



SEQUENCE: 20173180402
No. Pages: 39
11/14/2017 2:40 PM

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FOURTH AMENDED AND RESTATED
DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR CANOA ESTATES II

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TABLE OF CONTENTS

RECITALS	6
ARTICLE I: DEFINITIONS	7
ARTICLE II: COMMON AREAS	8
2.1. Ownership Vested in Association	8
2.2. Conveyance of Owner's Rights	8
2.3. Conveyance of Easements and Rights-of-Way	8
ARTICLE III: EASEMENTS, LICENSES and ENCROACHMENTS.....	9
3.1. Easement for Encroachments.....	9
3.2. Easement for Enjoyment.	9
3.3. Drainage Easement.....	9
3.4. Utility Easements	9
3.5. Easement for Encroachments in Original Construction	9
ARTICLE IV: THE ASSOCIATION	9
4.1. Responsibilities of the Association	9
4.2. Bylaws, Articles of Incorporation and Board of Directors	11
4.3. Rules and Regulations of the Association.....	11
ARTICLE V: MEMBERSHIP.....	11
5.1. Membership.....	11
5.2. Voting Rights.....	12
5.3. Limitations on Votes	12
ARTICLE VI: ASSESSMENTS.....	12
6.1. Creation of the Lien and Personal Obligation to Pay Assessments.....	12
6.2. Purpose of Assessments	13
6.3. Annual Assessment.....	13
6.4. Special Assessments.	14
6.5. Reimbursement Assessments.....	14
6.6. Reserve Fund	14
6.7. Uniform Rate of Assessment and Due Dates.....	15
6.8. Effect of Non-Payment of Assessments; Remedies of the Association.....	15
6.9. Subordination of Lien to Mortgagee	16
6.10. No Offset and No Exemption of Owner.....	16
6.11. Joint and Several Liability.	16

6.12. Purchase for Resale.....	17
ARTICLE VII: MORTGAGEE'S PROTECTION PROVISIONS	17
7.1. Definition	17
7.2. No Personal Liability.	17
7.3. Trustee's Sale and Foreclosure.	17
7.4. Obligation to Pay Assessments.	17
7.5. Title Acquired through Foreclosure or Default.....	17
7.6. Material Changes by Association.....	18
7.7. Termination of Legal Status of Properties.	19
7.8. Right to Pay Charges in Default.	19
7.9. Precedence of First Mortgage.	19
7.10. Written Notification of Default.....	19
7.11. Inspection of Books and Records.....	19
7.12. Notice.....	20
ARTICLE VIII: INSURANCE	20
8.1. Scope of Coverage.	20
8.2. Repair and Replacement of Damaged and Destroyed Property.	20
8.3. Owner's Responsibilities.	21
8.4. Mortgagee's Insurance.	21
ARTICLE IX: OWNER'S RESPONSIBILITIES	21
9.1. Owners' Maintenance Responsibilities.	21
9.2. Destruction of Dwelling Unit.	22
9.3. Failure to Maintain.	22
ARTICLE X: ARCHITECTURAL REVIEW	22
10.1. Architectural Committee	22
10.2. Architectural Rules.....	22
10.3. Architectural Review.....	22
10.4. Standards of Review	23
10.5. Requirements for Plans and Specifications.	24
10.6. Conformity to Building Codes.	24
10.7. Cost Recovery	24
10.8. Limitation of Liability	24
10.9. Submittal by Member of Committee.....	25

10.10. Waivers	25
10.11. Appeal	25
10.12. Building Requirements.....	25
ARTICLE XI: USE RESTRICTIONS.....	28
11.1. Age Restriction	28
11.2. Animal Restrictions	29
11.3. Business Activities.....	30
11.4. Nuisance and Condition of Lots	30
11.5. Rentals	31
11.6. Resubdivision	31
11.7. Trash Storage and Collection	32
11.8. Vehicles	32
11.9. Inspection.....	34
11.10. Entrance Monument.....	34
11.11. Flagpoles	34
ARTICLE XII: PARTY WALLS.....	34
12.1. General Rules of Law Apply.	34
12.2. Alterations.....	35
12.3. Sharing of Repair and Maintenance.	35
12.4. Destruction by Fire or Other Casualty.	35
12.5. Weatherproofing.	35
12.6. Right to Contribution - Runs with Land.	35
12.7. Dispute Resolution.....	35
12.8. Private Agreements.	35
12.9. Eaves, Steps and Open Porches.....	35
ARTICLE XIII: GREEN VALLEY RECREATION.....	35
13.1. Green Valley Recreation, Inc. ("GVR").....	35
ARTICLE XIV: ENFORCEMENT	36
14.1. Right to Enforce	36
14.2. Enforcement Procedures.	37
14.3. Notice of Violation.	37
14.4. No Obligation to Enforce.	37
14.5. Cumulative Rights and Remedies	37

14.6. Violation of Law	37
ARTICLE XV: GENERAL PROVISIONS.....	37
15.1. Binding Effect	37
15.2. Severability	38
15.3. Captions.	38
15.4. Interpretation of the Covenants	38
15.5. Amendment	38
15.6. Term.....	38
15.7 No Interest in Golf Course	38

1
2
3
4
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7
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**FOURTH AMENDED AND RESTATED
DECLARATION OF ESTABLISHMENT OF CONDITIONS,
COVENANTS AND RESTRICTIONS FOR
CANOA ESTATES II
LOTS 1 THROUGH 124 AND
COMMON AREAS A AND B**

THIS FOURTH AMENDED AND RESTATED DECLARATION OF ESTABLISHMENT OF CONDITIONS, COVENANTS, AND RESTRICTIONS FOR CANOA ESTATES II (this "Declaration") is made this 1st day of October, 2017 by the owners (the "Owners") of the real property described as:

Lots 1 through 124, and Common Areas A (private streets) and B (open space) of Canoa Estates II, a Pima County subdivision, as shown in the Plat of Record in Book 39 at page 91 of Maps and Plats on record in the Pima County Recorder's Office (the "Properties").

RECITALS

WHEREAS, the Declarant executed the *Declaration of Establishment of Conditions, Covenants, and Restrictions for Canoa Estates II*, recorded on July 16, 1986 in Docket 7827, Page 1275 *et seq.*, office of the Pima County Recorder (the "Original Declaration");

WHEREAS, the Declarant executed the *First Amended and Restated Declaration of Establishment of Conditions, Covenants, and Restrictions for Canoa Estates II*, recorded on August 18, 1988 in Docket 8353, Page 220 *et seq.*, office of the Pima County Recorder; and

WHEREAS, the Declarant executed the *Second Amended and Restated Declaration of Establishment of Conditions, Covenants, and Restrictions for Canoa Estates II*, recorded on November 17, 1988 in Docket 8415, Page 1223 *et seq.*, office of the Pima County Recorder; and

WHEREAS, the Owners adopted the *Third Amended and Restated Declaration of Establishment of Conditions, Covenants, and Restrictions for Canoa Estates II* (the "Superseded Declaration"), recorded on November 21, 1995 in Docket 10174, Page 405 *et seq.*, office of the Pima County Recorder; and

WHEREAS, this Declaration amends and restates in their entirety the Superseded Declaration and any other Declaration that encumbers the Properties; and

WHEREAS, Owners holding at least 67% of the total votes in Canoa Estates II, Inc., an Arizona non-profit corporation, have approved the adoption of this Declaration.

NOW THEREFORE, the Owners hereby declare that the Properties are and shall be held, conveyed, encumbered, leased, and used subject to the following covenants, conditions, uses, restrictions, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter collectively referred to as the "Restrictions"), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Properties. The Restrictions set forth herein shall run with the Properties, shall be binding upon all persons having or acquiring any right, title or interest therein, and shall inure to the benefit of, be binding upon and enforceable by all Owners, the Association and their successors and assigns in interest.

ARTICLE I: DEFINITIONS

1.1. Association means Canoa Estates II, Inc., its successors and assigns.

1.2. Assessments means Annual Assessments, Special Assessments and Reimbursement Assessments.

1.3. Board means the Board of Directors of the Association.

1.4. Common Areas means the real property designated on the Plat as Common Areas A and B.

1.5. Declarant means Lawyers Title of Arizona, Arizona corporation, as Trustee under Trust 6486-T, and its successors or assigns if such successors or assigns should acquire the Properties from Declarant for the purpose of development.

1.6. Declaration means this Declaration as may be amended from time to time.

1.7. Dwelling Unit shall mean the improvements placed upon or within the boundary of any lot.

1.8. Lot shall mean the following numbered plots of land shown on the Plat (without regard to whether a structure has been constructed thereon), 1 through 124 and including any improvements constructed or under construction thereon, if any, and including any new lot created by combining two or more adjacent Lots. When two or more Lots are purchased, combined and used as one lot with the approval of the Architectural Committee, the combined Lots shall be considered as two or more lots for all purposes including voting rights and assessments.

1.9. Member means every person who holds membership in the Association.

1.10. Mortgage shall include any consensual monetary encumbrance to a Lot, evidenced by an instrument in recordable form and shall specifically include both mortgages and deeds of trust. The term "Mortgagee" shall include a beneficiary under a Deed of Trust, and

1 the term "First Mortgage" shall mean the holder of any Mortgage under which the interest of
2 any Owner of a Lot is encumbered and which "First Mortgage" has first and paramount priority,
3 subject only to the lien of general or ad valorem taxes and assessments.
4

5 1.11. Owner means the record holder, whether one or more persons, of the Fee
6 Simple title to any Lot which is part of the Properties, including a buyer under a contract for the
7 conveyance of real estate pursuant to Title 33, Arizona Revised Statutes, but excluding persons
8 holding an interest merely as security for the performance of an obligation, and excluding
9 buyers under sales agreements or deposit receipt and agreements.
10

11 1.12. Person shall include a corporation, company, partnership, firm, association or
12 society, as well as a natural person.
13

14 1.13. Plat shall mean the map or plat of record in the office of the County Recorder of
15 Pima County, Arizona, in Book 39 of Maps and Plats at Page 91 thereof, and any amendment
16 thereto or resubdivision thereof.
17

18 1.14. Properties means that certain real property described in the Plat.
19

20 1.15. Rules and Regulations or Rules shall mean any and all policies and procedures
21 adopted by the Board which govern the conduct and actions of Owners, tenants, visitors and
22 guests on the Properties.
23

24 ARTICLE II: COMMON AREAS 25

26 2.1. Ownership Vested in Association. Ownership of the Common Areas is vested
27 in the Association, subject to the easements created in this Declaration to facilitate the full use
28 and enjoyment of the Properties. Common Areas are intended for use as public utility
29 easements, drainage ways, streets, open areas, and any recreational centers or other facilities,
30 if any, and are for the common use and enjoyment of the Members of the Association and their
31 invitees.
32

33 2.2. Conveyance of Owner's Rights. Any sale, lease or sublease of a Lot by its
34 Owner or transfer of a Lot by operation of law, shall serve to transfer, convey, lease or sublease
35 to the same extent all of the Owner's right to use the Common Areas.
36

37 2.3. Conveyance of Easements and Rights-of-Way. Notwithstanding any other
38 provision in this Declaration, the Board, at all times, shall have the right to grant and convey to
39 any Person, easements or rights-of-way, in, on, over, or under any Common Areas, for the
40 purpose of constructing, erecting, operating or maintaining: roads, streets, walks, pathways,
41 driveways, temporary overhead or permanent underground lines, cables, wires, conduits, or
42 other devices for the transmission of electricity for lighting, heating, power, telephone, cable
43 television, security and other purposes, sewers, storm drains, pipes, drainage easements, water
44 systems, water, heating and gas lines or pipes, and any similar public or quasi-public

1 improvements or facilities, and for such other purposes as may be deemed proper by the
2 Board.

