretion, determines to be a nuisance shall be
2128 removed from the Unit upon request of the Board. If the pet owner fails to honor such
2129 request, the Board may have the pet removed by any legal means.

2130
2131 (d) Any activity or condition that interferes with the reasonable enjoyment
2132 of any part of the Properties or that detracts from the overall appearance of the
2133 Properties.

2134
2135 (e) Subdivision of a Unit into two or more Units, or changing the
2136 boundary lines of any Unit after a subdivision plat including such Unit has been
2137 approved and filed in the Public Records, must obtain the approval of the Architectural
2138 Review Committee and Board of Directors.

2139
2140 (f) Occupancy of a Unit by more than two persons per bedroom in the
2141 Unit. For purposes of this provision, "occupancy" shall be defined as staying overnight
2142 in the Unit more than thirty (30) days in any six-month (6 month) period.

2143
2144 (g) Any business, trade, or similar activity, except that an Owner or
2145 occupant residing in a Unit may conduct business activities within the Unit so long as
2146 the existence or operation of the business activity is not apparent or detectable by sight,
2147 sound or smell from outside the Unit; the business activity does not involve regular
2148 visitation of the Unit or door-to-door solicitation of residents of the Properties; and the
2149 business activity is consistent with the residential character of the Properties and does
2150 not violate these Use Restrictions and Rules or any other rules of the Board. The Board
2151 may restrict any business activities that it determines interfere with the enjoyment or
2152 residential purpose of the Properties in its sole and absolute discretion.

2154 (h) **Leasing of Units.** "Leasing," for purposes of this Declaration, is
2155 defined as regular, exclusive occupancy of a Unit by any person, other than the Owner,
2156 for which the Owner receives any consideration or benefit, including, but not limited to, a
2157 fee, service, gratuity or emolument. Units must be leased in their entirety. No single
2158 rooms or other fraction or portion of a Unit may be leased, nor shall any Unit or portion
2159 thereof be used for operation of a boarding house, "Bed and Breakfast" establishment,
2160 or similar accommodation.

2161
2162 There shall be no subleasing or assignment of leases unless prior written approval is
2163 obtained from the Board of Directors. No transient tenants may be accommodated in a
2164 Unit. All leases shall be in writing. Leases of an entire Unit shall be for a term of no less
2165 than one year, except with the prior written consent of the Board. Notice of any lease,
2166 together with such additional information as may be required by the Board, shall be
2167 given to the Board by the Unit Owner within 10 days of the execution of the lease. The
2168 Owner must make available to the lessee copies of the Declaration, By-Laws and the
2169 Use Rules & Regulations.

2170
2171 The leasing of a Unit shall not be considered a business or trade within the meaning of
2172 this document.

2173
2174 (i) **Noise Regulations.** Section 11-1-7 of the Town of Fountain Hills' Town
2175 Code (as amended from time to time) is adopted as the SunRidge Canyon noise
2176 regulations.

2177
2178 (j) **Operation of a timeshare, fraction-sharing, or similar program**
2179 whereby the right to exclusive use of the Unit rotates among participants in the program
2180 on a fixed or floating time schedule over a period of years.

2181
2182 (k) **Discharge of firearms,** provided the Board shall have no obligation to
2183 take action to prevent or stop such discharge.

2184
2185 (l) **Garage Sales.** Section 8-3-3 of the Town of Fountain Hills' Town
2186 Code (as amended from time to time) is adopted as the SunRidge Canyon garage sale
2187 regulations. In addition any town sign and noise regulations apply.

2188
2189 (m) **Keeping or feeding of Wild Animals.** Feeding wild animals is
2190 prohibited by Arizona Statute 13-2927. Although the feeding of birds is permitted,
2191 restraint is requested as feeding activities can attract additional wildlife and cause
2192 dangerous or unhealthy conditions.

2193