3 4 **ARTICLE III: EASEMENTS, LICENSES and ENCROACHMENTS**

5
6 3.1. Easement for Encroachments. Each Owner hereby acknowledges and agrees
7 that Dwelling Units, or privately-owned patio walls, improvements and fixtures, which have
8 been initially constructed on the Properties by Declarant in the course of original construction,
9 may encroach upon the Common Areas or other Lots in the Properties. Such encroachments
10 caused incidentally by Declarant are permissible and each Owner, by acceptance of the Deed to
11 his/her Lot, consents thereto.

12
13 3.2. Easement for Enjoyment. There is hereby created a blanket, nonexclusive
14 easement on all of the Common Areas for the use and enjoyment of all Members, their guests,
15 invitees and licensees, subject to reasonable regulations of the Association; and for ingress,
16 egress, installation, replacement, operation, repair and maintenance of all utilities, including
17 but not limited to water, sewer, gas telephone, electricity, television antennae system, and any
18 equipment or facilities for the installation of a cable communications system.

19
20 3.3. Drainage Easement. A drainage easement is hereby created upon, across, over
21 and under each Lot for the benefit of all other Lots.

22
23 3.4. Utility Easements. The Association reserves the right to grant a perpetual
24 exclusive easement and right-of-way across and upon all Common Areas for the purpose of
25 construction, maintenance, operation, repair, enlargements, alterations and improvements for
26 a cable television system, security system or both, including structures, equipment and
27 materials necessary for their operation and acknowledges any duly recorded easement as
28 recorded in the Pima County Recorder's office.

29
30 3.5. Easement for Encroachments in Original Construction. Each Owner hereby
31 acknowledges and agrees that Dwelling Units, or privately-owned patio walls, improvements
32 and fixtures, which have been initially constructed on the Properties by Declarant in the course
33 of original construction, may encroach upon the Common Areas or other Lots in the Properties.
34 Such encroachments caused incidentally by Declarant are permissible and each Owner, by
35 acceptance of the Deed to his/her Lot, consents thereto.

36 37 **ARTICLE IV: THE ASSOCIATION**

38
39 4.1. Responsibilities of the Association. The Association is responsible for the
40 protection, improvement, alteration, maintenance, repair, replacement, administration,
41 management and operation of the Common Areas. The Association is, to the extent applicable,
42 responsible for:
43

- 1 (a) the maintenance of the common streets, roads, and sidewalks (if applicable) located
2 within the Common Areas and the entrance way off of Camino del Sol;
3
4 (b) the maintenance of the landscaped portions of the Common Areas;
5
6 (c) the operation, maintenance (including insurance) and, if necessary, the
7 replacement, restoration or reconstruction of street signs, walls, fences, and other
8 improvements originally constructed by the developer, Fairfield Green Valley, on the
9 Common Areas;
10
11 (d) the payment of real estate taxes, assessments and other charges on those portions
12 of the Common Areas owned by the Association;
13
14 (e) the insurance of all improvements which the Association is obligated to maintain
15 against damage by casualty with such companies and with such limits as the
16 Association deems appropriate;
17
18 (f) the hiring, firing, supervision and paying of employees and independent contractors,
19 including, but not limited to, security personnel to operate the restricted entry
20 system (if any), workmen, landscapers, attorneys, accountants, architects and
21 contractors to carry out the obligations set forth herein;
22
23 (g) the maintenance of such liability insurance as the Association deems necessary to
24 protect the Members and the Board from liability for conditions existing and events
25 occurring on or about the Common Areas including, but not limited to, errors and
26 omissions insurance for the directors and officers of the Association;
27
28 (h) the maintenance of worker's compensation insurance for the employees, if any, of
29 the Association;
30
31 (i) the purchase of all goods, supplies, labor and services reasonably necessary for the
32 performance of the obligations set forth herein;
33
34 (j) the enforcement, in its sole discretion, of the provisions of this Declaration,
35 including, but not limited to, the Use Restrictions in Article XI;
36
37 (k) the establishment and maintenance of such cash reserves as the Association in its
38 sole discretion deems reasonably necessary for the maintenance and repair of the
39 improvements for which it is responsible and for unforeseen contingencies;
40
41 (l) payment for all utility services for Common Area facilities; and
42

1 (m) entering into such agreements and taking such actions as are reasonably necessary
2 and convenient for the accomplishment of the obligations set forth above and the
3 operation and maintenance of the Common Areas and facilities located thereon.
4

5 4.2. Bylaws, Articles of Incorporation and Board of Directors. The manner in which
6 the Association carries out its responsibilities shall be controlled by the provisions of its Bylaws,
7 Articles of Incorporation and this Declaration. The affairs of the Association shall be managed
8 by a Board of Directors elected by the Members. The Board shall:
9

10 (a) Exercise for the Association all powers, duties and authority vested in or delegated to
11 the Association and not reserved to the membership by other provisions of this
12 declaration.
13

14 (b) Carry out the business of the Association and its routine administration.
15

16 (c) Enforce the Community Documents.
17

18 4.3. Rules and Regulations of the Association. The Board is empowered to adopt,
19 amend, or repeal such rules and regulations as it deems reasonable and appropriate
20 (collectively, the "Rules"), which shall be binding upon all Persons subject to this Declaration
21 and shall govern the use or occupancy of the Properties. The Rules shall govern such matters
22 as the Board deems to be in furtherance of the purposes of the Association, including, without
23 limitation, the use of the Common Area. The Rules may be adopted, amended, or repealed at
24 any special or regular meeting of the Board upon a vote of a majority of all the Directors, and
25 shall take effect after 30 days' written notice to the Owners, unless the rule(s) being adopted,
26 amended or repealed has a compelling health or safety purpose, in which case seven days'
27 notice to the Owners is required.
28

29 The Rules are deemed incorporated herein by this reference, and shall have the same
30 force and effect as if they were set forth in and were part of this Declaration, and shall be
31 binding upon all persons having any interest in, or making any use of, any part of the
32 Properties, whether or not copies of the Rules are actually received by such persons.
33 References to the covenants and restrictions contained herein shall be deemed to refer also to
34 the Rules (except to the extent the Rules are in conflict herewith). The Rules, as adopted,
35 amended or repealed, shall be available for review by each person reasonably entitled thereto,
36 upon written request to the Board. It shall be the responsibility of each person subject to the
37 Rules to review and keep abreast of any changes in the provisions thereof.
38

39 **ARTICLE V: MEMBERSHIP** 40

41 5.1. Membership. Every Person who is an Owner of a Lot shall be a Member of the
42 Association. Membership shall be appurtenant to and may not be separated from ownership of
43 a Lot. Only Persons who own Lots under recorded instruments, including deeds and contracts
44 for sale, shall be Members of the Association.

1
2 5.2. Voting Rights. There shall be one vote for each Lot, which vote may be exercised
3 by the Owner or Owners of the Lot. When more than one Person holds an interest in any Lot,
4 the vote for that Lot shall be exercised as agreed upon by the Owners, but in no event shall
5 more than one vote be cast for any one Lot. If the owners of a Lot cannot agree on how to cast
6 any vote, they will lose their right to vote on the matter in question. If any Owner casts a vote
7 on a particular matter, it will conclusively be presumed for all purposes that the person casting
8 the vote was acting with the authority and consent of all of the Owners of the Lot, unless an
9 objection by any other Owner is made at the time the vote is cast. In the event that more than
10 the allocated votes are cast for a particular Lot, none of the votes shall be counted and all of
11 the votes shall be deemed void.

12
13 5.3. Limitations on Votes. At least two-thirds of the votes of all Owners and the
14 consent of at least two-thirds (2/3rds) of all First Mortgagees shall be required prior to any
15 action being taken to accomplish any of the following:

- 16
17 (a) an action to abandon, partition, subdivide, encumber, sell or transfer any Common
18 Areas owned, directly or indirectly, by the Association, provided that the granting of
19 easements for public utilities or purposes consistent with the intended use of such
20 Common Areas, or for other purposes deemed necessary for the full use, enjoyment
21 and development of the Properties shall not be deemed a transfer, sale or
22 encumbrance within the meaning of this Article;
23
24 (b) an action to change the method of determining the obligations, assessments, dues,
25 or other charges which may be levied against an Owner;
26
27 (c) an action to change, waive or abandon any material scheme of regulations, or
28 enforcement thereof, pertaining to the architectural design or the exterior
29 appearance of the Dwelling Units, the exterior maintenance of the Dwelling Units,
30 and the maintenance of the Common Areas;
31
32 (d) a decision not to maintain fire and extended coverage on insurable improvements
33 on the Common Areas on a current replacement cost basis in an amount not less
34 than one hundred (100%) percent of the insurable value (based on current
35 replacement cost);
36
37 (e) a decision to use hazard insurance proceeds losses to any Common Areas and
38 improvements thereon for other than the repair, replacement or reconstruction of
39 such Common Areas and improvements thereon.
40

41 **ARTICLE VI: ASSESSMENTS**

42
43 6.1. Creation of the Lien and Personal Obligation to Pay Assessments. Each Owner,
44 upon the recordation of a deed to any Lot, whether or not it shall be so stated in such deed,

1 agrees and covenants to pay to the Association: (a) Annual Assessments or charges, (b) Special
2 Assessments, and (c) Reimbursement Assessments. These Assessments shall be established
3 and collected as provided in this Article. All Assessments levied against a Lot, together with
4 interest from the date of delinquency until paid, late fees, costs and reasonable attorneys' fees,
5 shall be charged against the Lot and shall be a continuing lien upon the Lot. Such lien shall be
6 deemed to have attached as of the date of recordation of the Original Declaration, and shall be
7 senior to all matters other than tax liens for real property taxes on the Lot, assessments on the
8 Lot in favor of any municipal or other governmental assessing unit, reservations in patents, and
9 the lien of any First Mortgage.

10
11 Delinquent Assessments, together with interest, late fees, costs, and reasonable
12 attorneys' fees, also shall be the personal obligation of the person who was the Owner of such
13 Lot at the time when the Assessment was levied, and shall bind his/her heirs, devisees, personal
14 representatives and assigns. Except as otherwise provided herein, the personal obligation for
15 delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

16
17 6.2. Purpose of Assessments. The Assessments levied by the Association shall be
18 used exclusively to promote the recreation, health, safety, welfare, and enjoyment of the
19 residents in the Properties, for the improvement and maintenance of the Common Area,
20 enforcement of the Governing Documents, and the establishment of reasonable reserves for
21 anticipated future expenditures for such purposes.

22
23
24 6.3. Annual Assessment. The Board shall determine the amount of the Annual
25 Assessment, based upon the operating budget of the Association, including appropriate
26 reserves. The amount of the Annual Assessment may not be increased more than twenty
27 percent (20%) over the previous year's Assessment without the affirmative vote of a majority of
28 the Members eligible to vote in the Association at an annual meeting or at a special meeting
29 duly called for this purpose. The vote also may be by written ballot in place of a meeting. The
30 Board may fix the Annual Assessment at an amount not in excess of the maximum referred to
31 above.

32
33 6.3.1. Budgeting. Each year, the Board shall prepare, approve and make
34 available to each Member, a budget containing: (a) estimated revenue and
35 expenses; and (b) the amount of total cash reserves of the Association currently
36 available for replacement or repair of the Common Area or other areas within
37 the Properties which the Association may be responsible to repair and maintain,
38 and for contingencies. The total amount needed to fund the annual budget shall
39 be charged equally against all Lots as Annual Assessments, subject to any
40 limitations set forth in the Governing Documents. The Board shall prepare and
41 approve the annual budget and distribute a copy to each Lot Owner, together
42 with written notice of the amount of the Annual Assessment to be levied against
43 the Owner's Lot, not less than fifteen (15) days nor more than sixty (60) days
44 prior to the beginning of the fiscal year.

1 6.3.2. Non-Waiver of Assessments. If before the expiration of any fiscal
2 year the Board fails to fix the Annual Assessments for the next fiscal year, the
3 Annual Assessment established for the preceding year shall continue until a new
4 Annual Assessment is fixed.
5

6 6.4. Special Assessments. The Board shall determine and levy Special Assessments in
7 addition to the Annual Assessment for: (a) constructing capital improvements; (b) correcting an
8 inadequacy in the current operating account; (c) defraying, in whole or in part, the cost of any
9 construction, reconstruction, repair or replacement of improvements in the Common Area; or
10 (d) paying for such other matters as the Board may deem appropriate for the Properties or the
11 good and welfare of the Members.
12

13 6.5. Reimbursement Assessments. The Association may levy a Reimbursement
14 Assessment if: (a) Any Owner, his/her family member, tenant, guest or invitee, has failed to
15 comply with the Association's Governing Documents, which failure has necessitated an
16 expenditure of money by the Association to bring the Owner or his Lot into compliance; or (b)
17 Any Owner, his family member, tenant, guest or invitee has caused damage to the Common
18 Area. A Reimbursement Assessment shall not be levied by the Association until notice and an
19 opportunity for a hearing has been given to the pertinent Owner. Reimbursement Assessments
20 may be enforced in the same manner as Annual Assessments.
21

22 6.6. Reserve Fund.
23

24 6.6.1. Requirement for Reserve Fund. The Association shall maintain a
25 separate reserve account with the funds therein being used for the periodic
26 maintenance, repair and replacement of the Common Area.
27

28 6.6.2. Funding the Reserves. To the greatest extent possible, the
29 reserve fund shall be funded by a portion of the Annual Assessments of Owners
30 rather than by Special Assessments; provided however, that this provision shall
31 not be deemed to limit the power of the Association to levy any Assessment or
32 charge authorized by this Declaration.
33

34 6.6.3. Management of Reserves. The reserves which are collected as
35 part of the Annual Assessments shall be deposited by the Association in a
36 separate bank account to be held in trust for the purposes for which they are
37 collected or allocated. Such reserves shall be deemed a contribution to the
38 capital account of the Association by the Owners and, once paid; no Owner shall
39 be entitled to any reimbursement of those funds. The Board is only responsible
40 for providing for such reserves as the Board, in good faith, deems reasonable,
41 and no member of the Board is liable to any Owner or to the Association if the
42 amount in the reserve account proves to be inadequate.
43

1 6.7. Uniform Rate of Assessment and Due Dates. All Annual Assessments and Special
2 Assessments must be fixed at a uniform rate for all Lots. Annual Assessments shall be due and
3 payable on or before January 31st of each year, or as otherwise determined by the Board.
4

5 6.8. Effect of Non-Payment of Assessments; Remedies of the Association. If any
6 Assessment is not paid within thirty (30) days after its due date, a late fee in accordance with
7 A.R.S. §33-1803 and interest may be charged. Interest shall accrue from the date of default
8 until paid at two percent (2%) above the prime rate of interest customarily charged by the
9 Association's banking institution for short-term loans to its most creditworthy customers as of
10 the date of default. If a check tendered for any Assessment is returned as unpaid for any
11 reason, a charge shall be assessed, as determined by the Board. If the Association employs an
12 attorney to collect a delinquent assessment, whether by foreclosure of the lien created herein
13 or otherwise, the delinquent Owner shall pay, in addition to the Assessments, late fees and
14 interest accrued thereon, such reasonable attorneys' fees and all other costs and expenses
15 incurred by the Association as a result of the delinquency. In addition to all other remedies
16 provided by law, the Association, or its authorized representative, may enforce the obligations
17 of any Owner to pay the Assessments in any manner provided by law or in equity, or without
18 any limitation to the foregoing, or by either or both of the following procedures:
19

20 6.8.1. Civil Action. The Board may cause a civil action to be commenced
21 and maintained in the name of the Association against any Owner who is
22 personally obligated to pay delinquent Assessments. Any judgment obtained in
23 the Association's favor shall include the amount of the delinquent Assessments,
24 interest and late fees; any additional charges incurred by the Association; and
25 any other amounts the court may award, including reasonable attorneys' fees
26 and court costs. A proceeding to recover a judgment for unpaid Assessments
27 may be maintained without the necessity of foreclosing or waiving the
28 Association's lien.
29

30 6.8.2. Enforcement of Lien. As provided in Section 6.1 above, all
31 Assessments, plus late fees, interest and costs connected therewith, shall be a
32 continuing lien upon the Lot assessed.
33

34 (a) Notice and Perfection of Lien. As more fully provided in A.R.S.
35 §33-1807, the recording of the Original Declaration constitutes
36 record notice and perfection of the Association's lien. The
37 Association is not required to record a notice of lien, but may do
38 so to provide notice to third parties of its interest in a Lot. The
39 Association's lien is senior to all matters other than tax liens for
40 real property taxes on the Lot, Assessments on the Lot in favor of
41 any municipal or other governmental assessing unit, reservations
42 in patents, and the lien of any First Mortgage. Except for the
43 transfer of a Lot pursuant to a foreclosure of a First Mortgage, the
44 sale or transfer of a Lot does not affect the Association's lien.

1
2 (b) Foreclosure of Lien. The Association's lien may be foreclosed by
3 appropriate action in court or in the manner provided by law for
4 the foreclosure of a realty mortgage, as set forth by the laws of
5 the State of Arizona, as the same may be changed or amended.
6 The lien provided for herein shall be in favor of the Association
7 and shall be for the benefit of all other Owners. The Association
8 shall have the power to bid in at any foreclosure sale and to
9 purchase, acquire, hold, lease, mortgage, and convey any Lot. If
10 such foreclosure is by action in court, reasonable attorneys' fees,
11 court costs, title search fees, interest and all other costs and
12 expenses shall be allowed to the extent permitted by law. Each
13 owner hereby expressly waives any objection to the enforcement
14 and foreclosure of this lien.
15

16 6.9. Subordination of Lien to Mortgagee. The lien for Assessments provided for
17 herein, including without limitation any related fees, costs, late charges, or interest, shall be
18 subordinate to the lien of any First Mortgage. Sale or transfer of any Lot pursuant to
19 foreclosure of a First Mortgage or any proceeding in lieu thereof, including deed in lieu of
20 foreclosure, or cancellation or forfeiture of an executory land sales contract, shall extinguish
21 the Association's lien for Assessments or charges which became due prior to the sale or
22 transfer, or foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure,
23 or cancellation or forfeiture of any executory land sales contract. No such sale, transfer,
24 foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor
25 cancellation or forfeiture of an executory land sales contract, shall relieve any Owner of a Lot
26 from liability for any Assessments or charges thereafter becoming due, nor from the lien
27 thereof. In the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof,
28 such First Mortgagee shall not be liable for unpaid Assessments or other charges which accrued
29 prior to the acquisition of title to the Lot in question by such First Mortgagee.
30

31 6.10. No Offset and No Exemption of Owner. No offset against any Assessment shall
32 be permitted for any reason, including, without limitation, any claim that the Association is not
33 properly discharging its duties. No Owner is exempt from liability for payment of Assessments
34 because he/she does not use or enjoy the Common Area, or has abandoned his/her Lot, or for
35 any other reason, including (but not limited to) any allegation that the Board is not performing
36 its obligations under the Association's Governing Documents.
37

38 6.11. Joint and Several Liability. Upon the voluntary conveyance of a Lot, the selling
39 Owner and his buyer shall be and remain jointly and severally liable for the payment of all
40 assessments levied against the Lot prior to the closing of said sale and unpaid at the time of the
41 conveyance, subject to the provisions of this Article.
42

1 6.12. Purchase for Resale. The buyer of a property with the primary intent of rent or
2 resale, be they an individual, business, or licensed real estate organization, shall be bound by
3 the rules herein as if they were an individual owner.
4

5
6 **ARTICLE VII: MORTGAGEE'S PROTECTION PROVISIONS**
7

8 7.1. Definition. Notwithstanding and prevailing over any other provisions of the
9 Governing Documents, the following terms and provisions shall apply solely to and benefit only
10 each First Mortgagee holding a Mortgage interest in any Lot.
11

12 The term "First Mortgagees" as used for purposes of this Article IX shall mean any
13 holder of a First Mortgage, except that in the case of necessary notices or consents as specified
14 below it shall mean only those holders of First Mortgages ("Eligible Mortgage Holders") who
15 have requested in writing of the Association that they be notified of proposed actions requiring
16 notice to or approval of such First Mortgagees as set forth below.
17

18 7.2. No Personal Liability. No First Mortgagee shall in any manner be personally
19 liable for the payment of any Assessment or charge, nor for the observance or performance of
20 any covenant, restriction, regulation, rule, Article or Bylaw, except for those matters which are
21 enforceable by injunctive relief or other equitable actions not requiring the payment of money
22 and, except as hereinafter provided.
23

24 7.3. Trustee's Sale and Foreclosure. During the pendency of any trustee's sale or
25 with respect to any proceeding to foreclose a First Mortgage, including any period of
26 redemption, the First Mortgagee (or receiver appointed in such action) may, but need not,
27 exercise any or all the rights and privileges of the Owner of the mortgaged Lot including, but
28 not limited to, the right, if any, to vote as a Member of the Association to the exclusion of the
29 Owner's exercise of such rights and privileges.
30

31 7.4. Obligation to Pay Assessments. At such time as a First Mortgagee becomes
32 record Owner of a Lot, said First Mortgagee shall be subject to all of the terms and conditions of
33 this Declaration, including, but not limited to, the obligation to pay as and when due any and all
34 Assessments and charges accruing thereafter and assessable against the Lot acquired, in the
35 same manner as any Owner.
36

37 7.5. Title Acquired through Foreclosure or Default. The First Mortgagee, or any other
38 party acquiring title to a Lot through foreclosure suit or through any equivalent proceeding
39 arising from the default under a First Mortgage, including, but not limited to, the taking of a
40 deed in lieu of foreclosure, shall acquire title to the Lot acquired free and clear of any lien
41 authorized by or arising out of any of the provisions of this Declaration, which secured the
42 payment of any Assessment for charges accrued prior to the final conclusion of any such
43 foreclosure suit or equivalent proceeding, including the expiration date of any period of
44 redemption. Any such unpaid Assessment shall nevertheless continue to exist as the personal

1 obligation of the defaulting Owner of the Lot. There shall be a lien upon the interest of the
2 First Mortgagee or other party acquiring title to a Lot by foreclosure or by equivalent procedure
3 for all Assessments authorized by this Declaration which accrue and are assessed after the date
4 the First Mortgagee or other acquirer has acquired title to the Lot free and clear of any right of
5 redemption.
6

7 7.6. Material Changes by Association. The Association shall not, without first,
8 obtaining the approval of at least sixty-seven percent (67%) of the votes of the Lot Owners and
9 the consent of fifty-one percent (51%) of the Eligible Mortgage Holders, amend this Declaration
10 or Bylaws of the Association in any fashion so as to materially affect the following matters:
11

- 12 (a) Voting rights of Members;
- 13
- 14 (b) Assessments, assessment liens, or subordination of assessment liens;
- 15
- 16 (c) The establishment and maintenance of reserves for maintenance, repair and
17 replacement of Common Areas and facilities related thereto;
- 18
- 19 (d) The responsibility for maintenance and repairs;
- 20
- 21 (e) The reallocation of interests in the general or limited common areas, or rights to
22 their use;
- 23
- 24 (f) The delineation of the boundaries of any Lot;
- 25
- 26 (g) The convertibility of Lots into Common Areas or vice versa;
- 27
- 28 (h) The expansion or contraction of the Properties or the construction projects related
29 thereto, or the addition, annexation or withdrawal of real Property to or from the
30 Properties;
- 31
- 32 (i) The issuance of fidelity bonds with respect to the Properties;
- 33
- 34 (j) The imposition of any restrictions on an Owner's right to sell or transfer his or her
35 Lot;
- 36
- 37 (k) A decision by the Association to establish self-management when professional
38 management had been previously required by a First Mortgagee;
- 39
- 40 (l) The restoration or repair of the Properties after a hazard or partial condemnation in
41 a manner other than that specified in this Declaration or in the Bylaws of the
42 Association;
- 43

1 (m) Any action to terminate the legal status of the Properties after substantial
2 destruction or condemnation thereof; or

3
4 (n) Any provisions based on such Bylaws that expressly benefit Mortgage holders,
5 insurers or guarantors.
6

7 7.7. Termination of Legal Status of Properties. Notwithstanding the foregoing, if
8 the required percentage of the Owners of Lots shall determine to terminate the legal status of
9 the Properties for reasons other than substantial destruction or condemnation, the required
10 percentage approval of First Mortgagees shall be sixty-seven percent (67%).
11

12 7.8. Right to Pay Charges in Default. First Mortgagees are hereby granted the right
13 but shall not be obligated to jointly or severally pay such taxes or other charges as are in default
14 and which may or have become a charge against any Common Areas owned by the Association.
15 Such First Mortgagees also may, jointly or severally, pay overdue premiums on hazard
16 insurance policies or secure new hazard Insurance coverage on the lapse of a Policy covering
17 said Common Areas, and any First Mortgagees making such payment shall be owed immediate
18 reimbursement therefor from the Association.
19

20 7.9. Precedence of First Mortgage. Nothing in this Declaration shall in any manner
21 be deemed to give an Owner, or any other party, priority over any rights of a First Mortgagee
22 under the terms of such First Mortgagee's Mortgage in the case of a distribution to an Owner of
23 insurance proceeds or condemnation awards for losses or a taking of any Dwelling Unit or any
24 part of the Common Areas owned by the Association. Each First Mortgagee shall be entitled to
25 timely written notice of such loss or taking.
26

27 7.10. Written Notification of Default. Each First Mortgagee shall, upon written
28 request to the Association, be entitled to a written notification from the Association of any
29 default in the performance by the Owner of a Lot encumbered by the Mortgage in favor of such
30 First Mortgagee under any obligation provided for herein or under the Articles of Incorporation,
31 Bylaws, or Rules of the Association and which default is not cured within sixty (60) days.
32

33 7.11. Inspection of Books and Records. Each First Mortgagee shall, upon written
34 request to the Association, be entitled to:
35

36 (a) inspect the books and records of the Association during normal business hours;
37

38 (b) receive an annual financial statement of the Association within ninety (90) days
39 following the end of any fiscal year of the Association; and
40

41 (c) receive written notice of all meetings of the Association, and designate a
42 representative to attend such meetings.
43

7.12. **Notice.** Each First Mortgagee shall, upon written request to the Association, be entitled to written notice from the Association at least thirty (30) days prior to:

- (a) abandonment or termination of the Association;
- (b) any material amendment to the Declaration, Articles or Bylaws; and
- (c) the effectuation of any decision by the Association to terminate professional management and assume self-management of the Association.

ARTICLE VIII: INSURANCE

8.1. Scope of Coverage. The Association shall secure and maintain at all times liability insurance coverage for the Common Areas and all insurable facilities and improvements thereon, to the extent that the same is available at reasonable cost. Said coverage shall be with policy limits of a minimum of One Million Dollars (\$1,000,000.00), insuring against liability for bodily injury and property damage resulting from the use of the Common Areas or the maintenance or operation thereof, and any liability arising from a contract of employment between the Association and another person or entity. The Association shall also secure fire and extended coverage, together with a standard "all risk" endorsement and, to the extent the same can be obtained, "agreed amount" and "inflation guard" endorsements, and any construction code endorsements required under law, which coverage shall be in an amount to be determined by the Board of the Association, but in no event less than 100% of the current replacement value of Common Areas. The cost of such insurance shall be paid by the Association. The Association shall have authority to negotiate with the insurance carrier and to adjust losses, make settlements and give releases to the insurance carrier. Each policy of insurance provided for under this Section 8.1 shall recite that the same may not be canceled or benefits thereunder be alterable without thirty (30) days prior notice in writing to the Association

8.2. Repair and Replacement of Damaged and Destroyed Property. In the event of damage to or the destruction by fire or other casualty of Common Areas facilities or improvements that are covered by the insurance policies described in Section 8.1, the Board shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed property to as good a condition as formerly existed. In the event that the insurance proceeds are insufficient to substantially restore or repair the damaged or destroyed facilities, the Board shall poll the Members, and upon the approval of Members holding sixty-seven percent (67%) or more of the total votes in the Association, may specially assess the Owners for the difference between the insurance proceeds received and the reasonable cost of repair or replacement of the damaged or destroyed Common Area facilities. If less than sixty-seven percent (67%) of the Members consent to such special assessment of the Owners, no such assessment shall be made and the Board may determine to only partially restore or replace the damaged or destroyed facilities or to make some other use of the affected Common Area(s).

1 8.3. Owner's Responsibilities. The Association shall in no event be required to
2 replace or restore real or personal property located upon any Lot, and the insurance of Lots and
3 improvements thereon against any and all hazards shall be the sole responsibility of the Owners
4 thereof. In the event of damage to an improvement on a Lot, the Owner thereof shall repair or
5 rebuild the improvement to the same standards and specifications of the original improvement,
6 unless otherwise permitted by the Architectural Committee.
7

8 8.4. Mortgagee's Insurance. Notwithstanding any provision of this Declaration to
9 the contrary, in the event any improvement constructed on the Common Areas is the subject of
10 a Mortgage, then each policy of insurance procured pursuant to Section 8.1 shall contain or
11 have attached thereto a standard mortgagee or beneficiary coinsurance and loss payable clause
12 which provides that all proceeds paid thereunder shall be paid to the Association for the use
13 and benefit of all Mortgagees under Mortgages encumbering any such improvements, as their
14 interests may appear. Such policy or policies shall further provide that the insurance carrier
15 issuing the same shall notify each First Mortgagee identified as such to such carrier at least
16 thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.
17 Such policy or policies shall further provide that the interest of each Mortgagee holding a
18 Mortgage encumbering any such improvements shall not be invalidated by any action, neglect,
19 or inaction of the Board, Owners or their tenants or agents. Such policy or policies shall further
20 provide for waiver by the insurer of any policy provisions which would render the mortgagee or
21 beneficiary clause invalid by reason of the failure of such mortgagee or beneficiary to notify the
22 insurer of any hazardous use of such improvements and any policy requirement that the
23 mortgagee or beneficiary pay the premium thereof.
24

25 **ARTICLE IX: OWNER'S RESPONSIBILITIES**

26
27 9.1. Owners' Maintenance Responsibilities. All exterior repairs shall be made in
28 conformance with the original architectural design and style of the structure being repaired.
29 Owners' maintenance responsibilities are as follows:
30

31 9.1.1. Each Owner shall be responsible for the maintenance and repair
32 of his/her Lot, Dwelling Unit and any other improvements on the Lot reasonably
33 on a par with those of the neighboring Lots, including (but not limited to) utility
34 costs, ad valorem taxes, appliances, heating and cooling units, roof maintenance,
35 and all other exterior and interior repairs and maintenance.
36

37 9.1.2. Each Owner is responsible for landscaping and maintaining the
38 appearance of his/her Lot. This maintenance responsibility includes (but is not
39 limited to) trees, shrubs, grass, driveways, and walks. Owners shall be
40 responsible throughout the calendar year for the control of weeds on their Lots
41 to prevent an unsightly appearance and the dissemination by wind or water of
42 weed seeds to other parts of the Association or neighboring subdivisions. No
43 shrubs, trees or obstructions of any kind shall be placed in such places as to
44 cause a traffic hazard.

1
2 9.1.3. Trimming of trees and other vegetation on Lots.
3

4 9.2. Destruction of Dwelling Unit. If any Dwelling Unit is destroyed in
5 whole or in part as the result of fire or any other cause whatsoever, the Owner
6 must repair or promptly rebuild the structure. After written notice, if the Owner
7 of such damaged or destroyed building fails to take the necessary steps to repair
8 or rebuild the Dwelling Unit, then the Owner shall remove the remaining portion
9 of the damaged or destroyed Dwelling Unit, and maintain and keep such Lot in a
10 clean and sanitary condition. The Owner further shall repair or restore any
11 sewers, patio walls, sidewalks or Common Area damaged as a result of fire or by
12 any other cause whatsoever.
13

14 9.3. Failure to Maintain. If any Owner fails to fulfill his obligations under this Article
15 IX, after approval by two-thirds (2/3) vote of the Board, the Association shall have the right,
16 through its agents and employees, to enter upon the Lot, and to repair and maintain as needed
17 in the sole discretion of the Board. The cost of such maintenance and repair shall be a
18 Reimbursement Assessment, and an invoice shall be sent to the Owner, which shall be due
19 and payable within 30 days of its date.
20

21 **ARTICLE X: ARCHITECTURAL REVIEW** 22

23 10.1. Architectural Committee. The Architectural Committee shall be appointed by
24 the Board. The Chair of the Architectural Committee shall be a member of the Board and there
25 shall be at least two other members. All architectural matters within the Properties shall be
26 subject to the discretionary review of the Architectural Committee, except as otherwise
27 provided herein.
28

29 10.2. Architectural Rules. The Architectural Committee may adopt and amend
30 written rules and regulations concerning the construction, alteration, repair, modification or
31 addition of any Dwelling Unit, garage, walls, fences, mail box, or any other improvement on a
32 Lot ("Architectural Improvement"), subject to the approval of the Board. Such rules and
33 regulations shall be promulgated in accordance with Section 4.3 of this Declaration.
34

35 10.3. Architectural Review. Prior to the construction, installation or modification of
36 any Architectural Improvement upon a Lot, the Owner is required to obtain the written
37 approval of the Architectural Committee, which approval may be given or denied in the sole
38 discretion of the Architectural Committee. For purposes of this Article, Architectural
39 Improvements shall be deemed to include, but are not limited to, buildings, fixtures, radio
40 antennae, television antennae, satellite stations or dishes, walls, fences, copings, awnings,
41 sunshades, flagpoles, or any similar structures, any landscaping, and any and all other related
42 matters. Any architectural change must conform to the Pima County Zoning and Building
43 Codes. The Architectural Committee is authorized to make inspections during the construction
44 process in accordance with Section 11.9.

1 10.3.1. Required Submittal. The Owner shall submit to the Architectural
2 Committee plans and specifications for the proposed Architectural
3 Improvements (including materials, exterior color schemes and dimensions); plot
4 plans, which shall include the location of all major structures; and a construction
5 schedule.
6

7 10.3.2. Approval by Committee. The Architectural Committee shall
8 review and shall either approve or disapprove all plans and specifications within
9 45 days after submission and issuance by the Association of a receipt indicating
10 the date received. Any plans not so approved or disapproved shall be deemed
11 approved, and the provisions of this Section shall be deemed waived. Approval
12 of said plans and specifications shall be evidenced by the written endorsement
13 of the Architectural Committee upon said plans and specifications. A copy of the
14 endorsed plans shall be returned to the Owner of the Lot proposing a change,
15 and must be received by the Owner prior to the beginning of any construction.
16 One set of plans and specifications shall be retained by the Architectural
17 Committee. The work of constructing or altering any building or any part the
18 Properties shall be pursued diligently from commencement to completion.
19

20 10.3.3. Nonconforming Architectural Improvements. If an Owner makes
21 unapproved Architectural Improvements upon his/her Lot or Architectural
22 Improvements that do not conform to the plans and construction schedule
23 submitted to and approved by the Architectural Committee, the Committee shall
24 give written notice to the Owner of the property upon which such Architectural
25 Improvements have been made. Such notice shall specify the nature of the
26 nonconformity of the Architectural Improvements and shall grant the Owner an
27 opportunity to cure the nonconformity or request a hearing before the Board. If
28 the matter is not resolved, the Association has the right to avail itself of all
29 applicable legal and equitable remedies.
30

31 10.4. Standards of Review. In reviewing plans for Architectural Improvements or other
32 exterior changes upon a Lot, the Architectural Committee shall exercise its discretion in
33 deciding whether or not the proposed modification is in harmony with the overall scheme of
34 the development of the Properties. The intent is to preserve the integrity and homogeneity of
35 the southwestern style, design and color scheme of the Properties.
36

37 The Architectural Committee shall have the right to deny alterations or modifications for
38 purely aesthetic reasons, if: (a) the Architectural Committee considers the alteration or
39 modification to be unattractive in relation to the overall scheme of development; (b) the
40 Committee considers the alteration or modification to be a nuisance or upset of design; or (c)
41 the Committee considers the alteration or modification to be in contrast to or out of harmony
42 with the style of existing structures. The Architectural Committee may elicit the opinion of
43 other Owners, including the neighbors of the Owner submitting the plan for alteration or
44 modification, as to the effect that the proposed plan might have on the physical views of other

1 Owners. After eliciting these opinions, the Architectural Committee may, but need not, take
2 them into account in making its final decision. While the opinion of no single Lot Owner will
3 control a decision of the Architectural Committee, within its own discretion the Architectural
4 Committee may, but need not, attach whatever significance it deems appropriate to the
5 statements of residents and/or neighbors of the Owner submitting the proposed alteration or
6 modifications to an existing structure.

7
8 10.5. Requirements for Plans and Specifications. All plans must meet the following
9 minimum criteria and such further criteria adopted by the Architectural Committee from time
10 to time:

11
12 10.5.1. The plans shall be in accordance with the provisions of this
13 Declaration and written rules and regulations of the Architectural Committee,
14 and shall not involve material changes to models designed or built by Declarant
15 without specific waiver of this sub-Section by the Architectural Committee;

16
17 10.5.2. The plans shall be in sufficient detail to permit the Architectural
18 Committee to make its determination; and

19
20 10.5.3. The plans, as submitted to the Architectural Committee, shall be
21 complete and ready for submittal to obtain a building permit from Pima County
22 or other competent jurisdiction.

23
24 10.6. Conformity to Building Codes. All structural and design work shall be
25 accomplished in accordance with the Uniform Building Code as adopted by the County of Pima
26 or other competent jurisdiction. Electrical and mechanical work shall conform to all applicable
27 local and national codes. All buildings, fences, ledges, improvements or appurtenances or other
28 structures of any nature shall be in compliance with the setback requirements of the County of
29 Pima or other legal jurisdiction, including but not limited to, the front, side and rear setbacks;
30 the same must be approved by the Architectural Committee before the commencement of any
31 construction.

32
33 10.7. Cost Recovery. If the Association incurs any costs for review of submitted plans
34 and specifications due to the need for professional services, the Association may charge a
35 reasonable fee to a petitioning Owner for the review of the plans and specifications. This fee
36 shall be paid in advance at the time the plans and specifications are submitted for approval.

37
38 10.8. Limitation of Liability. Although the Architectural Committee shall have the right
39 to reject plans and specifications for reasons which may include their failure to comply with
40 zoning or building ordinances or other governmental regulations or restrictions, or on the basis
41 that such plans and specifications appear to be defective or not prepared in accordance with
42 sound engineering practices, the approval of plans and specifications shall not constitute a
43 representation, warranty or guarantee that such plans and specifications comply with proper
44 engineering or design principles, with zoning or building ordinances or with other governmental

1 regulations or restrictions. By approving plans and specifications, neither the Board, the
2 Architectural Committee, nor any of their members assumes any liability or responsibility
3 therefor, or for any defect in the structure constructed from such plans and specifications.
4

5 Neither the Board, the Architectural Committee, nor any of their members shall be
6 liable for damages or otherwise to any person submitting requests or plans for approval, or to
7 any Owner of land subject to these covenants, by reason of any action, mistake in judgment,
8 negligence, failure to act, approval, disapproval or failure to approve or disapprove with respect
9 to any matter within their jurisdiction under the terms of this Declaration. Any Owner
10 submitting plans to the Architectural Committee, and any Owner, by acquiring title to any Lot,
11 waives his/her claim for damages or other relief arising under the architectural review process
12 established in this Declaration or by the Board.
13

14 10.9. Submittal by Member of Committee. If a member of the Architectural
15 Committee wishes to alter, remodel, and/or add to his/her existing structure, a substitute
16 member may be appointed by the Board to the Architectural Committee to, in conjunction with
17 the remaining members of the Committee, approve or disapprove said plans and specifications.
18

19 10.10. Waivers. Any or all of the restrictions of this Article are subject to waiver by the
20 Architectural Committee with the approval of the Board, and any such waiver may apply at the
21 option of the Architectural Committee with the approval of the Board, to fewer than all the Lots
22 without waiver of such restrictions as to any other Lot or Lots.
23

24 10.11. Appeal. Decisions of the Architectural Committee shall be considered to be final
25 unless the Owner whose proposal has been disapproved or has received a decision that he or
26 she considers adverse, appeals the decision to the Board within thirty (30) calendar days of
27 receipt of the original decision. The appeal must be in writing and state the reasons for the
28 request for reconsideration or appeal of the Architectural Committee's decision and the relief
29 requested. The applicant and any interested party or parties shall be given notice of said
30 hearing. The applicant and any other interested party or parties may testify and present
31 evidence at the hearing. The date of the hearing shall be set by the Board after its receipt of
32 the notice of appeal. The Board shall issue a written decision within ten (10) business days
33 after the hearing has been completed. Failure to do so shall mean that the original decision is
34 affirmed. Decisions of the Board in this regard shall be binding and conclusive.
35

36 10.12. Building Requirements. In addition to the requirements in the Architectural
37 Rules, the following restrictions shall apply:
38

39 10.12.1. Land Use and Building Type. No improvement or structure
40 whatever, other than a first-class private dwelling house, patio walls, swimming
41 pool and customary outbuildings, garage or carport, may be erected, placed or
42 maintained on any Lot that is not equivalent of or better than the quality of
43 material and workmanship of the existing and surrounding structures.
44

1 10.12.2. Fences, Walls and Hedges. No fence or wall may exceed six
2 (6) feet in height, without approval of the Architectural Committee. Any planting
3 used to form a hedge will be subject to the same setback and height
4 requirements as applied to a fence or wall. In determining the height of a wall or
5 other such item, the average natural ground level of the adjacent properties
6 shall be used. Bare concrete walls and chain link fences are prohibited. No fence,
7 walls or hedge shall substantially obstruct the material view of adjoining
8 properties. In case of disputes, a decision by the Architectural Committee shall
9 be final.

10
11 10.12.3. Shrubs, Trees, and Grasses. No shrubs, trees or obstructions
12 of any kind shall be placed on corner lots in such places as to cause a traffic
13 hazard. Bermuda grass, except that of a variety recognized to be pollen free and
14 approved in writing by the Association, shall not be grown on any Lot. All trees
15 and other vegetation planted in the Lot shall be kept trimmed to a height which
16 will not materially interfere with views from neighboring building sites. The
17 Architectural Committee may forbid the planting or maintenance of certain
18 plants, trees and shrubs to restrict the propagation of such plants, trees and
19 shrubs to native or indigenous species.

20
21 10.12.4. Screening. Mechanical and electrical equipment to be
22 installed by an Owner, other than Fairfield in the original construction, shall,
23 within reason, be concealed from the view of any adjoining street front or Lot.
24 Included within this restriction are all mechanical and electrical equipment,
25 including air conditioning, evaporative coolers and pool pump or heating
26 equipment. Replacements need to be in the same location as original
27 equipment. No such equipment shall be permitted to remain exposed at the
28 side or rear of any Lot unless reasonably concealed by planting or fence.
29 Notwithstanding the above, equipment or other improvements originally
30 installed by Fairfield, and later replaced or repaired shall, within reason, be
31 concealed from the view of any adjoining street or Lot, except that no utility
32 boxes or meters shall be made inaccessible for the purpose of reading or
33 emergency access.

34
35 10.12.5. Lights. All exterior lights must be located and maintained so as
36 not to be directed toward or interfere with surrounding properties or the
37 Common Areas, including streets.

38
39 10.12.6. Temporary Structures. No temporary house, house trailer,
40 motorhome, tent, garage, camper, boat or outbuilding of any kind shall be
41 placed or erected upon any part of the Properties for use as living quarters. No
42 residence placed or erected on any Lot shall be occupied in any manner at
43 anytime prior to its being completed in accordance with approved plans, as
44 hereinafter provided, nor shall any residence, when completed, be in any

1 manner occupied until made to comply with all requirements, conditions, and
2 restrictions set forth herein; provided that, during the actual construction or
3 alteration of a building or buildings on any Lot, necessary temporary buildings for
4 storage of materials and equipment may be erected and maintained by the
5 person doing such work.
6

7 10.12.7. Other Buildings. No garage or other building or structure
8 shall be erected, placed or maintained on any Lot until the construction and
9 completion of the principal residence thereon, except that the necessary
10 outbuildings, garage or other structures relating to the principal residence may
11 be simultaneously constructed, and nothing herein shall be construed to prevent
12 the incorporation and construction of a garage in and as part of such residence.
13 The Architectural Committee may require that any garages and other accessory
14 buildings be incorporated as a part of and attached to the Dwelling Unit, in a
15 manner approved by the Architectural Committee rather than located apart
16 from the Dwelling Unit.
17

18 10.12.8. Antennas and Exterior Additions. Television antennas, satellite
19 dishes less than one meter in diameter, and multichannel multipoint distribution
20 service antennas less than one meter in size shall be installed in accordance with
21 Section 207 of the Federal Telecommunications Act of 1996, which may be
22 amended from time to time. Ham radio towers are prohibited. Other antenna
23 devices for the transmission or reception of radio signals or any other form of
24 electro-magnetic radiation shall not be erected, used or maintained outdoors on
25 any Lot, whether attached to a building or structure or otherwise, unless
26 approved by the Architectural Committee. This provision shall not prohibit the
27 Association from maintaining or placing such equipment on or in the Common
28 Areas.
29

30 10.12.9. Signs. No sign of any kind shall be on a Lot or Common Area,
31 unless the sign has been approved by the Architectural Committee, except "For
32 Sale," "For Rent," security signs, and signs or other postings which may be
33 required by legal proceedings; or "Open House" or "Patio/Estate Sale" signs
34 which are in place not more than two (2) hours before and after the time of the
35 event. The placement of any sign shall not obstruct sidewalks or any other area
36 of public access. If the Owner(s) of any Lot wishes to sell or rent, the Owner or
37 his Realtor, with the Owner's permission, may erect one commercially-produced
38 "For Sale" or "For Rent" sign of industry standard size (18" x 24") on the Lot.
39 Said sign shall be removed within one (1) week after close of escrow. The sign
40 shall be the standard type used by real estate professionals without additional
41 advertising or adornment, except no more than two (2) sign riders that do not
42 exceed 6" x 24" each. Indoor and outdoor display of political signs are allowed
43 no earlier than seventy-one (71) days prior to an election, and no later than

three (3) days after an election day in accordance with A.R.S. §33-1808 and applicable Pima County ordinances.

10.12.10. Derricks, Tanks, Heating and Cooling.

(a) No structure designed for use in boring for water, oil or natural gas shall be erected, placed or permitted upon any part of the Properties, nor shall any water, oil, natural gas, petroleum, asphaltum or hydrocarbon products or substances be produced or extracted therefrom.

(b) No elevated tanks of any kind shall be erected, placed or permitted upon any part of the Properties, and any tanks for use in connection with any Dwelling Unit on the Properties, including tanks for the storage of gas and fuel oil, gasoline or oil, must be buried or walled in to conceal them from the neighborhood Lots, roads or streets.

10.12.11. Clotheslines. Clotheslines shall be of a retractable type concealed from view of neighboring Lots and streets.

ARTICLE XI: USE RESTRICTIONS

11.1. Age Restriction. It is intended that the Properties shall be considered as housing for older persons as defined in the Fair Housing Amendments Act of 1988 and all subsequent applicable amendments to the Federal Fair Housing Act.

11.1.1. Unless otherwise provided in this Declaration, each Lot shall be occupied by at least one person fifty-five (55) years of age or older. Notwithstanding the foregoing, if an Owner who is fifty-five (55) years of age or older dies and leaves the Dwelling Unit to a surviving spouse or other co-habitant previously residing with the deceased Owner, who is at least forty-five (45) years old, the surviving spouse or co-habitant may remain in the Dwelling Unit so long as the Properties can still be considered as housing for older persons.

11.1.2. No person who has not yet reached his/her 18th birthday shall reside permanently in the Properties. However, this restriction shall not apply to individuals that are merely visiting for a temporary period of time, not to exceed three (3) months in any twelve (12) month period.

1 11.1.3. The occupancy regulations of this Section pertaining to minimum
2 age restrictions and the prohibition of minors apply to all occupants, whether
3 Owners or tenants, and to all leases as well as sales.
4

5 11.1.4. The Board has the exclusive right to determine who is a resident
6 or occupant for the purposes of determining compliance with this Section.
7

8 11.1.5. The Board has the right to verify date of birth of Dwelling Unit
9 occupants. The Association requires age verification at least every two (2) years
10 and may request acceptable proof of age, including driver's license, passport,
11 immigration card, birth certificate or other government-issued document.
12

13 11.1.6. The Board shall establish procedures to insure compliance with
14 the State and Federal Fair Housing Acts, and any other legislation or governing
15 regulations pertaining to this Section.
16

17 11.2. Animal Restrictions.
18

19 11.2.1. No livestock of any kind, including but not limited to goats,
20 rabbits, pigs and poultry, or wild or exotic animals or birds, are permitted on the
21 Properties. This prohibition includes maintenance solely for the purpose of
22 rehabilitation or rescue and release.
23

24 11.2.2. Owners may keep a reasonable number of generally-recognized
25 household pets in accordance with Pima County ordinances, provided:
26

27 (a) They are not kept, bred or maintained for any commercial
28 purpose.
29

30 (b) Such pets do not create a nuisance for any other resident within
31 the Properties. The Board, in its sole discretion, is authorized to
32 determine whether there are a reasonable number of pets in a
33 Dwelling Unit, whether the presence of a particular pet
34 constitutes a nuisance, and whether a particular pet is generally-
35 recognized as a household pet.
36

37 (c) Pets shall be confined within the limits of the Lot or restrained by
38 a leash when the pet is outside the boundaries of the Lot. Voice
39 control of pets is not permitted as a substitute for a leash.
40

41 (d) Any droppings left by the pet are picked up and disposed of in a
42 closed trash receptacle including droppings on any Lot or
43 Common Area.
44

1 (e) No structure for the care, housing, confinement, or training of any
2 animal or pet shall be maintained on any portion of the
3 Properties. No kennels or runs are permitted.
4

5 11.3. Business Activities. All Lots shall be used for single-family residential purposes
6 only. The following applies with respect to home business activities within the Properties:
7

8 11.3.1. Criteria for Home Business. No trade or business may be
9 conducted in or from any Lot, except that an Owner or occupant residing in any
10 Lot may conduct business activities within the Lot so long as: (a) the existence or
11 operation of the business activity is not apparent or detectable by sight, sound
12 or smell from outside the Lot; (b) the business activity conforms to all zoning
13 requirements and any other governmental requirements for the Properties; (c)
14 the business activity does not involve any person conducting such business who
15 does not reside in the Lot or door-to-door solicitation of residents of the
16 Properties; (d) the existence or operation of the business does not increase that
17 Lot's use of Common Area facilities over the standard for a single family
18 dwelling; (e) the existence or operation of the business does not require more
19 than a reasonable number of customers or delivery trucks to visit the Lot; and (f)
20 the business activity does not constitute a nuisance, or a hazardous or offensive
21 use, or cause the owners to violate any other provisions of this Declaration, or
22 threaten the security or safety of other residents of the Properties, as may be
23 determined in the sole discretion of the Board.
24

25 11.3.2. Pertinent Definitions. The terms "business" and "trade," as used
26 in this provision, shall be construed to have their ordinary, generally-accepted
27 meanings.
28

29 11.3.3. Patio Sales or Garage Sales. No communal garage or patio sales
30 shall be held within the Properties unless authorized by the Board in writing.
31 However, any individual Owner or occupant, or the executor of the estate of a
32 deceased Owner or occupant, may hold an estate sale on a Lot for a period of
33 not more than seventy-two (72) hours.
34

35 11.4. Nuisance and Condition of Lots. No Lot shall be used in whole or in part for the
36 storage of any property or item of any character whatsoever or for any activity that causes
37 unreasonable odor or that will be otherwise unsightly or obnoxious. No owner shall engage in
38 any activity or permit any activity to occur on the Properties which shall result in unusual, loud
39 or obtrusive noises or sounds. No Lot shall be in an unclean or untidy condition: no dirt,
40 clippings, prunings, trash or debris of any kind shall be swept, thrown or transferred in any
41 manner from a Lot onto another Lot or the Common Area.
42

1 11.5. Rentals. No room or rooms in any Dwelling Unit may be rented or leased;
2 however, any Owner may rent his/her entire Dwelling Unit for a minimum lease term of thirty
3 (30) days, subject to the following requirements and conditions:
4

5 11.6.1. Adherence to Zoning Code. No Lot shall be rented to other than a
6 family as defined by the Pima County Zoning Code.
7

8 11.6.2. Obligations of Tenants. All provisions of the Governing
9 Documents which govern the conduct of Owners and which provide for
10 sanctions against Owners shall also apply to tenants. The Owner shall provide
11 his/her tenant with copies of the Governing Documents. If the Owner fails to do
12 so, the Association may provide copies to the tenant and charge the Owner the
13 cost of doing so.
14

15 11.6.3. Requirements for Leases. All leases shall be in writing and shall
16 specifically provide:
17

18 (a) The lease is subject in all respects to the provisions of the
19 Declaration and Rules.
20

21 (b) The failure of the tenant to comply with the terms and
22 conditions of the Declaration and Rules constitutes a material
23 default of the lease, and the Owner shall be entitled to
24 reenter and retake possession of the premises pursuant to the
25 provisions of the Arizona Landlord Tenant Act, A.R.S. § 33-
26 1301 et seq.
27

28 11.6.4. Notification to Association. Within seven (7) days of lease
29 inception, an Owner leasing his Lot shall give the Board, in writing on the form
30 provided by the Association, the name of the tenant(s) of the Lot, contact
31 information for the tenant(s); the time period of the lease, including the
32 beginning and ending dates of the tenancy; a description and the license plate
33 numbers of the tenants' vehicles.
34

35 11.6.5. Enforcement of Leasing Restrictions. An Owner shall be
36 responsible for any violation of the Declaration and Rules by his lessee or tenant
37 or any other persons residing in the Lot, and their guests or invitees. In the
38 event of any violation, the Owner, upon demand of the Board, shall immediately
39 take all necessary actions to correct any such violations.
40

41 11.6. Resubdivision. No Lot or Lots shall be resubdivided, except for the purpose of
42 combining the resubdivided portions with another adjoining Lot or Lots, provided that no
43 additional Lot is created thereby. This Section shall not prohibit the combining of Lots.
44

1 11.7. Trash Storage and Collection. In order to protect the Common Area streets from
2 damage by unnecessary truck traffic, The Board of Directors of the Association shall engage a
3 single company for trash removal and recycling services. Each Dwelling Unit shall use only the
4 single company selected. Each household shall contract with the single company selected and
5 pay directly. The company selected is entitled to charge each Owner for services until such
6 Owner has properly notified the company to discontinue service to his/her Lot for a limited
7 (vacation hold) or unlimited (opt out) period of time, in accordance with the terms of the
8 contract. No trash or recycling container shall be kept at any time in view of an adjacent street
9 except for the day of trash pickup. The Board may adopt rules and regulations governing all
10 matters pertaining to trash removal and recycling services.

11
12 11.8. Vehicles. The use of all vehicles, including but not limited to trucks,
13 automobiles, bicycles and motorcycles, shall be in accordance with the Rules, which may
14 prohibit or limit the use of said vehicles, provide parking regulations or adopt other restrictions
15 regulating the same.

16
17 11.9.1. Parking. All Owners, guests and invitees shall park any and all
18 motorized or non-motorized vehicles in off-road parking spaces shown on
19 approved plans. Parking spaces shall include the paved driveways in each Lot and
20 any additional parking spaces, if any, as set forth in the Plat but shall not include
21 other Common Areas not so designated. Additional parking spots, if any, may be
22 designated from time to time by the Board. Notwithstanding the foregoing
23 provision, Owners, their guests and invitees may park in front of a Lot for
24 purposes of loading and/or unloading personal belongings from a motorized or
25 non-motorized vehicle if the time in which the vehicle is parked in any non-
26 designated space is less than one and one-half (1-1/2) hours in any twenty-four
27 (24) hour period. Additionally, for the purpose of accommodating guests for
28 social gatherings, parking on the street is permitted for the period of the event
29 not to exceed five (5) hours. It shall be the responsibility of the homeowner to
30 assure that such parking is orderly and not disruptive to normal traffic or access
31 to neighboring properties.

32
33 11.9.2. Recreational Vehicles.

- 34
35 (a) Parking or storing of Recreational Vehicles is prohibited on all
36 portions of the Properties, except within the confines of either
37 a standard-sized carport or a standard-sized garage.
38
39 (b) Notwithstanding the above, temporary parking of
40 Recreational Vehicles on the parking area of an Owner's Lot or
41 in any designated common parking areas within the
42 Properties, is permitted for the purpose of loading or
43 unloading, or for providing parking for guests. Such
44 temporary parking is restricted to a period of not more than

seventy-two (72) hours in any seven (7)-day period and not more than one hundred forty-four (144) hours in any 30-day period.

(c) For the purpose set forth in the preceding Section, the area immediately in front of a Recreational Vehicle owner's Lot may be used for temporary parking provided such use does not interfere with the flow of traffic or present a safety hazard. The moving of a Recreational Vehicle from one parking area to another in an attempt to comply with the above limitations is strictly prohibited.

(d) The use and/or occupancy of a vehicle or Recreational Vehicle as living quarters on either a temporary or permanent basis is strictly prohibited on any portion of the Properties.

(e) For purposes of this Section, the term "Recreational Vehicle" shall include motorhomes, vans, campers, trailers, boats, all-terrain vehicles, and similar vehicles. "Recreational Vehicle" shall not include: (a) pick-up trucks with no more than a one-ton capacity with camper shells attached that are no more than seven feet (7') in height as measured from ground level, or (b) mini-motorhomes that are no more than seven feet (7') in height and no more than eighteen feet (18') in length, so long as said pick-up or mini-motorhome is used on a regular and recurring basis for regular transportation and is parked in accordance with the provisions of this Section 11.9 applicable to vehicles in general. The definition of "Recreational Vehicle" may be amended in the Rules.

11.9.3. Prohibition Against Inoperable & Stored Vehicles. No inoperable, unlicensed, junked or wrecked vehicles shall be parked on any portion of the Properties. Nor shall any repair or maintenance work (other than emergency repairs due to flat tires, dead batteries or similar malfunctions of a temporary and unexpected nature) be done to any vehicle or boat. No vehicles shall be located on the Properties in any state of disrepair or disassembly. No motorized or non-motorized vehicle (whether for recreational use or otherwise), aircraft, motorcycle, trailer or boat may be stored anywhere upon the Properties except within the confines of either a standard-sized carport or a standard-sized garage, such as those previously constructed, or as approved by the Architectural Committee.

11.9.4. Commercial Vehicles. No commercial, construction or like vehicles (including, but not limited to, pickup-type vehicles in excess of ¾-ton capacity,

1 and vehicles bearing commercial signs, advertising or other business insignia,
2 and any commercially licensed vehicle) shall be parked or stored on the
3 Properties, except with the permission of the Board. This restriction does not
4 apply to delivery or service provider trucks that are parked on a temporary basis.
5

6 11.9.5. Enforcement of Parking Restrictions. If any Owner, occupant,
7 guest or lessee violates this Section 11.9 regarding vehicle parking and storage,
8 the Association may take any action which is necessary to obtain compliance
9 with this Section, including the removal of vehicles in violation of this Section,
10 the cost of which shall become the responsibility of the Owner of the Lot where
11 the vehicle owner resides or is visiting.
12

13 11.9. Inspection. During reasonable hours any member of the Board or the
14 Architectural Committee, or any authorized representative of either of them, shall have the
15 right to enter upon and inspect any Lot within the Properties (not including the interior of any
16 Dwelling Units erected thereon) for the purpose of ascertaining whether or not the provisions
17 of this Declaration have been or are being complied with, and such persons shall not be
18 deemed guilty of trespass by reason of such entry. Except in emergency situations, the Owner
19 or occupant shall be contacted by reasonable effort and advised of such inspections.
20

21 11.10. Entrance Monument. The entrance monument (corner of Camino del Sol) and
22 adjacent landscaping shall be maintained so that it presents a pleasing appearance consistent
23 with other entrance monuments for Canoa Hills Subdivisions on Camino del Sol.
24

25 11.11. Flagpoles. Flagpoles are to be used only to display the U.S. Flag and/or one of
26 the 51 State Flags, or any of the flags enumerated in Arizona Revised Statutes Section 33-1808,
27 as may be amended from time to time.
28

29 **ARTICLE XII: PARTY WALLS**

30

31 12.1. General Rules of Law Apply. Each wall whether a patio yard wall or bearing wall
32 of a Dwelling Unit, which is built as a part of the original construction of a building upon the
33 Properties and placed on or immediately adjacent to the dividing line between Lots shall
34 constitute a party wall, and, to the extent not inconsistent with the provisions of this Article,
35 the general rules of law regarding party walls and liability for property damage due to
36 negligence or willful acts or omissions shall apply. Each Owner is deemed to acknowledge that
37 some portions or all of the Properties are to be developed with structures having common lot
38 lines and common party walls. In many instances, this will be the case for both rear yards and
39 common Dwelling Unit walls. Each Owner, therefore, in the case of such a structure, consents
40 to the placement of the walls of the Dwelling Unit on the dividing lines between Lots as set
41 forth above.
42

1 12.2. Alterations. No Owner may alter the appearance or structure of a party wall
2 without the consent of the Architectural Committee. The Committee may, but need not, deny
3 approval if all Owners having an interest in the party wall have not consented to the alteration.
4 This Section shall not preclude landscaping, but any damage to a party wall from watering the
5 landscaping shall be the responsibility of the Owner of the landscaping.
6

7 12.3. Sharing of Repair and Maintenance. The cost of ordinary repair and
8 maintenance of a party wall shall be shared equally by the Owners of the Lots which are divided
9 by the wall.
10

11 12.4. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by
12 fire or other casualty, an Owner who has used the wall may restore it and is hereby granted a
13 permanent access easement across adjoining Lot(s) for such restoration. The Owners of the
14 Lots which are divided by the wall shall share equally in the cost of such restoration.
15

16 12.5. Right to Contribution - Runs with Land. The right of any Owner to contribution
17 from any other Owner sharing a party wall under this Article shall be appurtenant to and shall
18 run with the land.
19

20 12.6. Dispute Resolution. In the event any dispute arises concerning a party wall, or
21 the provisions of this Article, the aggrieved party(s) may file a written appeal to the Board who
22 will respond within thirty (30) days of the appeal and shall hold a hearing so the parties have
23 the opportunity to present all facts and issues. The decision of the Board shall be final and
24 binding.
25

26 12.7. Private Agreements. Private agreements between Owners may not modify the
27 provisions of this Article.
28

29 12.8. Eaves, Steps and Open Porches. For purposes of this Article, eaves, steps and
30 open porches shall not be considered to be part of a Dwelling Unit.
31

32 **ARTICLE XIII: GREEN VALLEY RECREATION**

33 13.1. Green Valley Recreation, Inc. ("GVR").

34 13.1.1. GVR is a non-profit corporation organized under the laws of the
35 State of Arizona to establish and maintain facilities and services for social and
36 recreational activities and for the preservation and promotion of health, safety
37 and welfare in the Green Valley community.
38

39 13.1.2. Each Purchaser or Owner of a Lot within the Properties agrees for
40 himself, his heirs, successors and assigns, to become and remain a member of
41 GVR, its successors or assigns, and to pay the membership dues assessed by the
42 Club, which may vary in amount from time to time.
43
44

1
2 13.1.3. There is hereby created a lien, with power of sale, on each Lot to
3 secure payment of the aforesaid membership dues assessments pursuant to the
4 terms hereof, provided that no action shall be brought to foreclose such lien or
5 proceed under the power of sale less than thirty (30) days after a Notice of Claim
6 of Lien is mailed to the Owner of said Lot, and a copy thereof is recorded in the
7 Office of the Recorder in the County of Pima, State of Arizona.
8

9 13.1.4. Provided however, that any federally; funded mortgage, placed
10 upon this property by the Owner of record, will take precedence to any lien
11 recorded in favor of GREEN VALLEY RECREATION, INC., its successors or assigns,
12 as empowered by these conditions and restrictions.
13

14 13.2. The aforesaid provisions, conditions and restrictions, and all thereof shall run with
15 the land and continue in full force and effect at all times in perpetuity; provided however, GVR,
16 its successors or assigns shall be granted full rights and powers for the release, termination or
17 amendment of such perpetual covenants and restrictions, and provided further, that any
18 release, termination, or amendment shall be made only by an instrument in writing signed by
19 officer(s) of GVR, its successors or assigns, and recorded in the Office of the Recorder of the
20 County of Pima, State of Arizona.
21

22 ARTICLE XIV: ENFORCEMENT 23

24 14.1. Right to Enforce. The Association or any Owner has the right to enforce, by any
25 proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or
26 charges now or hereafter imposed by this Declaration. This includes enforcement of Rules and
27 Regulations adopted by the Board to carry out the Association's purposes and duties.
28

29 14.1.1. Attorney Fees. The prevailing party in any Court or administrative
30 action shall be awarded reasonable attorneys' fees and costs. If no such action is
31 brought, the Association shall be reimbursed by the non-compliant Owner(s), all
32 reasonable attorneys' fees and costs it incurs in enforcing the Governing
33 Documents.
34

35 14.1.2. Waiver. No delay or omission on the part of the Association or
36 any Owner in exercising their right to enforcement hereunder shall be construed
37 as a waiver of or acquiescence in any breach of any of the Restrictions, and no
38 right of action shall accrue against the Board, the Association or any Owner for
39 their neglect or refusal to exercise such right of enforcement. No right of action
40 shall accrue against the Association for including herein conditions, covenants or
41 restrictions which may be unenforceable.
42

43 14.1.3. Protection of Mortgagee. No breach of the Restrictions shall
44 defeat or render invalid the lien of any mortgage or deed of trust made in good

1 faith for value as to any portion of the Properties. The Restrictions shall be
2 enforceable against any portion of the Properties acquired by any Person
3 through foreclosure for any breach occurring after such acquisition.
4

5 14.2. Enforcement Procedures. At the Board's discretion, a violation of the Governing
6 Documents by an Owner, his guests, tenants or family members, may be referred to the
7 Association's attorney for enforcement action in Superior Court or any other court or agency of
8 appropriate jurisdiction. Alternatively, the Board may levy a monetary penalty or other
9 sanction against an Owner in accordance with the Governing Documents, applicable law and
10 procedures set forth by the Board of Directors.
11

12 14.3. Notice of Violation. If any Owner, his/her guests, tenants or family members are
13 in violation of any of the provisions of the Governing Documents, the Association, after
14 providing notice and an opportunity to cure the violation, has the right to record a "Notice of
15 Violation" with the Pima County Recorder's Office, stating the name of the Owner, the Lot and
16 the nature of the violation, and the Association's intent not to waive any of its rights of
17 enforcement. The Notice shall remain of record until the violation is cured.
18

19 14.4. No Obligation to Enforce. The Association is not obligated to take any
20 enforcement action if the Board determines, in its sole discretion, that because of
21 considerations pertaining to the Association's finances, possible defenses, the time and
22 expense of litigation or other enforcement action, the likelihood of a result favorable to the
23 Association, or other facts deemed relevant by the Board, enforcement action would not be
24 appropriate or in the best interests of the Association. The failure of the Association or an
25 Owner to take enforcement action with respect to a violation of the Governing Documents shall
26 not constitute or be deemed a waiver of the right of the Association or any Owner to enforce
27 the Governing Documents in the future.
28

29 14.5. Cumulative Rights and Remedies. All rights and remedies of the Association
30 under the Governing Documents or at law or in equity are cumulative, and the exercise of one
31 right or remedy shall not waive the Association's right to exercise another right or remedy.
32

33 14.6. Violation of Law. Each and every provision of this Declaration, as amended from
34 time to time, is subject to any and all applicable federal, state and local governmental rules and
35 regulations, ordinances and subdivision regulations. Any violation of any federal, state,
36 municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use
37 of any property within the Properties is declared to be a violation of this Declaration and
38 subject to any and all enforcement procedures set forth herein or imposed by applicable law.
39

40 **ARTICLE XV: GENERAL PROVISIONS**

41

42 15.1. Binding Effect By acceptance of a deed or acquiring any ownership interest in
43 any Lot, each Person, for himself or itself, his or its heirs, personal representative, successors,
44 transferees and assigns, binds himself, his heirs, personal representatives, successors,

1 transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and
2 regulations now or hereafter imposed by this Declaration and amendments thereto. In
3 addition, each such Person by so doing thereby acknowledges that this Declaration sets forth a
4 general scheme to the development of the Properties and hereby evidences his intent that all
5 restrictions, conditions, covenants, rules and regulations contained herein shall run with the
6 land and be binding on all subsequent and future owners, grantees, purchasers, assignees and
7 transferees thereof. Furthermore, each such Person fully understands and acknowledges that
8 this Declaration shall be mutually beneficial, prohibitive and enforceable by the various
9 subsequent and future Owners.

10
11 15.2. Severability. Invalidation of any covenant, restriction provision or term' of this
12 Declaration by judgment or court order shall not affect any other covenant, restriction,
13 provision or term hereof which shall remain in full force and effect.

14
15 15.3. Captions. All captions and titles used in this Declaration are intended solely for
16 convenience or reference purposes only and in no way define, limit or describe the true intent
17 and meaning of the provisions hereof.

18
19 15.4. Interpretation of the Covenants. The Association, by the Board, shall have the
20 exclusive right to construe and interpret the provisions of this Declaration and all other
21 Governing Documents. In the absence of any adjudication to the contrary by a court of
22 competent jurisdiction, the Board's construction or interpretation of the provisions hereof or of
23 any other Governing Document, shall be final, conclusive, and binding as to all Persons and
24 property benefited or bound by this Declaration.

25
26 15.5. Amendment. Except as provided elsewhere in this Declaration, the terms hereof
27 may be amended by the affirmative vote of Owners holding at least a majority of the total votes
28 in the Association, and shall be made only by an instrument in writing signed by the President
29 and Secretary of the Association and recorded with the County Recorder of Pima County,
30 Arizona.

31
32 15.6. Term. The aforesaid provisions, conditions, restrictions and covenants, and each
33 and all thereof shall run with the land and continue and remain in full force and effect at all
34 times and against all persons until January 1, 2015, at which time, they shall be automatically
35 extended for successive periods of twenty-five (25) years, unless terminated by an instrument
36 in writing signed and acknowledged by Owners holding sixty-seven percent (67%) of the votes
37 in the Association.

38
39 15.7 No Interest in Golf Course. Every Owner acknowledges that neither by
40 acceptance of a deed nor membership in the Association, does such Owner have any interest in
41 any public or private golf course that may run adjacent to the Properties. Any and all rights to
42 use of any public or private golf course shall be governed exclusively by the rules, regulations,
43 membership terms, if any, rates and other restrictions as may be set forth by such golf course
44 owner.

1 IN WITNESS WHEREOF, the undersigned certify that Owners holding at least sixty-seven
2 percent (67%) of the total votes in the Association approved this Fourth Amended and Restated
3 Declaration of Establishment of Conditions, Covenants, and Restrictions, thereby superseding
4 the Superseded Declaration.

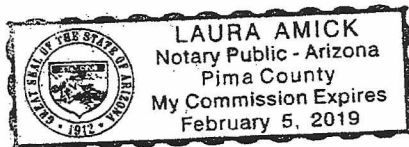
5
6 CANOA ESTATES II, INC., an Arizona non-profit corporation

7
8
9
10 By Jeff Harrell President
11 ATTEST: JEFF HARRELL

12
13
14
15 By Teresa L. Segnan Secretary
16 TERESA L. SEGNAV

17
18
19 STATE OF ARIZONA)
20 : ss:
21 County of Pima)

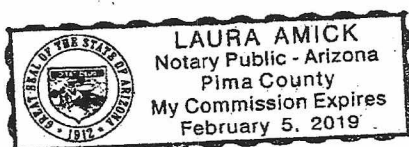
22
23 The foregoing instrument was acknowledged before me this 13th day of
24 November, 2017, by Jeff Harrell, President, of
25 CANOA ESTATES II, INC., an Arizona non-profit corporation, on behalf of the corporation.



L. Amick
Notary Public

32 STATE OF ARIZONA)
33 : ss:
34 County of Pima)

35
36 The foregoing instrument was acknowledged before me this 13th day of
37 November, 2017, by Teresa L. Segnan, Secretary, of CANOA
38 ESTATES II, INC., an Arizona non-profit corporation, on behalf of the corporation.



L. Amick
Notary Public